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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0814; Product Identifier 2017-NM-066-AD; Amendment 39-19458; AD 2018-20-24]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. This AD was prompted by significant changes made to the airworthiness limitations (AWL) related to fuel tank ignition prevention and the nitrogen generation system. This AD requires revision of the maintenance or inspection program, as applicable, to include the latest revision of the AWLs. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 19, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching

for and locating Docket No. FAA-2017-0814.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0814; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800-647-5527) is Docket Operations, 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: Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3553; email: takahisa.kobayashi@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737-600, -700, -700C, -800, and -900 series airplanes. The NPRM published in the **Federal Register** on October 2, 2017 (82 FR 45743). The NPRM was prompted by significant changes made to the AWLs related to fuel tank ignition prevention and the nitrogen generation system. The NPRM proposed to require revision of the maintenance or inspection program, as applicable, to include the latest revision of the AWLs.

In the NPRM, we discussed that we would mandate the latest revision of the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness (ICA) as of the effective date of the AD for Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before the effective date of the AD. We also discussed that operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness

issued after the effective date of the AD must comply with the ALS revision specified as part of the approved type design. Since the issuance of the NPRM, Boeing revised the ALS a number of times and added new AWL tasks. In order to mandate the latest ALS revision available as of the effective date of the AD as we originally proposed, we must supplement the NPRM for public comments because new additional AWL tasks in the later ALS revisions expand the scope of the NPRM. As a result, the issuance of the AD to address the unsafe condition would be delayed.

Based on those conditions, we have made the following adjustments in this final rule. First, instead of mandating the latest ALS revision, we are mandating Revision January 2017 of the ALS as originally proposed in the NPRM. Second, we have changed the AD applicability to exclude those airplanes delivered with later ALS revisions (later than Revision January 2017) as part of the type design. The change in the AD applicability is intended to avoid the situation discussed in the NPRM where the AD mandates a specific ALS revision for an airplane that was delivered with a later ALS revision as part of the type design. Airplanes outside the AD applicability should use the ALS revision later than Revision January 2017 as part of the type design. Those adjustments we made in the final rule do not expand the scope of the NPRM. We will consider further rulemaking to mandate a later ALS revision for all affected airplanes.

We are issuing this AD to address the development of an ignition source inside the fuel tanks and the flammability exposure of the center fuel tank, which could lead to fuel tank explosion and consequent loss of the airplane. We are also issuing this AD to address the loss of engine fuel suction feed capability, which could result in dual engine flameout, inability to restart engines, and consequent forced landing of the airplane.

Comments

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

Support for the NPRM

Commenter Nick Gianetti supported the NPRM.

Request To Clarify the Provision for Exceptional Short-Term Extensions

Southwest Airlines requested clarification regarding the provision for “exceptional short-term extension” in the service information.

We agree that clarification is necessary. Operators may use an exceptional short-term extension with the concurrence of the appropriate authority, as described in the service information. Exceptional short-term extensions should be used to address uncontrollable or unexpected situations. For any change to the interval of an AWL other than an exceptional short-term extension, approval must be handled under the provisions of paragraph (k) of this AD. No change to this AD is necessary.

Request To Identify AD 2011–20–07, Amendment 39–16818 (76 FR 60710, September 30, 2011) (“AD 2011–20–07”), as an Affected AD

Boeing stated that AD 2011–20–07 is affected by the proposed AD because it relates to an AWL in the mandated service information. They requested that we identify AD 2011–20–07 as an affected AD under paragraph (b) of the proposed AD.

We acknowledge the commenter’s rationale for including AD 2011–20–07 in paragraph (b) of this AD. However, paragraph (b), “Affected ADs,” is intended to include other affected ADs, but not all related ADs. It is primarily used to reference superseded ADs and other ADs that are terminated, in whole or in part, by requirements in a given AD. Although compliance with certain requirements in AD 2011–20–07 affects this AD, the opposite is not true (*i.e.*, this AD does not affect compliance with AD 2011–20–07). Therefore, we have not changed this AD regarding this issue.

Request To Specify the Unsafe Condition for Engine Fuel Suction Feed

Boeing stated that the NPRM defines the unsafe condition for fuel tank ignition prevention and fuel tank flammability exposure reduction, but not the unsafe condition related to engine fuel suction feed. Because the proposed AD also requires the incorporation of the AWL for engine fuel suction feed testing, Boeing asserted that the unsafe condition associated with engine fuel suction feed should also be specified, and they proposed wording for the unsafe condition.

We partially agree with the commenter. We agree to specify the unsafe condition associated with engine

fuel suction feed, but we disagree with the wording proposed by the commenter because this AD does not mandate repetitive operational tests of the engine fuel suction feed system. This AD requires only the incorporation of certain AWLs, not the repetitive operational tests or other procedures specified in them. We have changed paragraph (e) of this AD to include the unsafe condition involving engine fuel suction feed.

Request To Change Wording in the Proposed AD

Boeing requested that we replace the word “latest” with “later” in certain subparagraphs of paragraph (g) of the proposed AD in which multiple compliance times are compared.

We do not agree with the commenter’s request because the subparagraphs in question compare three compliance times; therefore, the superlative form “latest” is correct. We have not changed this AD in this regard.

Request To Provide a Grace Period in Paragraph (g)(7) of the Proposed AD

Southwest Airlines stated that some airplanes could be out of compliance as of the effective date of the proposed AD because the initial 120-month compliance time specified in paragraph (g)(7) of the proposed AD may already have passed for those airplanes. Southwest Airlines requested that we change paragraph (g)(7) of the proposed AD to specify a grace period.

We agree to specify a grace period for those airplanes that could have passed the required compliance time specified in paragraph (g)(7) of this AD. Therefore, we have changed paragraph (g)(7) of this AD to specify a grace period of 24 months after the effective date of this AD.

Request To Delete Paragraph (h) of the Proposed AD

Boeing stated that some of the wire types listed in paragraph (h)(1) of the proposed AD are not identified in FAA Advisory Circular 43–13–1B for the flammability aspect. Boeing also stated that they do not have arc-track test data for the wires listed in paragraph (h)(1) and therefore cannot accept the use and installation of these wire types on a Boeing product without written FAA approval of the wires. In addition, Boeing stated that it has data for TFE–2X Standard wall, but not for Roundit 2000NX and Varglas Types HO, HP, or HM and can therefore approve or recommend approval of only the TFE–2X Standard wall. Boeing requested that we delete paragraph (h) of the proposed AD or revise it to include an FAA-

issued global alternative method of compliance (AMOC) that identifies the material listed in paragraph (h) of the proposed AD. Boeing stated that if the FAA decides to keep paragraph (h) of the proposed AD as it is, we should state that all materials listed in paragraph (h) of the proposed AD are approved by the FAA.

We do not agree with the commenter’s request. Paragraph (h) of this AD allows alternative wire types and sleeving materials for certain wire types and sleeving materials identified in AWL No. 28–AWL–05. AWL No. 28–AWL–05 was originally mandated by AD 2008–10–10, Amendment 39–15516 (73 FR 25986, May 8, 2008) (“AD 2008–10–10”), which was later revised to AD 2008–10–10 R1, Amendment 39–16164 (75 FR 1529, January 12, 2010) (“AD 2008–10–10 R1”). Since the issuance of AD 2008–10–10 R1, which will be terminated by this AD, we have received numerous requests for approval of AMOCs from operators and supplemental type certificate (STC) holders (or applicants) to allow the installation of alternative wire types and sleeving. We evaluated certain attributes of those alternative wire types and sleeving for each installation, and issued numerous AMOC approvals for AD 2008–10–10 R1 based on our determination that the installation of those wire types and sleeving would provide an acceptable level of safety. The alternative wire types and sleeving specified in paragraph (h) of this AD were previously approved as an AMOC for AD 2008–10–10 R1. Although paragraph (h) of this AD provides certain allowances, it does not provide approval of alternative wire types and sleeving that are installed as part of an aircraft design change. Each applicant for any design change is responsible to show that the installation of alternative wire types and sleeving identified in paragraphs (h)(1) and (h)(2) of this AD complies with all applicable regulatory requirements, including flammability requirements, as the commenter pointed out. We have not changed this AD in this regard.

Request To Specify Additional Wire Type Specifications in Paragraph (h)(1) of the Proposed AD

Delta Airlines (DAL) stated that the military wire specifications identified in paragraph (h)(1) of the proposed AD have been superseded. DAL requested that we revise paragraph (h)(1) of the proposed AD to identify additional wire type specifications.

We agree with the commenter and have revised paragraph (h)(1) of this AD

to identify additional acceptable SAE and military wire type specifications.

Request To Specify Sleeving Thickness

Boeing stated that under AWL No. 28-AWL-05, the wall thickness requirement for TFE-2X sleeving is specified as "standard wall." Boeing requested that we also specify the wall thickness requirement for Varglas Type HO, HP, and HM, that are allowed as alternative sleeving under paragraph (h)(2) of the proposed AD.

We do not agree with the commenter's request. As we explained in an earlier comment response, paragraph (h)(2) of this AD provides certain allowances for sleeving material to comply with AWL No. 28-AWL-05, but it does not provide approval of alternative sleeving that is installed as part of an aircraft design change. Each applicant for any design change is responsible to show that the installation of alternative sleeving identified in paragraph (h)(2) of this AD complies with all applicable regulatory requirements. This includes substantiation to show that sleeve installation, including the selection of sleeve thickness, is adequate to protect wires from chafing for the life of installation. We have not changed this AD regarding this issue.

Request To Mandate a Later Revision of the Service Information

Boeing stated that Boeing 737-600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001-9-04, Revision January 2017, specified by the proposed AD, is under review and subject to update. Boeing requested that we mandate a later revision of the service information.

We do not agree with the commenter's request. As stated in the Discussion section of this AD, we have determined that it is appropriate to require the same ALS revision (Revision January 2017) that was proposed in the NPRM. We have also adjusted the applicability of this AD to exclude those airplanes delivered with a later ALS revision (issued after Revision January 2017) as part of the type design.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the STC ST00830SE does not affect the actions specified in the proposed AD.

We concur with the commenter that STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the

actions required by this AD. We have not changed this AD in this regard.

Conclusion

We 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. We have 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.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 14 CFR Part 51

We reviewed Boeing 737-600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001-9-04, Revision January 2017. This service information describes AWLs that include airworthiness limitation instructions (ALI) and critical design configuration control limitations (CDCCL) tasks related to fuel tank ignition prevention and the nitrogen generation system. 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

We estimate that this AD affects 1,850 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator 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.

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–20–24 The Boeing Company:

Amendment 39–19458; Docket No. FAA–2017–0814; Product Identifier 2017–NM–066–AD.

(a) Effective Date

This AD is effective November 19, 2018.

(b) Affected ADs

This AD affects the ADs specified in paragraphs (b)(1) through (b)(5) of this AD.

(1) AD 2008–06–03, Amendment 39–15415 (73 FR 13081, March 12, 2008) (“AD 2008–06–03”).

(2) AD 2008–10–10 R1, Amendment 39–16164 (75 FR 1529, January 12, 2010) (“AD 2008–10–10 R1”).

(3) AD 2008–17–15, Amendment 39–15653 (73 FR 50714, August 28, 2008) (“AD 2008–17–15”).

(4) AD 2011–18–03, Amendment 39–16785 (76 FR 53317, August 26, 2011) (“AD 2011–18–03”).

(5) AD 2013–15–17, Amendment 39–17533 (78 FR 52838, August 27, 2013) (“AD 2013–15–17”).

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, line numbers 1 through 6899 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by significant changes made to airworthiness limitations (AWL) related to fuel tank ignition prevention and the nitrogen generation system. We are issuing this AD to address the development of an ignition source inside the fuel tanks and the flammability exposure of the center fuel tank, which could lead to a fuel tank explosion and consequent loss of the airplane. We are also issuing this AD to address the potential loss of engine fuel suction feed capability, which could result in dual engine flameouts, inability to restart engines, and consequent forced landing of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 60 days after the effective date of this AD, revise the maintenance or inspection

program, as applicable, to incorporate the information in Section A, including Subsections A.1, A.2, and A.3, of Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision January 2017; except as provided in paragraph (h) of this AD. The initial compliance times for the airworthiness limitation instructions (ALI) tasks are within the applicable compliance times specified in paragraphs (g)(1) through (g)(11) of this AD:

(1) For AWL No. 28–AWL–01, “External Wires Over Center Fuel Tank”: Within 120 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 120 months after the most recent inspection was performed as specified in AWL No. 28–AWL–01, whichever is later.

(2) For AWL No. 28–AWL–03, “Fuel Quantity Indicating System (FQIS)—Out Tank Wiring Lightning Shield to Ground Termination”: Within 120 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 120 months after the most recent inspection was performed as specified in AWL No. 28–AWL–03, whichever is later.

(3) For AWL No. 28–AWL–19, “Center Tank Fuel Boost Pump Automatic Shutoff System”: Within 12 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 737–28A1206, or within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–19, whichever is latest. This AWL does not apply to airplanes that have complied with paragraph (s) of AD 2011–18–03.

(4) For AWL No. 28–AWL–20, “Over-Current and Arcing Protection Electrical Design Features Operation—Boost Pump Ground Fault Interrupter (GFI)”: Within 12 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 737–28A1201, or within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–20, whichever is latest. For airplanes that have complied with paragraph (g)(2)(ii) of AD 2011–20–07, Amendment 39–16818 (76 FR 60710, September 30, 2011), the operational test for left center tank fuel boost pump relay R54 and right center tank fuel boost pump relay R55 does not apply.

(5) For AWL No. 28–AWL–23, “Center Tank Fuel Boost Pump Power Failed On Protection System”: Within 12 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 737–28A1248, or

within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–23, whichever is latest. This AWL does not apply to airplanes that have complied with paragraph (s) of AD 2011–18–03.

(6) For AWL No. 28–AWL–24, “Spar Valve Motor Operated Valve (MOV) Actuator—Lightning and Fault Current Protection Electrical Bond”: Within 72 months after accomplishment of the actions specified in Boeing Service Bulletin 737–28A1207, or within 72 months after the most recent inspection was performed as specified in AWL No. 28–AWL–24, whichever is later.

(7) For AWL No. 28–AWL–29, “Full Cushion Clamps and Teflon Sleeving (If Installed) Installed on Out-of-Tank Wire Bundles Installed on Brackets that are Mounted Directly on the Fuel Tanks”: For airplanes having line numbers (L/N) 1 through 1754 inclusive, within 120 months after accomplishment of the actions specified in Boeing Service Bulletin 737–57A1279, or within 24 months after the effective date of this AD, whichever is later. For airplanes having L/N 1755 and on, within 120 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 24 months after the effective date of this AD, whichever is later.

(8) For AWL No. 47–AWL–04, “Nitrogen Generation System—Thermal Switch”: Within 22,500 flight hours after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 22,500 flight hours after accomplishment of the actions specified in Boeing Service Bulletin 737–47–1003, or within 22,500 flight hours after the most recent inspection was performed as specified in AWL No. 47–AWL–04, whichever is latest.

(9) For AWL No. 47–AWL–06, “Nitrogen Generation System (NGS)—Cross Vent Check Valve”: Within 13,000 flight hours after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 13,000 flight hours after accomplishment of the actions specified in Boeing Service Bulletin 737–47–1003, or within 13,000 flight hours after the most recent inspection was performed as specified in AWL No. 47–AWL–06, whichever is latest.

(10) For AWL No. 47–AWL–07, “Nitrogen Generation System (NGS)—Nitrogen Enriched Air (NEA) Distribution Ducting Integrity”: Within 6,500 flight hours after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, within 6,500 flight hours after accomplishment of the actions specified in Boeing Service Bulletin 737–47–1003, or within 6,500 flight hours after the most recent inspection was performed as specified in AWL No. 47–AWL–07, whichever is latest.

(11) For AWL No. 28–AWL–101, “Engine Fuel Suction Feed Operational Test”: Within 7,500 flight hours or 36 months, whichever occurs first, after the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate

of airworthiness; or within 7,500 flight hours or 36 months, whichever occurs first, after the most recent inspection was performed as specified in AWL No. 28-AWL-101; whichever is later.

(h) Additional Acceptable Wire Types and Sleeving

As an option, when accomplishing the actions required by paragraph (g) of this AD, the changes specified in paragraphs (h)(1) and (h)(2) of this AD are acceptable.

(1) Where AWL No. 28-AWL-05 identifies wire types BMS 13-48, BMS 13-58, and BMS 13-60, the following wire types are acceptable: MIL-W-22759/16, SAE AS22759/16 (M22759/16), MIL-W-22759/32, SAE AS22759/32 (M22759/32), MIL-W-22759/34, SAE AS22759/34 (M22759/34), MIL-W-22759/41, SAE AS22759/41 (M22759/41), MIL-W-22759/86, SAE AS22759/86 (M22759/86), MIL-W-22759/87, SAE AS22759/87 (M22759/87), MIL-W-22759/92, and SAE AS22759/92 (M22759/92); and MIL-C-27500 and NEMA WC 27500 cables constructed from these military or SAE specification wire types, as applicable.

(2) Where AWL No. 28-AWL-05 identifies TFE-2X Standard wall for wire sleeving, the following sleeving materials are acceptable: Roundit 2000NX and Varglas Type HO, HP, or HM.

(i) No Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

Except as provided in paragraph (h) 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 CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

(j) Terminating Actions for Certain AD Requirements

Accomplishment of the revision required by paragraph (g) of this AD terminates the requirements specified in paragraphs (j)(1) through (j)(5) of this AD for that airplane:

- (1) The revision required by paragraphs (h) and (h)(1) of AD 2008-06-03.
- (2) All requirements of AD 2008-10-10 R1.
- (3) The revision required by paragraph (g) of AD 2008-17-15.
- (4) The revision required by paragraph (k) of AD 2011-18-03.
- (5) All requirements of AD 2013-15-17.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3553; email: takahisa.kobayashi@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) Boeing 737-600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001-9-04, Revision January 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Des Moines, Washington, on September 19, 2018.

John P. Piccola,
Acting Director, System Oversight Division,
Aircraft Certification Service.

[FR Doc. 2018-21971 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2018-0358; Product Identifier 2017-NM-142-AD; Amendment 39-19463; AD 2018-21-05]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus SAS Model A319-131, A319-132, A319-133, A320-231, A320-232, A320-233, A321-131, A321-231, and A321-232 airplanes. This AD was prompted by reports of fan cowl door (FCD) losses during take-off. This AD requires modification and re-identification, or replacement, of certain FCDs, and installation of a placard in the flight deck. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 19, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; internet <http://www.airbus.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0358.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0358; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other

information. The address for Docket Operations (phone: 800-647-5527) is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A319-131, A319-132, A319-133, A320-231, A320-232, A320-233, A321-131, A321-231, and A321-232 airplanes. The NPRM published in the **Federal Register** on May 4, 2018 (83 FR 19648). The NPRM was prompted by reports of FCD losses during take-off. The NPRM proposed to require modification and re-identification, or replacement, of certain FCDs, and installation of a placard in the flight deck.

We are issuing this AD to address in-flight loss of an FCD, which could result in damage to the airplane and injury to persons on the ground.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017-0178, dated September 15, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus SAS Model A319-131, A319-132, A319-133, A320-231, A320-232, A320-233, A321-131, A321-231, and A321-232 airplanes. The MCAI states:

Fan Cowl Door (FCD) losses during take-off were reported on Airbus A320 family aeroplanes equipped with IAE [International Aero Engines] V2500 engines. Investigations confirmed that in all cases, the FCD were opened prior to the flight and were not correctly re-secured. During the pre-flight inspection, it was not detected that the FCD were not properly latched.

This condition, if not corrected, could lead to in-flight loss of an FCD, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.

EASA issued AD 2016-0053 [which corresponds to FAA AD 2017-13-10, Amendment 39-18940 (82 FR 29371, June

29, 2017) (“AD 2017-13-10”)], requiring modification of the FCD installed on affected aeroplanes, and installation of a placard in the cockpit, in accordance with the instructions of Airbus Service Bulletin (SB) A320-71-1069 (which in turns refers to Goodrich SB V2500-NAC-71-0331 for FCD modification and re-identification).

The monolithic FCDs, installed on aeroplanes embodying Short Brothers supplemental type certificate (STC) 10029547, are also affected by this potential unsafe condition. Consequently, the STC Holder, trading as Bombardier Short Brothers, developed a modification, similar to the one designed by Airbus, and issued SB V25MFC-71-1003. The modification consists of a new FCD front latch and keeper assembly, having a specific key necessary to unlatch the FCD. This key cannot be removed unless the FCD front latch is safely closed. The key, after removal, must be stowed in the flight deck at a specific location, as instructed in the applicable Aircraft Maintenance Manual. The applicable Flight Crew Operating Manual has been amended accordingly. After modification, the FCD is identified with a different Part Number (P/N).

Mixed FCD installation can be found on aeroplanes embodying [EASA] STC 10029547 (*i.e.*, Monolithic FCD and standard production non-Monolithic FCD). For standard production non-Monolithic FCD, Bombardier Short Brothers SB V25MFC-71-1003 specifies to accomplish the instructions of Goodrich SB V2500-NAC-71-0331, as applicable.

For the reasons described above, this [EASA] AD requires modification and re-identification of FCD, and installation of a placard in the cockpit.

You may examine the MCAI in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0358.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) supported the NPRM.

Request To Extend Compliance Time

United Airlines (UAL) requested that the compliance time stated in the proposed AD be extended from 18 months to 36 months to match the compliance time stated in AD 2017-13-10. UAL noted that both the proposed

AD and AD 2017-13-10 address the same unsafe condition, but on different FCDs. UAL added that it has a mixture of FCD configurations, which will be subject to different compliance times.

We disagree with the commenter’s request to extend the compliance time to 36 months. We based the compliance time for this AD on the compliance time required by the EASA MCAI, which was determined by considering the urgency associated with the unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a timeframe that corresponds to the normal scheduled maintenance for most affected operators. In addition, the manufacturer recommended that the service bulletin be accomplished no later than March 28, 2019. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed with the changes described previously and minor editorial changes. We have 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.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

Bombardier Short Brothers, PLC has issued Service Bulletin V25MFC-71-1003, dated September 28, 2016. The service information describes procedures for installing modified latches on the left and right engine FCDs, and re-identifying the FCDs. 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

We estimate that this AD affects 557 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and re-identification (or replacement), and placard installation.	8 work-hours × \$85 per hour = \$680	\$1,500	\$2,180	\$1,214,260

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.

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) 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

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):

2018–21–05 Airbus SAS: Amendment 39–19463; Docket No. FAA–2018–0358; Product Identifier 2017–NM–142–AD.

(a) Effective Date

This AD is effective November 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A319–131, A319–132, A319–133, A320–231, A320–232, A320–233, A321–131, A321–231, and A321–232 airplanes, certificated in any category, if modified by Bombardier Short Brothers, PLC Supplemental Type Certificate (STC) ST03076NY.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by reports of fan cowl door (FCD) losses during takeoff. We are issuing this AD to prevent in-flight loss of an FCD, which could result in damage to the airplane and injury to persons on the ground.

(f) Compliance

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

(g) Modification and Re-Identification of FCDs

Within 18 months after the effective date of this AD: Do the modification and re-identification specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Modify each left-hand (LH) and right-hand (RH) FCD having a part number listed as “Old Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD, in accordance with the Accomplishment Instructions of Bombardier Short Brothers Service Bulletin V25MFC–71–1003, dated September 28, 2016.

(2) Re-identify each modified FCD with the part number listed as “New Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD, in accordance with the Accomplishment Instructions of Bombardier Short Brothers Service Bulletin V25MFC–71–1003, dated September 28, 2016.

Table 1 to paragraphs (g), (h), and (l) of this AD – Monolithic FCD part number change

FCD Position	Old Part Number	New Part Number
LH	745B4000-501	745B4000-507
	745B4000-503	745B4000-509
	745B4000-505	745B4000-511
RH	745B4000-502	745B4000-508
	745B4000-504	745B4000-510
	745B4000-506	745B4000-512

(h) Optional Compliance by Replacement or Installation

(1) Replacement of the FCDs having a part number listed as “Old Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD, with the FCDs having the corresponding part number listed as “New Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD, is acceptable for compliance with the requirements of paragraph (g) of this AD.

(2) Installation on an engine of a LH and RH FCD having a part number approved after the effective date of this AD is acceptable for compliance with the requirements of paragraph (g) of this AD for that engine only, provided the conditions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD are met.

(i) The part number is approved using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Bombardier Short Brothers, PLC’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(ii) The installation is accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Bombardier Short Brothers, PLC’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Placard Installation

For airplanes on which Airbus SAS modification 157718 has not been embodied in production: Within 18 months after the effective date of this AD, install a placard that specifies the FCD keys stowage location in the flight deck on the box located at the bottom of the 120VU panel, or at the bottom of the coat stowage, as applicable to airplane configuration, using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Bombardier Short Brothers, PLC’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Missing FCD Keys or Placard

Flights with one or both FCD keys missing from the stowage location in the flight deck, or with the placard (that specifies the FCD

keys stowage location) missing or damaged, are permitted for a period not to exceed 10 calendar days from the date of discovery.

(k) Alternate Location of FCD Keys and Placard

As an option to paragraph (i) of this AD, an alternate location for the key stowage in the flight deck and installation of a placard for identification of that stowage location are permitted as specified in the operator’s FAA-accepted maintenance or inspection program, provided the keys can be retrieved from that flight deck location when needed and the placard installation is done within 18 months after the effective date of this AD.

(l) Parts Installation Prohibition

No person may install on any airplane an FCD with a part number identified as “Old Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD, after the time specified in paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) For any airplane with an installed FCD having a part number identified as “Old Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD: After modification of that airplane as required by paragraph (g) of this AD or as specified in paragraph (h) of this AD.

(2) For any airplane without an installed FCD having a part number identified as “Old Part Number” in table 1 to paragraphs (g), (h), and (l) of this AD: After the effective date of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Section, Transport Standards 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 International Section, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate

principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Bombardier Short Brothers, PLC’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017-0178, dated September 15, 2017, for related information. This MCAI may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0358.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

(o) Material Incorporated by Reference

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

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

(i) Bombardier Short Brothers Service Bulletin V25MFC-71-1003, dated September 28, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier Short Brothers, PLC, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890-462469; fax +44(0)2890-468444; email michael.mulholland@aero.bombardier.com; internet <http://www.bombardier.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Des Moines, Washington, on September 20, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018-21963 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2018-0546; Product Identifier 2017-NM-171-AD; Amendment 39-19461; AD 2018-21-03]

RIN 2120-AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. This AD was prompted by reports of multiple in-flight departures of the aft belly fairing access panels. This AD requires modification of the aft belly fairing access panels. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 19, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514 855-7401; email thd.crj@aero.bombardier.com; internet <http://www.bombardier.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0546.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0546; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800-647-5527) 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:

Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7330; fax 516-794-5531; email 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. The NPRM published in the **Federal Register** on June 20, 2018 (83 FR 28553). The NPRM was prompted by reports of multiple in-flight departures of the aft belly fairing access panels. The NPRM proposed to require modification of the aft belly fairing access panels.

We are issuing this AD to address in-flight departures of the aft belly fairing access panels, which could result in runway hazards or hazards to people on the ground.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF-2017-31, dated September 22, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. The MCAI states:

There have been multiple in-service occurrences where operators reported in-flight departure of the aft belly fairing access panels, 185CL and/or 186CR. There has been no damage reported to the affected aircraft to date, however departure of the panels in any phase of flight could create runway hazards or a hazard to persons and property on the ground.

Bombardier Inc. has issued Service Bulletins (SBs) to incorporate new self-locking nutplates with associated hardware (retaining rings and studs) to improve

fastener engagement. A bracket has also been added to provide two additional panel attachment points.

This [Canadian] AD requires the incorporation of these design changes to prevent departure of the two aft belly fairing access panels in flight and the associated risk on the ground.

You may examine the MCAI in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0546.

Comments

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

Request To Include Additional Document in Credit for Previous Actions Paragraph

Bombardier requested that paragraph (h) of the proposed AD, “Credit for Previous Actions,” be revised to include Bombardier Service Request for Product Support Action 124026 (“SRPSA 124026”). The requester noted that Canadian AD CF-2017-31, dated September 22, 2017, included a statement that incorporation of the actions described in Bombardier SRPSA 124026 on an airplane satisfies the intent of the Canadian AD. The commenter also noted that Bombardier SRPSA 124026 was utilized on a U.S.-registered airplane having number N211PB and serial number 9378.

We agree with the commenter’s request for the reasons provided by the commenter. We have added paragraph (h)(2) to this AD to provide credit for airplanes on which Bombardier SRPSA 124026 has been incorporated.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change described previously, and minor editorial changes. We have 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.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information:

- Service Bulletin 700-1A11-53-025, Revision 01, dated December 16, 2016;
- Service Bulletin 700-53-050, Revision 01, dated December 16, 2016;
- Service Bulletin 700-53-5009, Revision 01, dated December 16, 2016;

and

- Service Bulletin 700-53-6008, Revision 01, dated December 16, 2016.

This service information describes actions to modify the aft belly fairing access panels by replacing the attachments. These documents are distinct since they apply to different airplane models in different configurations. 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

We estimate that this AD affects 110 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × \$85 per hour = \$340	\$2,640	\$2,980	\$327,800

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our 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.

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018-21-03 Bombardier, Inc.: Amendment 39-19461; Docket No. FAA-2018-0546; Product Identifier 2017-NM-171-AD.

(a) Effective Date

This AD is effective November 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes, certificated in any category, serial numbers 9002 through 9770 inclusive, 9772 through 9781 inclusive, and 9998.

(d) Subject

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

(e) Reason

This AD was prompted by reports of multiple in-flight departures of the aft belly fairing access panels. We are issuing this AD to address in-flight departures of the aft belly fairing access panels, which could result in runway hazards or hazards to people on the ground.

(f) Compliance

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

(g) Access Panel Modification

Within 15 months after the effective date of this AD, modify the aft belly fairing access panels by replacing the attachments, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) and (g)(2) of this AD.

(1) For Model BD-700-1A10 airplanes: Bombardier Service Bulletin 700-53-050, or 700-53-6008, both Revision 01, both dated December 16, 2016.

(2) For Model BD-700-1A11 airplanes: Bombardier Service Bulletin 700-1A11-53-025, or 700-53-5009, both Revision 01, both dated December 16, 2016.

(h) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD,

if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD.

(i) Bombardier Service Bulletin 700–1A11–53–025, dated July 14, 2016.

(ii) Bombardier Service Bulletin 700–53–050, dated July 14, 2016.

(iii) Bombardier Service Bulletin 700–53–5009, dated July 14, 2016.

(iv) Bombardier Service Bulletin 700–53–6008, dated July 14, 2016.

(2) Incorporation of Bombardier Service Request for Product Support Action 124026 on an airplane prior to the effective date of this AD meets the intent of paragraph (g) of this AD for that airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York 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 ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–31, dated September 22, 2017, for related information. This MCAI may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0546.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email 9-avs-nyaco-cos@faa.gov.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Bombardier Service Bulletin 700–53–050, Revision 01, dated December 16, 2016.

(ii) Bombardier Service Bulletin 700–53–5009, Revision 01, dated December 16, 2016.

(iii) Bombardier Service Bulletin 700–1A11–53–025, Revision 01, dated December 16, 2016.

(iv) Bombardier Service Bulletin 700–53–6008, Revision 01, dated December 16, 2016.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email thd.crj@aero.bombardier.com; internet <http://www.bombardier.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Des Moines, Washington, on October 2, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21972 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0498; Product Identifier 2018–NM–013–AD; Amendment 39–19465; AD 2018–21–07]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus SAS Model A330–200 Freighter, –200, and –300 series airplanes. This AD was prompted by reports of Angle of Attack (AOA) blockages not detected by upgraded flight control primary computer (FCPC) software standards. This AD requires upgrading certain FCPCs, which terminates a certain airplane flight manual revision for

certain airplanes. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 19, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 19, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email airworthiness.A330-A340@airbus.com; internet <http://www.airbus.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0498.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0498; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A330–200 Freighter, –200, and –300 series airplanes. The NPRM published in the **Federal Register** on June 4, 2018 (83 FR 25595). The NPRM was prompted by reports of AOA blockages not detected by upgraded FCPC software standards. The NPRM proposed to require upgrading certain FCPCs, which would terminate a certain airplane flight

manual revision for certain airplanes. We are issuing this AD to address Alpha protection activation due to blocked AOA probes, which could result in reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0246R1, dated April 6, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus SAS Model A330–200 Freighter, –200, and –300 series airplanes. The MCAI states:

In 2015, occurrences were reported of multiple Angle of Attack (AOA) blockages. Investigation results indicated the need for AOA monitoring in order to better detect cases of AOA blockage.

This condition, if not corrected, could, under specific circumstances, lead to undue activation of the Alpha protection, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, Airbus developed new FCPC software standards for enhanced AOA monitoring and, consequently, EASA issued AD 2015–0124 (later revised) [which corresponds to FAA AD 2016–25–30, Amendment 39–18756, (82 FR 1175, January 5, 2017) (“AD 2016–25–30”)] to require these software standard upgrades.

Since EASA AD 2015–0124R3 was issued, it was identified that, for some cases, AOA blockages were not detected by those FCPC software standards. Consequently, new FCPC software standards, as specified in Table 1 of this [EASA] AD, have been developed (Airbus modification (mod) 206412, mod 206413 and mod 206414) to further improve the detection of AOA blockage. Airbus issued Service Bulletin (SB) A330–27–3222 and SB A330–27–3223 to implement these mods on in-service aeroplanes. Consequently, EASA issued AD 2017–0246 to require a software standard upgrade of the three FCPCs, either by modification or replacement.

Since that [EASA] AD was issued, it was determined that the Aircraft Flight Manual (AFM) Emergency Procedure, as previously required by EASA AD 2014–0267–E [which corresponds to FAA AD 2014–25–52, Amendment 39–18066, (80 FR 3161, January 22, 2015) (“AD 2014–25–52”)] can also be removed for other AOA sensors and FCPC configurations. This [EASA] AD revises paragraph (2) accordingly, also introducing Table 2 for that purpose.

You may examine the MCAI in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0498.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) expressed support for the NPRM.

Request To Change Applicability

Delta Air Lines (Delta) asked that we further restrict the applicability identified in paragraph (c) of the proposed AD by including the effectivity in the referenced service information. Delta stated that operators should be held accountable only for airplanes on which an airworthiness concern exists, and those airplanes correspond to the effectivity of the referenced service information. Delta added that if there are airplanes outside of this effectivity, operators will incur costs to produce and maintain records for those airplanes, regardless of whether or not there is an unsafe condition. Delta asserted that the service information provides a list of production airplanes that will be, or will have been, delivered with the affected software.

We do agree to clarify the applicability. This AD is applicable to airplanes equipped with certain FCPC and not only to specific airplane manufacturer serial numbers (MSNs). For airplanes equipped with certain FCPC, only those that are in a pre-mod configuration as specified in paragraph (g) of this AD are required to do the upgrade specified in paragraph (h) of this AD. Airplanes in a post-mod configuration are not required to do an upgrade; however, they must comply with paragraph (k) of this AD. Paragraph (k) of this AD prohibits the installation of any software or hardware of a standard earlier than one listed in table 1 to paragraphs (h) and (k) of this AD on all airplanes identified in paragraph (c) of this AD. In order for this installation prohibition to be effective, airplanes in a post-mod configuration must be included in the applicability. We are also matching the applicability in the MCAI. Therefore, we have not changed this AD in this regard.

Request To Remove Reference to Group 2 Airplanes

Delta asked that we remove references to Group 2 airplanes from paragraphs (g) and (k) of the proposed AD, “Definition of Groups” and “Parts Installation Prohibition,” respectively. Delta stated that Group 1 airplanes are those in pre-mod 206412, 206413, or 206414 configuration, as applicable; Group 2 airplanes are those in post-mod 206412, 206413, or 206414 configuration, as applicable. Delta added that Group 2 airplanes are those that do not require

modification, since they are already equipped with the FCPC software; therefore, those airplanes should be excluded from the applicability since the unsafe condition does not exist on those airplanes. Delta noted that a Group 1/Group 2 definition is redundant to the applicability paragraph because that paragraph defines only those airplanes on which the unsafe condition exists. Delta also noted that the proposed language in paragraph (k) of the proposed AD would allow continued installation of existing hardware/software before the AD effective date and prohibit removal of the modification after the effective date of the AD.

We do not agree with the commenter’s request. Airplanes in Groups 1 and 2 represent the total of the airplanes identified in paragraph (c) of the AD. Group 1 and Group 2 are defined in paragraph (g) of this AD to distinguish one from another, for the purpose of identifying the applicable requirements. Removing the definition of Group 2 airplanes from paragraph (g) of this AD would not remove Group 2 airplanes from the applicability. Airplanes in Group 2 may in the future be subject to the unsafe condition identified in this AD if an earlier standard of software or hardware is installed on that airplane. Therefore, so that Group 2 airplanes remain in an airworthy configuration after the effective date of the AD, paragraph (k) of this AD prohibits the installation of any software or hardware of a standard earlier than that listed in table 1 to paragraphs (h) and (k) of this AD. Therefore, we have not changed this AD in this regard.

Request To Reference to Later Revisions of Service Information

Delta asked that we change paragraph (h) of the proposed AD to allow use of subsequent service bulletins. Delta stated that the FCPC software standard has changed approximately every two years. Delta noted that adding the term “or relative later software standard” will allow operators to immediately install the latest software standard without having to request an alternative method of compliance (AMOC).

We disagree with the commenter’s request. In general terms, we are required by the Office of the Federal Register (OFR) regulations to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as “referenced” material, in which case we may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for

“incorporation by reference.” See 1 CFR part 51.

To allow operators to use later revisions of the referenced document (issued after publication of the AD), either we must revise the AD to reference specific later revisions, or operators must request approval to use later revisions or later software standards as an AMOC for this AD under the provisions of paragraph (l)(1) of this AD. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the

public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued the following service information:

- Service Bulletin A330–27–3222, dated February 16, 2017.
- Service Bulletin A330–27–3223, dated June 6, 2017.

This service information describes procedures for upgrading (by modification or replacement, as applicable) certain FCPCs. These documents are distinct since they apply to different airplanes in different configurations. 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

We estimate that this AD affects 103 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification/replacement	3 work-hours × \$85 per hour = \$255	\$0	\$255	\$26,265

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our 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.

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has

delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–21–07 Airbus SAS: Amendment 39–19465; Docket No. FAA–2018–0498; Product Identifier 2018–NM–013–AD.

(a) Effective Date

This AD is effective November 19, 2018.

(b) Affected ADs

This AD affects AD 2014–25–52, Amendment 39–18066 (80 FR 3161, January 22, 2015) (“AD 2014–25–52”); and AD 2016–25–30, Amendment 39–18756, (82 FR 1175, January 5, 2017) (“AD 2016–25–30”).

(c) Applicability

This AD applies to the airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD; all manufacturer serial numbers; equipped with flight control primary computers (FCPCs) having software standard P13/M22 (hardware 2K2), P14/M23 (hardware 2K1), or M23 (hardware 2K0), or earlier standard.

- (1) Airbus Model A330–223F and –243F airplanes.
- (2) Airbus Model A330–201, –202, –203, –223, and –243 airplanes.
- (3) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

Note 1 to paragraph (c) of this AD: The software standards specified in paragraph (c) of this AD correspond, respectively, to part number (P/N) LA2K2B100DG0000, P/N

LA2K1A100DF0000, and P/N LA2K01500AF0000. All affected airplanes should be equipped with this software, as required by AD 2016–25–30.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by reports of Angle of Attack (AOA) blockages not detected by upgraded FCPC software standards. We are issuing this AD to prevent Alpha protection

activation due to blocked AOA probes, which could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Definitions of Groups

Group 1 airplanes are those in pre-mod 206412, pre-mod 206413, or pre-mod 206414 configuration, as applicable. Group 2 airplanes are those in post-mod (206412,

206413, or 206414, as applicable) configuration.

(h) Upgrade Flight Control Primary Computer Software

For Group 1 airplanes: Within 12 months after the effective date of this AD: Upgrade (by modification or replacement, as applicable) the three FCPCs, as specified in table 1 to paragraphs (h) and (k) of this AD, in accordance with the Accomplishment Instructions of the applicable service information specified in table 1 to paragraphs (h) and (k) of this AD.

Table 1 to paragraphs (h) and (k) of this AD – Software Standard Updates

Software Standard to be Installed	FCPC Hardware Standard	Applicable Service Bulletin
P15/M24	2K2	Airbus Service Bulletin A330-27-3222, dated February 16, 2017
P16/M25	2K1	Airbus Service Bulletin A330-27-3223, dated June 6, 2017
M25	2K0	Airbus Service Bulletin A330-27-3223, dated June 6, 2017

(i) Terminating Action for Certain Requirements of AD 2014–25–52

For airplanes with an AOA configuration as identified in figure 1 to paragraph (i) of

this AD, or as identified in paragraph (m)(2) of AD 2016–12–15, Amendment 39–18564 (81 FR 40160, June 21, 2016) (“AD 2016–12–15”), as applicable: Accomplishing the upgrade required by paragraph (h) of this AD

terminates the requirements of paragraph (g) of AD 2014–25–52, and the airplane flight manual (AFM) procedure required by paragraph (g) of AD 2014–25–52 may be removed from the AFM.

Figure 1 to paragraph (i) of this AD – AOA Sensor Installation Configurations

AOA Sensor P/N – Captain	AOA Sensor P/N - First Officer	AOA Sensor P/N - Standby
C16291AB or C16291AA	C16291AB or C16291AA	C16291AB, C16291AA, 0861ED or 0861ED2

Note: For AOA sensor P/N C16291AA, paragraph (j) of AD 2016-12-15 requires detailed inspections and a functional heating test of that sensor.

(j) Terminating Action for Certain Requirements of AD 2016–25–30

Accomplishment of the actions required by paragraph (h) of this AD terminates the requirements of paragraph (g) of AD 2016–25–30 for that airplane.

(k) Parts Installation Prohibition

Installation of any software or hardware of a version earlier than the one listed in table 1 to paragraphs (h) and (k) of this AD is

prohibited, as required by paragraphs (k)(1) and (k)(2) of this AD, as applicable.

(1) For Group 1 airplanes: After modification of an airplane as required by paragraph (h) of this AD.

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

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Section, Transport Standards 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 International Branch, send it to the attention of the person

identified in paragraph (m)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017-0246R1, dated April 6, 2018, for related information. This MCAI may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0498.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3229.

(n) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A330-27-3222, dated February 16, 2017.

(ii) Airbus Service Bulletin A330-27-3223, dated June 6, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No. 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email airworthiness.A330-A340@airbus.com; internet <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this service information that is incorporated by reference at the

National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Des Moines, Washington, on September 23, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018-21967 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-1116; Product Identifier 2016-NE-32-AD; Amendment 39-19459; AD 2018-21-01]

RIN 2120-AA64

Airworthiness Directives; Honeywell International Inc. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017-20-06 for certain Honeywell International Inc. (Honeywell) AS907-1-1A turbofan engines. AD 2017-20-06 required a one-time inspection of the second stage low-pressure turbine (LPT2) blades and, if the blades fail the inspection, the replacement of the blades with a part eligible for installation. This AD continues to require a one-time inspection of the LPT2 blades and, if the blades fail the inspection, the replacement of the blades with a part eligible for installation. This AD was prompted by the need to clarify the Applicability and Compliance sections of AD 2017-20-06. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 19, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 9, 2017 (82 FR 46379, October 5, 2017).

ADDRESSES: For service information identified in this final rule, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034-2802; phone: 800-601-3099; internet: <https://myaerospace2.honeywell.com/wps/portal>. You may view this service information at the FAA, Engine and Propeller Standards 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 <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1116.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1116; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800-647-5527) 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:

Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712-4137; phone: 562-627-5246; fax: 562-627-5210; email: joseph.costa@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017-20-06, Amendment 39-19063 (82 FR 46379, October 5, 2017), (“AD 2017-20-06”). AD 2017-20-06 applied to certain Honeywell International Inc. (Honeywell) AS907-1-1A turbofan engines. The NPRM published in the **Federal Register** on January 30, 2018 (83 FR 4167). The NPRM was prompted by the need to clarify the Applicability and Compliance sections of AD 2017-20-06. The NPRM proposed to continue to require one-time inspection of the LPT2 blades and, if the blades fail the inspection, the replacement of the blades with a part eligible for installation. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Align the Compliance Requirements With the Service Bulletin (SB)

Bombardier Aerospace (Bombardier) requested that the compliance

requirements of the AD be aligned with Honeywell SB AS907-72-9067, Revision 1, dated March 20, 2017. Bombardier asked that we remove the requirements for measured wear requirements for recording of wear. Bombardier noted that Honeywell SB AS907-72-9067 requires contact between the LPT2 rotor blade Z-gap.

We disagree. Honeywell SB AS907-72-9067, Revision 1, dated March 20, 2017 and the compliance section of this AD provide the same guidance for measuring and recording wear with a borescope at the LPT2 blade shroud Z-gap. Reported borescope inspections of high-time engines show that blade-to-blade contact at the Z-gap is difficult to measure with a borescope. The FAA and Honeywell agree that the measured wear limit of 0.005", as defined by the Honeywell Light Maintenance Manual (LMM) AS907-1-1A, 72-00-00, is acceptable for this AD.

Additionally, the FAA disagrees with the request to remove the requirement for recordings of the borescope inspection. We find that making these recordings with a clean digital image helps us to identify wear characteristics, severity, and cumulative damage of

LPT2 blade assembly and to provide future borescope requirements for LPT blade maintenance. We did not change this AD.

Request To Revise Costs of Compliance

Bombardier Aerospace requested that we align the cost estimates in this AD with the cost estimates in Honeywell's SB.

We disagree. The slight differences in costs between the NPRM and Honeywell's SB reflect the additional recording requirements in this AD. We did not change this AD.

Revision to Applicability

The intent of the NPRM was to limit the applicability of this AD to affected blades that have more than 8,000 hours since new on November 9, 2017 (the effective date of AD 2017-20-06). We therefore revised the applicability to refer to "November 9, 2017," instead of "the effective date of this AD."

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information Under 1 CFR Part 51

We reviewed Honeywell SB AS907-72-9067, Revision 1, dated March 20, 2017. This SB describes procedures for inspecting the LPT2 blades. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Other Related Service Information

We reviewed Honeywell SB AS907-72-9067, Revision 0, dated December 12, 2016, which also describes procedures for inspecting the LPT2 blades. We also reviewed the Honeywell LMM AS907-1-1A, 72-00-00, Section 72-05-12, dated May 25, 2016, and Section 72-55-03, dated September 27, 2011, which provide additional guidance for performing borescope inspections.

Costs of Compliance

We estimate that this AD affects 40 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Borescope inspection	10 work-hours × \$85 per hour = \$850	\$0	\$850	\$34,000
Report results of inspection	1 work-hour × \$85 per hour = \$85	0	85	3,400

We estimate the following costs to do any necessary replacements that would be required based on the results of the

inspection. We estimate that 40 engines will need this replacement.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the LPT2 blade set	50 work-hours × \$85 per hour = \$4,250	\$50,000	\$54,250

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response,

including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

Authority for This Rulemaking

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

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD)

2017–20–06, Amendment 39–19063 (82 FR 46379, October 5, 2017), and adding the following new AD:

2018–21–01 Honeywell International Inc.:
Amendment 39–19459; Docket No. FAA–2017–1116; Product Identifier 2016–NE–32–AD.

(a) Effective Date

This AD is effective November 19, 2018.

(b) Affected ADs

This AD replaces AD 2017–20–06, Amendment 39–19063 (82 FR 46379, October 5, 2017).

(c) Applicability

This AD applies to Honeywell International Inc. (Honeywell) AS907–1–1A turbofan engines with second stage low-pressure turbine (LPT2) rotor blades, part number 3035602–1, installed, that have more than 8,000 hours since new on November 9, 2017 (the effective date of AD 2017–20–06).

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by reports of loss of power due to failure of the LPT2 blade. We are issuing this AD to prevent failure of the LPT2 blades. The unsafe condition, if not corrected, could result in failure of one or more engines and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Within 200 hours time in service after the effective date of this AD, do the following:

- (1) Perform a one-time borescope inspection for wear of the Z gap contact area at the blade tip shroud for each of the 62 LPT2 rotor blades. Use the Accomplishment Instructions, Paragraph 3.B.(1), of Honeywell Service Bulletin (SB) AS907–72–9067, Revision 1, dated March 20, 2017, to do the inspection.

(2) If the measured wear and/or fretting of any Z gap contact area is greater than 0.005 inch, replace the LPT2 rotor assembly with a part eligible for installation before further flight.

(3) Using a borescope, make a clear digital image of the Z gap contact area at the blade tip shroud of the 62 LPT2 rotor blades, and do the following:

- (i) Identify the three Z gap contact areas with the greatest amount of wear and/or fretting.
- (ii) Record the blade position on the LPT2 rotor assembly and the measured wear of the three Z gap contact areas with the greatest amount of wear and/or fretting.
- (iii) Send the results to Honeywell at engine.reliability@honeywell.com within 30 days after completing these actions.

(h) Credit for Previous Actions

You may take credit for the actions required by paragraphs (g)(1) and (2) of this

AD if you performed these actions before the effective date of this AD using Honeywell SB AS907–72–9067, Revision 0, dated December 12, 2016.

(i) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, may 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 Los Angeles ACO Branch, send it to the attention of the person identified in paragraph (k) of this AD. You may email your request to: 9-ANM-LAACO-AMOC-REQUESTS@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: joseph.costa@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.

(3) The following service information was approved for IBR on November 9, 2017 (82 FR 46379, October 5, 2017).

- (i) Honeywell Service Bulletin AS907–72–9067, Revision 1, dated March 20, 2017.
- (ii) Reserved.

(4) For Honeywell service information identified in this AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034-2802; phone: 800-601-3099; internet: <https://myaerospace2.honeywell.com/wps/portal>.

(5) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Burlington, Massachusetts, on October 3, 2018.

Robert J. Ganley,

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

[FR Doc. 2018-22009 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2017-1200; Airspace Docket No. 17-AWP-23]

RIN 2120-AA66

Establishment of Class E Airspace; Reedley, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Reedley Municipal Airport, Reedley, CA, to accommodate new area navigation (RNAV) procedures at the airport. This action ensures the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, January 3, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence

Avenue SW, Washington DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call (202) 741-6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT:

Richard Farnsworth, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198-6547; telephone (206) 231-2244.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Reedley Municipal Airport, Reedley, CA, to support new area navigation (RNAV) procedures at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 16258; April 16, 2018) for Docket No. FAA-2017-1200 to establish Class E airspace extending upward from 700 feet above the surface at Reedley Municipal Airport, Reedley, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within 2 miles east and 4 miles west of the 168° and 348° bearings from the airport extending to 6.1 miles south and 6.5 miles north of the airport, respectively, to accommodate new RNAV standard instrument approach procedures for instrument flight rules (IFR) operations at Reedley Municipal Airport, Reedley, CA.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Reedley, CA [New]

Reedley Municipal Airport, CA
(Lat. 36°40'16" N, long. 119°27'04" W)

That airspace extending upward from 700 feet above the surface within 2 miles east and 4 miles west of the 168° and 348° bearings from the Reedley Municipal Airport extending to 6.1 miles south and 6.5 miles north of the airport.

Issued in Seattle, Washington, on October 4, 2018.

Shawn M. Kozica,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–22169 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2018–0370; Airspace Docket No. 18–AGL–11]

RIN 2120–AA66

Amendment of Class E Airspace; Wooster, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Wayne County

Airport, Wooster, OH. This action is the result of an airspace review caused by the decommissioning of the Tiverton VHF omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airport are also updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, January 3, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Wayne County Airport, Wooster, OH, to

support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 35570; July 27, 2018) for Docket No. FAA–2018–0370 to amend Class E airspace extending upward from 700 feet above the surface at Wayne County Airport, Wooster, OH. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Wayne County Airport, Wooster, OH, by removing the extension to the east associated with the Smith non-directional radio beacon. The geographic coordinates of the airport are updated to coincide with the FAA's aeronautical database. Exclusionary language is removed as it is no longer required. And, the name of the city associated with the airport in the airspace description is removed to comply with a change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

This action is necessary due to an airspace review caused by the decommissioning of the Tiverton VOR as part of the VOR MON Program.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and

unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL OH E5 Wooster, OH [Amended]

Wayne County Airport, OH

(Lat. 40°52'29" N, long. 81°53'18" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wayne County Airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2018–22178 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

**[Docket No. FAA–2017–9378; Airspace
Docket No. 17–ASW–13]**

RIN 2120–AA66

Establishment of Class D and E Airspace, and Amendment of Class E Airspace; Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace, Class E surface airspace, and amends Class E airspace extending upward from 700 feet above the surface at Austin Executive Airport, Austin, TX. The FAA conducted an airspace review and determined that airspace redesign is necessary due to the establishment of an air traffic control tower at the airport. Also, an editorial change is made removing the city associated with the airport names in the existing Class E airspace. This action enhances the safety and management of instrument flight rules (IFR) operations at these airports. Additionally, exclusionary language is added, which was inadvertently left out of the Class D airspace description, and the geographic coordinates are corrected for Lago Vista-Rusty Allen Airport.

DATES: Effective 0901 UTC, January 3, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of FAA Order 7400.11C at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

On February 1, 2018, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class D and Class E surface airspace, and amend Class E airspace extending upward from 700 feet above the surface at Austin Executive Airport, Austin, TX (83 FR 4613) Docket No. FAA–2017–9378.

Subsequent to publication, the FAA found the Class C airspace exclusion was omitted from the Class D airspace description for Austin Executive Airport. Also, the geographic coordinates for Lago Vista-Rusty Allen Airport are updated in this rule.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Five comments were received in support of the proposal.

In their comment, AOPA stated that the NPRM did not comply with FAA guidance in FAA Order 7400.2L, Procedures for Handling Airspace Matters, because a graphic was not included in the docket. Additionally, AOPA encouraged the FAA to follow

their guidance in the Order by making the action effective date coincidental to the sectional chart publication date.

The FAA has determined AOPA's comments raised no substantive issues with respect to the proposed changes to the airspace addressed in the NPRM. To the extent the FAA failed to follow its policy guidance reference publishing graphics in the docket and establishing the Class D airspace effective date to match the sectional chart date, we note the following.

Specific to AOPA's comment regarding the FAA already creating a graphical depiction of new or modified airspace overlaid on a Sectional Chart for quality assurance purposes, this is not correct nor required in all cases. During the airspace reviews, airspace graphics may be created, if deemed necessary, to determine if there are any terrain issues, or if cases are considered complex. However, in many cases when developing an airspace amendment proposal, a graphic is not required.

With respect to AOPA's comment addressing effective dates, FAA Order 7400.2L, paragraph 2-3-7.a.4. states that, to the extent practicable, Class D airspace area and restricted area rules should become effective on a sectional chart date and that consideration should be given to selecting a sectional chart date that matches a 56-day en route chart cycle date. The FAA does consider Class D and E airspace amendment effective dates to coincide with the publication of sectional charts, to the extent practicable; however, this consideration is accomplished after the NPRM comment period ends in the final rule. Substantive comments received to NPRMs, flight safety concerns, management of IFR operations at affected airports, and immediacy of required proposed airspace amendments are some of the factors that must be taken into consideration when selecting the appropriate effective date. After considering all factors, the FAA may determine that selecting an effective date that conforms to a 56-day en route chart cycle date that is not coincidental to sectional chart dates is better for the National Airspace System and its users than awaiting the next sectional chart date.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Establishing Class D airspace at Austin Executive Airport, Austin, TX, within a 4.1-mile radius of the airport, and adding to the airspace description "excluding the Austin Class C airspace". Establishing Class E surface airspace within a 4.1-mile radius of Austin Executive Airport, Austin, TX; and

Amending Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile radius (decreased from a 6.5-mile radius) of Austin Executive Airport, and within 2 miles each side of the 131° bearing (previously the 132° bearing) from the airport extending from the 6.3-mile radius to 11.3 miles (increased from a 10.4-miles) southeast of the airport, and within 2 miles each side of the 311° bearing from the airport extending from the 6.3-mile radius to 10.5 miles (decreased from 11.2 miles) northwest of the airport. Also, due to a change to FAA Order 7400.2L, Procedures for Handling Airspace Matters, the city name is removed from Lakeway Airpark, Austin Executive Airport, and Lago Vista-Rusty Allen Airport.

Class D and E airspace areas are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Austin, TX [New]

Austin Executive Airport, TX
(Lat. 30°23'51" N, long. 97°33'59" W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.1-mile radius of Austin Executive Airport, excluding the Austin Class C airspace. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will

thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Surface Area Airspace.

ASW TX E2 Austin, TX [New]

Austin Executive Airport, TX
(Lat. 30°23'51" N, long. 97°33'59" W)

That airspace within a 4.1-mile radius of Austin Executive Airport, excluding the Austin Class C airspace. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

ASW TX E5 Austin, TX [Amended]

Point of Origin
(Lat. 30°17'55" N, long. 97°42'06" W)

Lakeway Airpark, TX
(Lat. 30°21'27" N, long. 97°59'40" W)

Austin Executive Airport, TX
(Lat. 30°23'51" N, long. 97°33'59" W)

Lago Vista-Rusty Allen Airport, TX
(Lat. 30°29'55" N, long. 97°58'10" W)

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Point of Origin, and within a 6.4-mile radius of Lakeway Airpark, and within a 6.4-mile radius of Lago Vista-Rusty Allen Airport, and within a 6.3-mile radius of Austin Executive Airport, and within 2 miles each side of the 131° bearing from Austin Executive Airport, extending from the 6.3-mile radius to 11.3 miles southeast of the airport, and within 2 miles each side of the 311° bearing from Austin Executive Airport extending from the 6.3-mile radius to 10.5 miles northwest of the airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,
Manager (A), Operations Support Group, ATO Central Service Center.

[FR Doc. 2018-22185 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA-2012-0035]

RIN 0960-AH51

Revisions to Rules Regarding the Evaluation of Medical Evidence; Correction

AGENCY: Social Security Administration.

ACTION: Correcting amendment.

SUMMARY: On January 18, 2017, we published final rules in the **Federal Register** revising our medical evidence

rules. Those final rules inadvertently included a typographical error. This document corrects the final regulations.

DATES: Effective October 15, 2018, and applicable beginning March 27, 2017.

FOR FURTHER INFORMATION CONTACT: Joshua Silverman, Office of Vocational, Evaluation, and Process Policy, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 594-2128. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: We published final rules in the **Federal Register** on January 18, 2017 (82 FR 5844, corrected March 27, 2017, at 82 FR 15132) titled Revisions to Rules Regarding the Evaluation of Medical Evidence. The final rules, among other things, amended the regulatory text for acceptable medical sources by adding licensed audiologists to the list of acceptable medical sources in 20 CFR 416.902(a)(6). We inadvertently included duplicative wording in that section of the rules. This document amends the regulations by deleting the duplication of three words (for impairments of) and corrects the final rules.

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Accordingly, 20 CFR part 416, subpart I is corrected by making the following correcting amendment:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

■ 1. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)-(e), 14(a), and 15, Pub. L. 98-460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 2. Amend § 416.902 by revising paragraph (a)(6) to read as follows:

§ 416.902 Definitions for this subpart.

* * * * *
(a) * * *

(6) Licensed audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within the licensed scope of practice only (with respect to claims filed (see § 416.325) on or after March 27, 2017);

* * * * *

Nancy A. Berryhill,
Acting Commissioner of Social Security.
[FR Doc. 2018-22363 Filed 10-12-18; 8:45 am]

BILLING CODE 4191-02-P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in November 2018. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective November 1, 2018.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (rifkin.melissa@PBGC.gov), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202-326-4400 ext. 6563. (TTY users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400, ext. 6563.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's website (<http://www.pbgc.gov>).

PBGC uses the interest assumptions in appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to part 4022 contains interest assumptions for private-sector

pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for November 2018.¹

The November 2018 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for October 2018, these assumptions represent no change in the immediate rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during November 2018, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility

Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 301 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
301	11-1-18	12-1-18	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 301 is added at the end of the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
301	11-1-18	12-1-18	1.25	4.00	4.00	4.00	7	8

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs Pension Benefit Guaranty Corporation.

[FR Doc. 2018-22307 Filed 10-12-18; 8:45 am]

BILLING CODE 7709-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-0894]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the local community to participate in the Be the Gift 5K walk/run. This deviation allows the bridge to remain in the closed-to-

¹ Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing

benefits under terminating covered single-employer plans for purposes of allocation of assets under

ERISA section 4044. Those assumptions are updated quarterly.

navigation position during the deviation period.

DATES: This deviation is effective from 8 a.m. through 10 a.m. on October 20, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0894, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email Carl.T.Hausner@uscg.mil.

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over the Sacramento River, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 8 a.m. to 10 a.m. on October 20, 2018, to allow the community to participate in the Be the Gift 5K walk/run. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 27, 2018.

Carl T. Hausner,
District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–22347 Filed 10–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0942]

Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the I695 Bridge across Curtis Creek, mile 1.0, at Baltimore, MD. The deviation is necessary to facilitate maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from October 15, 2018 through 7 p.m. on October 19, 2018. For the purposes of enforcement, actual notice will be used from 7 a.m. on October 1, 2018, until October 15, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0942] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6222, email Hal.R.Pitts@uscg.mil.

SUPPLEMENTARY INFORMATION: The Cianbro Corporation, on behalf of the Maryland Transportation Authority, owner and operator of the I695 Bridge across Curtis Creek, mile 1.0, at Baltimore, MD, has requested a temporary deviation from the current operating schedule to accommodate maintenance. The current operating regulation is set out in 33 CFR 117.557.

Under this temporary deviation, the east bascule draw of the south span will be maintained in closed-to-navigation position and the west bascule draw of the south span will be maintained in the open-to-navigation position from 7 a.m. on October 1, 2018, through 7 p.m. on October 19, 2018. The north span will open on signal if at least a one-hour notice is given. At all other times the bridge will operate per 33 CFR 117.557. During the closure of the east bascule draw of the south span, the I695 Bridge will provide 100 feet of horizontal clearance and unlimited vertical

clearance in the open position and 200 feet of horizontal clearance and 58 feet of vertical clearance above mean high water in the closed position.

Curtis Creek is used by military vessels, recreational vessels, tug and barge traffic, fishing vessels, and small commercial vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway and coordinated with maritime stakeholders in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position or with the east bascule draw of the south span in the closed position may do so at any time. The bridge will be able to open on signal for emergency or urgent vessel transits from 7 a.m. to 7 p.m., Monday through Saturday, if at least a one-hour notice is given; and from 7 p.m. to 7 a.m., and from 7 a.m. to 7 p.m. on Sunday, October 7, 2018, and Sunday, October 14, 2018, if at least a four-hour notice is given. There is no immediate alternate route for vessels unable to pass through the bridge in the closed position or with the east bascule draw of the north span in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of this effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 9, 2018.

Hal R. Pitts,
Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–22336 Filed 10–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0832]

RIN 1625–AA00

Safety Zone; Head of the Buffalo Regatta; Buffalo River, Buffalo, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Buffalo River during the Head of the Buffalo Regatta. This safety zone is intended to restrict vessels from portions of the Buffalo River during the Head of the Buffalo Regatta. This temporary safety zone is necessary to protect mariners and racers from the navigational hazards associated with the regatta.

DATES: This rule is effective from 8 a.m. until 6 p.m. on October 20, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2018-0832 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LTJG Sean Dolan, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9322, email D09-SMB-SECBuffalo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 DHS Department of Homeland Security
 FR Federal Register
 NPRM Notice of proposed rulemaking
 § Section
 U.S.C. United States Code

II. Background Information and Regulatory History

On September 5, 2018 the Coast Guard published a Notice of Proposed Rulemaking (NPRM) titled Head of the Buffalo Regatta; Buffalo River, Buffalo, NY § 165.T09-0832. In that we discussed why we issued the NPRM and invited comments on our proposed regulatory action related to this regatta. The comment period ended October 5, 2018; we received one comment relating to the event. The comment questions whether economic factor were considered in the proposed rule. Our economic analysis in section V below did consider the economic ramifications of the proposed rule. The comment also questioned whether the canalside businesses would lose money. The proposed rule allows for vessels to transit through it when permitted by the COTP. The comment also questioned whether the rule would affect the operation of the lift bridges, but this rule does not affect the operation of the bridges.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The

Captain of the Port Buffalo (COTP) has determined that a large-scale paddle craft event on a navigable waterway will pose a significant risk to participants and the boating public. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the Head of the Buffalo Regatta is happening.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published September 5, 2018, and there was no objection to the proposed rule. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8:00 a.m. until 6:00 p.m. on October 20, 2018. The safety zone will cover all navigable waters between the two points starting at position 42°52'19.4" N, 78°52'25.3" W, and ending at position 42°51'36.7" N, 78°50'56.0" W, on the Buffalo River, Buffalo, NY. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled rowboat races between 8 a.m. and 6 p.m.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP Buffalo or his designated on-scene representative. The COTP or his designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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 rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this 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.

This regulatory action determination is based on the characteristics of the safety zone. The safety zone created by this rule will be relatively small and is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. In addition, the safety zone will designate times when races are not occurring; allowing vessels to travel through the safety zone. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the COTP.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-

888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a

significant effect on the human environment. This rule involves establishment of a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

Authority: Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09-0832 to read as follows:

§ 165.T09-0832 Safety Zone; Head of the Buffalo Regatta; Buffalo River, Buffalo, NY.

(a) *Location.* The safety zone will encompass all waters of the Buffalo River, Buffalo, NY, beginning at position 42°52'19.4" N, 78°52'25.3" W to 42°51'36.7" N, 78°50'56.0" W.

(b) *Enforcement period.* This rule is effective from 8 a.m. until 6 p.m. on October 20, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or

petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: October 9, 2018.

Joseph S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2018-22337 Filed 10-12-18; 8:45 am]

BILLING CODE 9110-04-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2018-6]

Streamlining the Administration of DART Royalty Accounts and Electronic Royalty Payment Processes

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is establishing a rule to codify its procedures for closing royalty payments accounts under section 1005 of the Copyright Act, and is amending its regulations governing online payment procedures for statutory licensing statements of account to no longer require that payments for these accounts be made in a single lump sum. These changes are intended to improve the efficiency of the Copyright Office's Licensing Division operations.

DATES: Effective November 14, 2018.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at regans@copyright.gov, or Jalyce Mangum, Attorney-Advisor, by email at jmangum@copyright.gov. Each can be contacted by telephone by calling (202) 707-8350.

SUPPLEMENTARY INFORMATION:

I. Background

On July 11, 2018 (83 FR 32068), the Office published a Notice of Proposed Rulemaking ("NPRM") to streamline the administration of digital audio

recording technology (DART) royalty accounts and the statement of account royalty payment processes. Specifically, the Copyright Office proposed to codify the manner in which it would exercise its statutory authority to close out DART royalty payment accounts under 17 U.S.C. 1005, and to implement what it considered to be a technical change regarding requirements for payment of royalty fees by electronic funds transfer (EFT) for each of the cable, satellite, and DART royalty licenses. In response to the publication of the proposed rule, the Office did not receive any substantive comments. Consequently, the Office is adopting the previously proposed text as a final rule.

II. Discussion

Close-out of DART fund accounts. In the NPRM, the Office proposed to codify a new procedure for closing out DART royalty payments accounts under section 1005 of the Copyright Act and to update its regulations governing online payment procedures for cable, satellite, and DART statements of account to no longer require royalty fees to be made by a single, lump sum payment.

As noted in the NPRM, the Audio Home Recording Act of 1992 (AHRA)¹ amended title 17 to require parties who manufacture and distribute or import and distribute any digital audio recording devices or media in the United States to file DART statements of account and to make royalty payments.² Congress delegated to the Copyright Office and the Copyright Royalty Tribunal (“CRT”)—a predecessor to the system administered by the Copyright Royalty Judges (“CRJs”)—authority to administer the royalty system under chapter 10.³ Under section 1003, the importer or manufacturer of a digital audio recording device or media files quarterly and annual statements of account with respect to distribution(s), accompanied by royalty payments.⁴ After deducting the reasonable costs incurred for administering this license, the Register then deposits the remaining balance with the Treasury of the United States, which is divided between a sound recording fund and a musical works fund, and then subdivided into various subfunds.⁵ Under the Copyright Act, the Licensing Division of the Copyright Office administers these

funds and distributes them to copyright owners pursuant to the CRJs’ distribution orders.⁶

After the Licensing Division has distributed the royalty funds pursuant to the CRJs order, however, small royalty balances can still be attributed to these subfunds unless the Copyright Office has formally closed them out.⁷ Maintaining these small amounts in separate funds creates administrative expenses for the Licensing Division, and the transaction costs associated with distributing such small amounts of money can exceed the amount of money remaining in these accounts. Section 1005 gives the Register discretion to close out the royalty payments account for a calendar year four years after the close of that year, and attribute “any funds remaining in [the] account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.”⁸ In practice, the Register has not previously established a procedure to exercise this discretion. The Office now adopts a rule codifying conditions by which she may close out royalty payments accounts. Specifically, the Office is adding a new section 201.31 instructing that, four years after the close of any calendar year, the Register of Copyrights may exercise her discretion to close out the royalty payments account for that calendar year, including any sub-accounts, that are subject to a final distribution order under which royalty payments have been disbursed. In accordance with section 1005, the Register will treat any funds remaining in such account or subsequent deposits as attributable to the closest succeeding calendar year.

Payment by Electronic Funds Transfer. Separately, the Licensing Division administers various statutory licensing schemes, including those requiring the submission of statements of account (“SOAs”) by cable systems, satellite carriers, and manufacturers or importers of digital audio recording devices and media.⁹ Pursuant to its

statutory authority, the Copyright Office has promulgated regulations relating to each of these statutory licenses requiring that “[a]ll royalty fees shall be paid by a single electronic funds transfer.”¹⁰ In practice, however, the Office has found that the requirement that remitters make royalty payments for multiple statements of account in a single, lump sum payment is unnecessarily restrictive and has hampered ongoing modernization efforts. In connection with the most recent satellite SOA form, the Copyright Office has announced that it “intends to transition to a single EFT payment method (Pay.gov) for making royalty payments.”¹¹

The new rule removes the requirement that filers submit multiple SOAs in a *single* EFT payment for the relevant statutory licenses. The current regulatory requirement that funds be submitted through EFT will remain in place.

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

- 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.11 [Amended]

- 2. Amend § 201.11 by removing “a single” from paragraph (f)(1) introductory text.

§ 201.17 [Amended]

- 3. Amend § 201.17 by removing “a single” from paragraph (k)(1) introductory text.

§ 201.28 [Amended]

- 4. Amend § 201.28 by removing “a single” from paragraph (h)(1) introductory text.

- 5. Add § 201.31 to read as follows:

§ 201.31 Procedures for closing out royalty payments accounts in accordance with the Audio Home Recording Act.

(a) *General.* This section prescribes rules pertaining to the close out of royalty payments accounts in accordance with 17 U.S.C. 1005.

¹⁰ 37 CFR 201.11(f)(1), 201.17(k)(1), 201.28(h)(1). See Electronic Payment of Royalties, 71 FR 45739 (Aug. 10, 2006).

¹¹ U.S. Copyright Office, Satellite Statement of Account Form (Jan. 1, 2018), <https://www.copyright.gov/forms/formSC.pdf>.

¹ See Public Law 102–563, 106 Stat. 4237 (1992).

² See 17 U.S.C. 1003.

³ See *id.*; see also S. Rep. No. 102–294, at 39 (“Administration of the royalty system is the dual responsibility of the Copyright Office and the CRT”).

⁴ 17 U.S.C. 1003(b), (c)(1), (c)(3).

⁵ *Id.* at 1005, 1006(b).

⁶ *Id.* at 1007; see, e.g., Order Granting Claimants’ Request for Partial Distribution of 2005 Through 2008 DART Music Funds Royalties, Docket No. 2010–8 CRB DD 2005–2008 (MW), available at <https://www.crb.gov/orders/2011/04411-order-granting-claimants-partial-distribution.pdf> (last visited May 16, 2018).

⁷ These attributions can occur as a result of subsequent deposits made by payees, or, more often, in the course of routine review and adjustments made in the years following each appropriation, for example, when anticipated contract expenditures or other overhead expenses come in slightly under budget.

⁸ 17 U.S.C. 1005.

⁹ See 17 U.S.C. 111(d)(1), 119(b)(1), 122(a)(5), 1003(c).

(b) In the Register's discretion, four years after the close of any calendar year, the Register of Copyrights may close out the royalty payments account for that calendar year, including any sub-accounts, that are subject to a final distribution order under which royalty payments have been disbursed. Following closure of an account, the Register will treat any funds remaining in that account, or subsequent deposits that would otherwise be attributable to that calendar year, as attributable to the succeeding calendar year.

Dated: September 10, 2018.

Karyn Temple,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2018-22372 Filed 10-12-18; 8:45 am]

BILLING CODE 1410-30-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2012-0133; FRL-9985-37-OAR]

RIN 2060-AS79

National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins Risk and Technology Review Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of final action on reconsideration.

SUMMARY: This action finalizes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Manufacture of Amino/Phenolic Resins (APR). These final amendments are in response to petitions for reconsideration regarding the APR NESHAP rule revisions that were promulgated on October 8, 2014. In this action, we are revising the maximum achievable control technology (MACT) standard for continuous process vents (CPVs) at existing affected sources. In addition, we are extending the compliance date for CPVs at existing sources. We also are revising the requirements for storage vessels at new and existing sources during periods when an emission control system used to control vents on fixed roof storage vessels is undergoing planned routine maintenance. To improve the clarity of the APR NESHAP, we are also finalizing five

minor technical rule corrections. In this action, we have not reopened any other aspects of the October 2014 final amendments to the NESHAP for the Manufacture of APR, including other issues raised in petitions for reconsideration of the October 2014 rule.

DATES: This final rule is effective on October 15, 2018. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 15, 2018.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA-HQ-OAR-2012-0133. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, please contact Mr. Art Diem, Sector Policies and Programs Division (Mail Code E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1185; email address: diem.art@epa.gov. For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, Mail Code 2227A, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-7027; fax number: (202) 564-0050; and email address: malave.maria@epa.gov.

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. A number of acronyms and abbreviations are used in this preamble. While this may not be an exhaustive list, to ease

the reading of this preamble and for reference purposes, the following terms and acronyms are defined:

APR amino/phenolic resin
 CAA Clean Air Act
 CFR Code of Federal Regulations
 CPV continuous process vent
 CRA Congressional Review Act
 EPA U.S. Environmental Protection Agency
 FR Federal Register
 HAP hazardous air pollutants
 HON Hazardous Organic NESHAP
 ICR information collection request
 MACT maximum achievable control technology
 MIR maximum individual risk
 MON Miscellaneous Organic NESHAP
 NAICS North American Industry Classification System
 NESHAP national emission standards for hazardous air pollutants
 NTTAA National Technology Transfer and Advancement Act
 OMB Office of Management and Budget
 PRA Paperwork Reduction Act
 RFA Regulatory Flexibility Act
 RTO regenerative thermal oxidizer
 TRE total resource effectiveness
 UMRA Unfunded Mandates Reform Act
 UPL upper predictive limit
 VCS voluntary consensus standards

Organization of this Document. The information in this preamble is organized as follows:

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- K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this final rule include, but are not limited to, facilities having a North American Industry Classification System (NAICS) code 325211. Facilities with this NAICS code are described as plastics material and resin manufacturing establishments, which includes facilities engaged in manufacturing amino resins and phenolic resins, as well as other plastic and resin types.

To determine whether your facility would be affected by this final action, you should examine the applicability criteria in 40 CFR 63.1400. If you have any questions regarding the applicability of any aspect of this final action, please contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

The docket number for this final action regarding the APR NESHAP is Docket ID No. EPA-HQ-OAR-2012-0133.

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at <https://www.epa.gov/stationary-sourcesair-pollution/manufactureaminophenolic-resins-nationalemission-standards>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents on this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by December 14,

2018. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

This section also provides a mechanism for the EPA to reconsider the rule “[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.” Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background Information

On October 8, 2014, the EPA completed the residual risk and technology review of the January 20, 2000, APR MACT standards (65 FR 3276), and published its final rule amending the NESHAP for the APR Production source category at 40 CFR part 63, subpart OOO (79 FR 60898). Following promulgation of the October 2014 final rule, the EPA received three petitions for reconsideration from the Sierra Club, Tembec BTL SR (“Tembec”) (now Rayonier Advanced Materials Inc.), and Georgia-Pacific LLC (“Georgia-Pacific”), requesting administrative reconsideration of amended 40 CFR part 63, subpart OOO under CAA section 307(d)(7)(B).

In partial response to the petitions, the EPA reconsidered and requested comment on two distinct issues in the proposed rule amendments, published in the **Federal Register** on August 24, 2017 (82 FR 40103). These issues included: (1) The analysis, supporting data, and resulting emission standards for CPVs at existing sources; and (2) planned routine maintenance of emission control systems used to reduce

hazardous air pollutants (HAP) emissions from storage vessels.

In addition, while the EPA granted reconsideration on the pressure relief device issues raised in one of the petitions for reconsideration, the EPA did not address this issue in the August 24, 2017, proposal and intends to address those issues separately in a future action.

We received public comments on the proposed rule amendments from five parties. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments are also available electronically through <https://www.regulations.gov> by searching Docket ID No. EPA-HQ-OAR-2012-0133.

In this document, the EPA is taking final action with respect to the issues on reconsideration addressed in the August 2017 proposal. Section III of this preamble summarizes the proposed rule amendments and the final rule amendments, presents public comments received on the proposed amendments and the EPA’s responses to those comments, and explains our rationale for the rule revisions published here.

III. Summary of Final Action on Issues Reconsidered

The two reconsideration issues for which amendments are being finalized in this rulemaking are: (1) The analysis, supporting data, and resulting emission standards for CPVs at existing sources; and (2) planned routine maintenance of emission control systems used to reduce HAP emissions from storage vessels. In this rulemaking, we are also finalizing several minor technical corrections to the regulation text of 40 CFR part 63, subpart OOO.

A. Analysis, Supporting Data, and Resulting Emission Standards for CPVs at Existing Sources

1. What changes did we propose regarding CPV standards at existing sources?

In the August 2017 proposed amendments to 40 CFR part 63, subpart OOO, we proposed a revised emissions limit for CPVs at existing sources, addressing only back-end CPVs.

In addition, we requested comments on the following issues: (1) Whether the existing compliance date or another date for back-end CPVs is appropriate if the standard is revised; and (2) whether the EPA should promulgate a separate standard for front-end CPVs at existing sources and whether there are other front-end CPVs in the source category beyond those identified by the EPA.

For back-end CPVs at existing sources, we proposed a production-based HAP emission limit of 8.6 pounds of HAP per ton of resin produced. This emissions limit represents the MACT floor based on 2015 test data provided by Georgia-Pacific and Tembec, the only two companies in the source category with back-end CPVs. We also solicited comments on whether existing facilities would need additional time to comply with the proposed revised back-end CPV standards, noting that the compliance date in the October 2014 final rule is October 9, 2017, and that the APR NESHAP at 40 CFR 63.1401(d) provides the opportunity for existing facilities, on a case-by-case basis, to request a compliance extension from their permitting authorities of up to 1 year, if necessary, to install controls to meet a standard.

The EPA identified two front-end CPVs at APR production existing sources at proposal and requested information about any other front-end CPVs in the source category. Due to the characteristics of these two CPVs, we noted that these CPVs could be subcategorized into two types—reactor and non-reactor front-end CPVs, and separate standards for the two types of front-end CPVs would be consistent with how reactor and non-reactor vents have been regulated for batch processes for the APR Production source category. We also stated that if no other reactor or non-reactor front-end CPVs at existing affected sources were identified, or if no additional data were provided for any such CPVs, the EPA would consider adopting final revised standards for front-end CPVs at existing sources based on existing information. Based on our analysis of the data provided by Georgia-Pacific for its front-end reactor CPVs, we proposed that the MACT floor for front-end reactor CPVs at existing sources would be 0.61 pounds of HAP per hour. Based on our analysis of the data provided by INEOS Melamines for its front-end non-reactor CPV, we proposed that the MACT floor for front-end non-reactor CPVs at existing sources would be 0.022 pounds of HAP per hour. We received no information about any additional front-end CPVs during the comment period.

2. What comments did we receive regarding proposed amendments to CPV standards at existing sources?

The following is a summary of the significant comments received on the proposed amendments to CPV standards at existing sources and our responses to these comments.

Comment: One commenter stated that the EPA's updated risk analysis for

INEOS Melamines and for the category are underestimated for reasons it has stated in comments on the October 2014 rule for this source category. The commenter also said the new analysis for INEOS Melamines only considers risks from formaldehyde and fails to consider the risks from other HAP emitted by the facility or the cumulative risks to the community from other pollution sources.

Response: We addressed the commenter's concerns regarding cumulative risks (and the various reasons the commenter claimed the risks were underestimated) in previous analyses in our October 2014 response to comments (Document EPA-HQ-OAR-2012-0133-0066). These same responses still apply and are not repeated here. Regarding the risk analysis for INEOS Melamines, the commenter is mistaken in asserting that the analysis only included formaldehyde. The risk analysis for the facility included all HAP emissions from equipment in the source category, and these HAP include both formaldehyde and methanol. As we noted in the August 2017 proposal, the 2014 risk modeling analysis indicated that the INEOS Melamines facility maximum individual risk (MIR) was estimated to be 0.4-in-1 million. As the risk driver was formaldehyde, we mentioned in the August 2017 proposal that the input files included 0.375 tons of formaldehyde emissions. We also discussed in the proposal that information received from INEOS Melamines indicated there were additional emissions of less than 0.03 tons per year from its non-reactor front-end CPV that were not accounted for in the 2014 modeling analysis. We explained in the proposal that when including these additional emissions in the risk estimate for the facility, the facility MIR would be about the same (less than 1-in-1 million), and we determined that additional quantitative risk analyses for this facility are not necessary. No updates to the risk analysis were made to other facilities, and the overall estimation of risks for the source category remain unchanged.

Comment: Several commenters were concerned about the proposed elimination of the use of the Total Resource Effectiveness (TRE) value as a compliance option for continuous process vents at an existing affected source. The commenters noted that the TRE provision is found in numerous other rules, such as the Hazardous Organic NESHAP (HON) and the Miscellaneous Organic NESHAP (MON). The commenters stated that the TRE provides facilities with the flexibility to

reduce emissions in the most cost-effective manner. The commenters also stated that the EPA has not articulated a rational basis for eliminating the TRE and that the EPA should maintain the current TRE for this and all other rules affecting continuous process vents. The commenters further stated that by keeping the TRE for continuous process vents at a new affected source, but eliminating it for existing sources, the requirements for existing sources would become more restrictive and costly than those for new affected sources.

Response: In the development of the MACT requirements for this NESHAP and in other rules, such as the HON and the MON, a TRE was included in the rule to help define the regulated process vents. In those rules, data for only a portion of the process vents in the existing source category were available to base the MACT floor and beyond-the-floor analyses upon. To ensure the rule required control for all process vents in the source category that were similar to those for which the MACT floor and the level of the standard was set, the TRE was used. This value ensures that all the process vents in the source category with comparable characteristics, such as flow rate, emission rate, net heating value, etc., as the process vents used to establish the level of the standard are the ones required to meet the established level of control. In this case, the EPA now has information for every CPV at an existing source in this source category, and the characteristics of every CPV were considered in establishing the proposed revised MACT standards. Therefore, a TRE value is not necessary to define the regulated CPVs at existing sources.

For CPVs at new sources, the EPA did not propose to eliminate the TRE. Keeping the TRE for CPVs at these sources will continue to ensure the representativeness of the process vent on which the emission standards were based to the process vents regulated by that standard, as it is unknown what characteristics any future process vents will have. The commenters are not correct in their assertion that without the inclusion of the TRE, the proposed revised existing source requirements will become more restrictive and costly than the standards for new sources. The CPVs at new sources with characteristics similar to the vent on which the standard is based will be required to have greater emissions reductions than the reductions effectively required for existing sources (*i.e.*, 85-percent reduction for new sources compared to approximately 50-percent reduction in emissions for the

two existing CPVs that require control to meet the MACT standard).

Comment: One commenter expressed dissatisfaction with the EPA's beyond-the-floor analysis for the proposed existing source standards for back-end CPVs. The commenter stated that the EPA only examined new regenerative thermal oxidizers (RTOs) and did not consider less costly options, such as using existing controls or conducting process changes. The commenter also stated that the EPA did not address whether additional beyond-the-floor reductions would be achievable. The commenter further stated that cost effectiveness is a measure of whether the benefits of a particular action are worth the cost, and the EPA's practice of comparing marginal cost for beyond-the-floor options relative to the costs of the reductions achieved by the MACT floor does not answer the question of whether the beyond-the-floor option is cost effective.

Response: In evaluating the beyond-the-floor emissions control options, we considered control technologies and strategies that would be technologically feasible for the facilities in the source category that have these process vents. In this case, RTO is the only control technology known that could treat the low HAP concentration, high air flow exhaust from these vents. We explained in the memorandum, "Proposed Revised MACT Floor and Beyond-the-Floor Analysis for Back-End Continuous Process Vents at Existing Sources in the Amino and Phenolic Resins Production Source Category," which is available in the docket for this action, that we also considered scrubbers and carbon adsorbers in this analysis, but found them to be technologically infeasible for this application. While it may be possible that a facility could make process changes to reduce emissions, this would be highly facility-specific, and the EPA does not have information to suggest any particular type of process change would reduce HAP from these vents. We did explain that RTOs are capable of achieving emission rates beyond the MACT floor. We used the EPA's control cost manual to evaluate costs of control. We did not have enough information to evaluate the cost effectiveness of process changes that could be used to meet the standard. Regarding the cost effectiveness of the technologically available option, *i.e.*, an RTO, we described the estimated cost of the beyond-the-floor option in the above-referenced memorandum. As shown in this memorandum, cost effectiveness was determined using capital and annual costs of an RTO, and the emissions reductions were

determined using a baseline of no control compared to control using an RTO. The beyond-the-floor option was found to not be cost effective using these estimates.

Back-End CPVs

Comment: One commenter generally supported the levels of the back-end CPV standards for existing sources, but has some concerns regarding the associated compliance assurance measures and definitions. For the back-end CPVs, the commenter requested that an option to achieve an 85 percent reduction be included to ensure the standards for existing sources are not more stringent than those for new sources. The commenter also requested that the EPA keep the formerly included 12-month rolling average emission rate for back-end CPVs to account for emissions variability between resin types. Additionally, the commenter suggested that the EPA not change the definitions for reactor batch process vent and non-reactor batch process vent to ensure there is no confusion regarding applicability of the batch process vent provisions. Further, the commenter stated that the EPA should specify that initial compliance performance tests be conducted at "maximum representative operating conditions."

Response: We are not revising the format of the proposed standard for existing source back-end CPVs as the commenter requested. The 12-month rolling average emissions rate, formerly included in the October 2014 rule, was used to help account for variability in emission rates before the EPA had the information submitted by the facilities for each CPV, in which the highest HAP emitting resin was tested. The proposed standard accounted for variability in emissions while the highest HAP emitting resin was produced. Therefore, there is no need for compliance to be determined over a long period to account for variability in resins produced or the conditions present while producing high HAP emitting resins. The EPA is also not adding an 85-percent reduction compliance option for existing source back-end CPVs. In calculating the MACT floor, we determined the emissions limitation achieved by the best performing existing sources in the category based on the emissions per unit of resin produced. This production-based standard accounts for variability associated with the manufacturing process, including fluctuations in the amount of product produced and different types of product produced (*i.e.*, various resin types), as well as possible future process

modifications to alter other production variables. An 85-percent emissions reduction compliance option does not reflect the MACT floor level of control for back-end CPVs at existing sources.

The proposed revised rule contains definitions for "batch process vent," "continuous process vent," "non-reactor process vent," and "reactor process vent." It is clear from these definitions that the rule provisions pertaining to "reactor batch process vents" and "non-reactor batch process vents" include only those vents that are "batch process vents." It is also clear that the rule provisions pertaining to "reactor continuous process vents" and "non-reactor continuous process vents" include only those vents that are "continuous process vents." Therefore, as the applicability of the rule provisions is sufficiently clear with these definitions, we have not added or changed the definitions related to these vents in the final rule beyond what was proposed.

We agree with the commenter that the initial compliance performance test should be conducted at "maximum representative operating conditions." However, as this is already a specified condition for performance tests in 40 CFR 63.1413(a)(2)(ii)(A), we have not further revised the regulatory text.

Comment: One commenter stated that use of an upper predictive limit (UPL) in the standards for back-end CPVs at existing sources is not justified, since the EPA has extensive data for all the sources subject to the standard. The commenter stated that with such a comprehensive data set, it is likely that all variability is already accounted for, and there is no justification to assume there is additional variability that needs to be accounted for. The commenter also stated that the EPA did not disclose the actual emissions levels obtained by the sources in the category in the units of measurement used for the proposed standards and only presents the emission rates estimated by the UPL. The commenter stated that the standards are further weakened by not being required to determine compliance using the resin resulting in the highest HAP emissions, the way the MACT floor was calculated, but instead requiring compliance based on the resin with the highest HAP content. The commenter also stated that the alternative percent-reduction and concentration-based limits do not reflect emissions reductions achieved by best-performing sources.

Response: While we agree with the commenter that the EPA has a comprehensive data set for the back-end CPVs in the source category, the use of

the UPL is justified to account for variability that occurs due to process conditions when producing the highest HAP-emitting resins. We calculated the UPL values for each back-end CPV with that CPV's highest HAP-emitting resin to take this variability into consideration. As discussed in detail in the MACT floor memorandum, "Proposed Revised MACT Floor and Beyond-the-Floor Analysis for Back-End Continuous Process Vents at Existing Sources in the Amino and Phenolic Resins Production Source Category," which is available in the docket for this action, we used the arithmetic average of the UPLs of the five best-performing back-end CPVs to calculate the MACT floor. To respond to the commenter's concerns about the calculation of the UPL, we have summarized the emissions information used to calculate the UPL values for each back-end CPV and included this information in a memorandum titled "Addendum to Proposed Revised MACT Floor and Beyond-the-Floor Analysis for Back-End Continuous Process Vents at Existing Sources in the Amino and Phenolic Resins Production Source Category" to the docket for this action. Regarding the compliance determination based on the resin with the highest HAP content, for these back-end CPVs, the liquid resin having the highest HAP content is the condition for which the highest HAP emissions result. This occurs because no significant quantities of HAP are created or destroyed in the drying process, and the drying process moves nearly all HAP in the liquid resin to the dryer vent (*i.e.*, back-end CPV). In addition, 40 CFR 63.1413(a)(2)(ii)(A) specifies that performance tests used to demonstrate compliance must be under "maximum representative operating conditions," as defined at 40 CFR 63.1402. This term specifies conditions which reflect the highest organic HAP emissions reasonably expected to be vented to the control device or emitted to the atmosphere.

Regarding the alternative standards included in the rule for CPVs, the alternative standard is not a percent reduction based standard and is only a concentration based alternative standard that represents the performance limits of combustion and non-combustion control technologies for low-HAP concentration airstreams. We did not propose to amend the alternative standard and are not making any amendments to the alternative standard in this action.

Comment: Two commenters responded to the EPA's request for comment about whether existing facilities would need additional time to

comply with the proposed revised back-end CPV standards. One commenter stated that the EPA should not extend the compliance deadline, asserting that such an extension would contravene the CAA's provisions stating that CAA section 112 standards become effective upon promulgation. The commenter also noted that sources would be in compliance with the more stringent 2014 standard by October 2017, and CAA section 307(d)(7)(B) provides that the EPA shall not delay the effective date of a regulation more than 3 months pending reconsideration. Another commenter recommended that all existing sources impacted by any of the proposed emission limits, definitions, and work practice standards have an additional year to meet the proposed compliance requirements. The commenter stated that facilities would need time to further evaluate the impact of the rule change, evaluate and/or modify its compliance strategy, and implement the compliance measures.

Response: Pursuant to CAA section 112(i)(3)(A), the Agency is establishing a compliance date of 1 year from the promulgation date of the final standards for back-end CPVs at existing sources. We are establishing this compliance date with recognition that the original October 2017 compliance date has already passed, that several state agencies have already given sources 1 year compliance date extensions, and that the amended emissions standard for back-end CPVs at existing sources changes the numerical emission limitation. After promulgation of these standards, facility owners or operators will require time to reevaluate compliance options, potentially revise compliance strategies, and implement the strategies, which the EPA anticipates will entail the purchase and installation of emissions control devices at two sources. We are providing 1 year to allow for this evaluation and implementation, which we consider as expeditious as practicable given the need to evaluate compliance options and the anticipated installation and initial compliance determination of emission control equipment in order to meet the standards in this final rule. Additionally, since we are revising the standards for front-end CPVs at existing facilities, we are also establishing the same compliance date as for the back-end CPVs at existing sources. The reasons for the revised compliance date for front-end CPVs at existing sources are the same as those for the back-end CPVs, except that the EPA anticipates that sources will not need to purchase and install emissions control devices to

achieve the front-end CPV standard. Regardless of whether control devices will need to be employed to achieve the standards for front-end CPVs at existing sources, the numeric value and format of the standard is revised and owners or operators of sources subject to these revised standards will need to alter how they demonstrate compliance. For front-end CPVs, the standard is being revised from 1.9 pounds of HAP per ton of resin produced, as specified in the October 2014 rule, to less than a pound of HAP per hour standard as revised in this action. This is a logical outgrowth of the proposal's discussion of the considered options for front-end CPVs at existing sources, for which the Agency solicited comments which yielded no identification of other front-end vents and no substantive comments regarding the discussed possible standards. The need to establish an expeditious yet reasonable compliance date for a revised standard is reasonable in light of our revising the standard in both numeric value and units of measure. The revised compliance deadline for CPVs at existing sources being established in this action is specified at 40 CFR 63.1401(b). In contrast, for the storage vessel standard for periods of planned routine maintenance, the option to comply through a work practice standard would only require planning not substantially different from what is necessary to implement the planned routine maintenance of the emissions control system and would not require any additional equipment. Therefore, the EPA has determined that this storage vessel standard can be implemented by the compliance date previously established, and we are not amending this compliance date for the finalized storage vessel amendments in this final action.

The EPA disagrees with the commenter's opinion that providing additional time to comply with the revised CPV standards is unlawful under the CAA. Although it is true that CAA section 112 provides that standards "shall be effective upon promulgation," the commenter overlooks the fact that CAA section 112(i)(3)(A) clearly provides the EPA discretion to establish an appropriate compliance period to follow the "effective date" of standards. Similarly, although CAA section 307(d)(7)(B) speaks of potential delays of the effectiveness of a standard following receipt of a petition of reconsideration, that provision has no relevance to the decision the Agency makes under CAA section 112(i)(3)(A) to establish a

compliance date following the promulgation of a standard.

Comment: One commenter noted there were several references in the proposed rule to 40 CFR 63.1405(b)(2)(i), (ii), and (iii), which were not included in the proposed rule language. The commenter also noted that there was no paragraph (i) or (ii) before 40 CFR 63.1413(h)(3)(ii)(B)(3)(iii). The commenter requested that the EPA correct the discrepancies and allow for an extended comment period on the technical corrections.

Response: The commenter is correct that several references to these paragraphs were included in the proposed rule language and that the paragraphs were not present in the proposed rule text. The paragraphs in which these references were located in the proposed rule text were 40 CFR 63.1413(c)(5), (c)(6), (h)(1)(i), (h)(3)(ii)(B)(4), and (h)(3)(iii), and 40 CFR 63.1416(f)(5) and (f)(6), and 40 CFR 63.1417(f)(15). In the final rule language, we have corrected this discrepancy by revising 40 CFR 63.1405(b) and including standards for reactor and non-reactor front-end CPVs at existing sources in 40 CFR 63.1405(b)(2)(ii) and (iii). We did not propose rule language for these front-end CPVs because we were taking comment on whether it would be appropriate to establish front-end CPV standards at existing sources for the source category and the associated value of the standard if there were front-end CPVs, other than the two we had identified, at existing affected sources. In the proposal, we discussed what the standard would be based on information available to the EPA at the time and provided a memorandum in the docket regarding calculation of the MACT floor and beyond-the-floor analysis. As no comments were received regarding additional front-end CPVs, and no other information indicates there are other existing source front-end CPVs in the source category, we have included the standards for front-end CPVs in the final rule. These standards are based on the existing information available to the EPA, as discussed at proposal. We have also corrected the numbering for 40 CFR 63.1413(h)(3)(ii)(B)(3). As the levels of the front-end CPV standards now included in the rule language were explained in our proposal, and no comments on the standards were received, we are not providing additional time for comment on these provisions.

3. What are the final rule amendments and our associated rationale regarding CPV standards at existing sources?

The analyses regarding the emission standards for CPVs at existing source APR facilities has not changed since proposal, and our rationale for the standards are provided in the preamble for the proposed rule and in the responses to the comments presented above. For these reasons, we are finalizing the revised back-end CPV standards for existing sources of 8.6 pounds of HAP per ton of resin produced, as proposed in August 2017. We are also finalizing, for the reasons provided above, separate standards for reactor and non-reactor front-end CPVs at existing sources, as described in the August 2017 proposal. The standard for front-end reactor CPVs is 0.61 pounds of HAP per hour, and the standard for front-end non-reactor CPVs is 0.022 pounds of HAP per hour.

B. Planned Routine Maintenance of Emission Control Systems Used To Reduce HAP Emissions From Storage Vessels

1. What changes did we propose regarding planned routine maintenance of storage vessel emissions control systems?

In its petition for reconsideration of the October 2014 final rule, Georgia Pacific requested that the EPA reconsider the applicability of the storage vessel HAP emissions standards when the emission control system for the vent on a fixed roof storage vessel is shut down for planned routine maintenance. In response to this request, the EPA reviewed and re-evaluated the standards for storage vessels, and we proposed a separate work practice standard for storage vessels during periods of planned routine maintenance of the storage vessel control device in the August 2017 proposed amendments to 40 CFR part 63, subpart OOO. This proposed work practice would allow owners or operators to bypass the control device for up to 240 hours per year during planned routine maintenance of the emission control system, provided there are no working losses from the vessel. This proposed standard would apply to fixed roof storage vessels at new and existing APR sources and represents the MACT floor level of control.

2. What comments did we receive regarding the proposed standards for planned routine maintenance of storage vessel emissions control systems?

The following is a summary of the significant comments received on the

proposed standards for planned routine maintenance of storage vessel emissions control systems and our responses to these comments.

Comment: One commenter stated that the EPA lacks authority to exempt sources from emissions standards during any period of time and asserted that the proposed work practice standard is merely an exemption for storage vessel emissions during control device planned routine maintenance. The commenter also asserted that the EPA has not met the statutory requirements specified in CAA section 112(h)(1)–(2) to authorize the Agency to issue a work practice standard rather than a numeric emission standard. The commenter further stated that the proposed work practice standards are not consistent with the requirements of CAA section 112(d), which sets forth requirements for determining the MACT floor and beyond-the-floor levels based on the emissions reductions achieved by the best performing similar sources. The commenter stated that the EPA has not determined the emissions achieved by the best performing sources or whether those sources have 240 hours of uncontrolled emissions annually. The commenter stated that the EPA failed to apply the CAA standards for beyond-the-floor determinations. On this point, the commenter noted that the EPA claims the use of carbon canisters for emissions control during storage vessel planned routine maintenance is achievable, but not cost effective, however, the EPA did not attempt to examine the benefits of reducing HAP during these periods. The commenter stated that the EPA did not disclose the data or methodology used in its estimate of 26 pounds per year per facility for routine maintenance emissions.

Response: First, there is no basis for the commenter's assertion that the proposed work practice standard is an exemption for storage vessel emissions during control device planned routine maintenance. The work practice standard establishes specific requirements that apply during up to 240 hours per year of planned routine maintenance of the control system. Specifically, the standard prohibits sources from increasing the level of material in the storage vessel during periods that the closed-vent system or control device is bypassed to perform planned routine maintenance. This standard minimizes emissions by ensuring that no working losses occur during such time periods. Working losses are the loss of stock vapors as a result of filling a storage vessel and are the majority of uncontrolled emissions for storage vessels having significant

throughput. The proposed work practice standard does not allow working losses to occur. With working losses eliminated during this period, the only emissions that would occur are breathing losses (a.k.a. standing losses). Breathing losses occur due to the expansion and contraction of the vapor space in a fixed roof storage vessel from diurnal temperature changes and barometric pressure changes. Breathing losses occur without any change to the liquid level in the storage vessel. The breathing losses from a fixed roof storage vessel are small and highly variable because they are dependent upon the volume of the vapor space in the storage vessel and the meteorological conditions at the time.

Second, the storage vessel requirements in this rule were originally promulgated as CAA section 112(h) standards. The provisions establish two control options. One option is for the installation of a floating roof pursuant to 40 CFR part 63, subpart WW. This option is a combination of design, equipment, work practice, and operational standards. The other option is to install a conveyance system (pursuant to 40 CFR part 63, subpart SS) and route the emissions to a control device that achieves a 95-percent reduction in HAP emissions or that achieves a specific outlet HAP concentration. The second option is a combination of design standards, equipment standards, operational standards, and a percent reduction or outlet concentration. See the preamble to the original rulemaking for 40 CFR part 63, subpart OOO at 63 FR 68832 (12/14/1998) and the preamble to the HON at 57 FR 62608 (12/31/1992). In this action, we neither reopened nor accepted comment on the standards that apply during all periods other than the up to 240 hours of planned routine maintenance or any aspect of the original justification for the standards.

Third, the specific work practice requirement added in this action fulfills the purposes of section 112(h)(1) of the CAA, which calls on the Administrator to include requirements in work practice standards sufficient to assure the proper operation and maintenance of the design or equipment. The work practice standard added simply allows for the planned routine maintenance of the control device and minimizes emissions during such periods of planned routine maintenance, consistent with the requirements of CAA section 112(h)(1).

Fourth, the commenter did not provide any evidence to show that there is a methodology that could be applied to breathing losses from a fixed roof

storage vessel that would be technologically and economically practicable. We have determined that it is not practicable due to technological and economic limitations, to apply measurement methodology to measure breathing losses from storage vessels during periods of planned routine maintenance. We have concluded that it would not be technically and economically practicable to measure breathing loss emissions with any degree of certainty to establish a numeric limit based upon the best performing sources because of the nature of the breathing losses. The breathing losses during the planned routine maintenance of the control system are highly dependent on the volume of the vapor space and the weather conditions during that time. It would be impractical to plan to test a storage vessel during the 10 days per year that have the both the weather conditions and the vapor space volume that would result in the most breathing losses. Specialized flow meters (such as mass flowmeters) would likely be needed in order to accurately measure any flow during these variable, no to low flow conditions. Measurement costs for these no to low flow durations of time would be economically impracticable, particularly in light of the small quantity of emissions. We have used AP-42 emissions estimate equations to estimate 10 days of breathing losses. See "Addendum to National Impacts Associated with Proposed Standards for CPVs and Storage Tanks in the Amino and Phenolic Resins Production Source Category" in the docket for this rule. We estimate that it would cost approximately \$25,000 for three 1-hour testing runs on a single day. We calculated these costs based on industry average costs of deploying qualified individuals for a day and costs of performing the necessary tests on required equipment to determine the concentration and emission rate of HAP. The extremely low flow rate present would require a greater degree of monitoring plan and quality assurance project plan development than is typical. Specialized equipment that is not typically available may be required to measure flow rates under these conditions. We are not aware of any measurement of breathing loss HAP emissions from a fixed roof storage vessel in the field.

In the proposed rule, we also evaluated whether a backup control device capable of achieving the 95-percent reduction standard would be cost effective at controlling the

remaining breathing losses. In the proposal, we explained that the use of such back-up control devices is not cost effective. To respond to the commenter's concern about the disclosure of the data and methodologies used to calculate the breathing losses for assessing the cost effectiveness of controlling such emissions, in the memorandum titled "Addendum to National Impacts Associated with Proposed Standards for CPVs and Storage Tanks in the Amino and Phenolic Resins Production Source Category," we are providing a summary of the information used to calculate the breathing losses in the docket for this rule.

Therefore, we are finalizing the amendments to the storage vessel requirements, as proposed, allowing owners or operators of fixed roof vessels at new and existing affected APR sources to perform planned routine maintenance of the emission control system for up to 240 hours per year, provided there are no working losses from the vessel during that time.

Comment: One commenter supported the EPA's proposed work practice standards for storage vessels during planned routine maintenance of emission control systems. The commenter requested that the work practice standard also cover periods of malfunctions of the control device when it is temporarily incapable of controlling any emissions from the storage vessel. The commenter stated this would reduce the burden associated with required notifications of unpreventable failure of control equipment, which may not result in an exceedance of the emissions standard.

Response: While emissions from most equipment can be eliminated completely during routine maintenance of a control device, simply by not operating the process during those times, the same is not true for a storage vessel. The stored material in the vessel will continue to emit small amounts of volatile compounds due to breathing losses even when the control device is not operating. The only ways to avoid these emissions are to route the vapors from the stored material to another control device or to completely empty and degas the storage vessel prior to the maintenance activity. We proposed the 240 hour work practice standard to avoid having owners or operators empty and degas a storage vessel prior to completing planned routine maintenance, as this activity results in higher emissions than the small amounts of breathing losses that would result during the time the control device was not operating. While this work

practice requirement prevents higher emissions than would result from the planned emptying and degassing activity that may take place prior to planned routine maintenance of a control device, the same emissions would not be avoided in the event of a malfunction. As malfunctions are not planned events, an owner or operator would not empty and degas a storage vessel prior to the malfunction. Since emissions would not be reduced and would possibly increase by including malfunctions in the work practice standard, we do not agree that it is not appropriate to include malfunctions in the standard. Consequently, the final rule does not adopt the commenter's suggestion.

Comment: One commenter requested that the EPA revise the proposed storage vessel control requirements to explicitly allow emissions to be routed to a process for re-use as a raw material rather than just to a control or recovery device, to be more consistent with the similar provisions contained in the HON.

Response: The standards in 40 CFR 63.1404(a)(1) refer to 40 CFR part 63, subpart SS, for storage vessel control requirements, stating, "Control shall be achieved by venting emissions through a closed vent system to any combination of control devices meeting the requirements of 40 CFR part 63, subpart SS (National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process)." The requirements of 40 CFR part 63, subpart SS, also include the ability to meet storage vessel emissions standards by routing emissions through a closed vent system to a fuel gas system or a process, which has been an option for control of storage vessel emissions meeting the standards of 40 CFR 63.1404(a)(1). We have revised 40 CFR 63.1404(a)(1) to clarify that compliance with the standards of 40 CFR 63.1404(a)(1) can be achieved by following the requirements of 40 CFR part 63, subpart SS, for routing emissions through a closed vent system to a fuel gas system or a process, which are included in the provisions and the title of the subpart. This clarification achieves the same result as the commenter's suggestion.

3. What are the final rule amendments and our associated rationale regarding the standards for planned routine maintenance of storage vessel emissions control systems?

The analysis of the alternative work practice standards for storage vessels at new and existing APR facilities during planned routine maintenance of

emission control systems has not changed since proposal. Therefore, for the reasons provided above, as well as in the preamble for the proposed rule, the EPA is finalizing, with minor clarifications, the proposed work practice standards for these periods of time. The work practice standards will permit owners or operators of fixed roof storage vessels at new and existing affected APR sources to bypass the emission control system for up to 240 hours per year during planned routine maintenance of the emission control system, provided there are no working losses from the fixed roof storage vessel. To prevent HAP emissions from working losses, owners or operators complying with the alternative work practice standards will not be permitted to add material to the storage vessel during control device planned routine maintenance periods.

We are making two minor clarifications to the requirements for storage vessels during planned routine maintenance of emission control systems. In this final rule, we have revised 40 CFR 63.1404(a)(1) to clarify that compliance with the standards of 40 CFR 63.1404(a)(1) can be achieved by following the requirements of 40 CFR part 63, subpart SS, for routing emissions through a closed vent system to a fuel gas system or a process. This revision will apply during times of normal operation, as well as during planned routine maintenance of the storage vessel emissions control system. We have also added language to the recordkeeping and reporting requirements in 40 CFR 63.1416(g)(6) and 40 CFR 63.1417(f)(16) for storage vessel control device planned routine maintenance. These requirements were inadvertently omitted from the proposed rule text.

C. Technical Corrections

In this rulemaking, we are making five technical corrections to improve the clarity of the APR NESHAP requirements.

First, the original APR NESHAP, promulgated in January 2000 (65 FR 3276), incorporated three voluntary consensus standards (VCS) by reference, as specified in 40 CFR 63.14. However, while the paragraphs in 40 CFR 63.14 for these three VCS include references to the NESHAP for which they are approved to be used, these references omit citations to 40 CFR 63, subpart OOO. In 40 CFR 63.14, we are adding citations to 40 CFR 63.1402 and 40 CFR 63.1412 for the following consensus standards: American Petroleum Institute Publication 2517, Evaporative Loss From External Floating-Roof Tanks;

American Society for Testing and Materials Method D2879-83; and American Society for Testing and Materials Method D1946-90.

Second, we are also correcting a citation reference to 40 CFR 63.1413(d)(6)(iii)(A) in 40 CFR 63.1417(3)(9). The correct citation is to 40 CFR 63.1414(d)(6)(iii)(A).

Third, at 40 CFR 63.1403(a) and 40 CFR 63.1405(a)(2), we are correcting the reference to the title of 40 CFR part 63, subpart SS, *i.e.*, "National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process."

Fourth, at 40 CFR 63.1412(g)(2)(ii), we are adding the phrase "(Reapproved 1994) (incorporated by reference, see § 63.14)" immediately following "American Society for Testing and Materials D1946-90."

Fifth, at 40 CFR 63.1404(c) and 40 CFR 63.1416(g)(6)(iii), we are replacing the undefined term "tank" with the defined term "storage vessel."

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

We estimate that 11 to 16 existing sources will be affected by one or more of the revised requirements being finalized in this action. We expect one existing source will be subject to the revised front-end and back-end CPV requirements, one existing source will be subject to the revised front-end CPV requirements, and three existing sources will be subject to the back-end CPV requirements. We expect four of these five existing sources (and an additional six to 11 sources) will be able to take advantage of the storage vessel work practice standards during periods of planned routine maintenance of an emission control system that is used to comply with emissions standards for vents on fixed roof storage vessels.

B. What are the air quality impacts?

We are finalizing a revised standard of 8.6 pounds of HAP per ton of resin produced for back-end CPVs at existing sources. We project the final standard will result in an estimated reduction of 207 tons of HAP per year beyond the January 2000 APR MACT standards, based on compliance with the alternative standard of 20 parts per million by volume for combustion control using RTOs. We estimate that the October 2014 rule would have required HAP emission reductions of 271 tons per year from CPVs at existing sources. We are also finalizing a standard of 0.61 pounds of HAP per

hour for front-end reactor CPVs at existing sources and a standard of 0.022 pounds of HAP per hour for front-end non-reactor CPVs at existing sources. The front-end CPVs are anticipated to be able to meet the emission standards without additional controls, and we project that these final standards will not result in HAP emission reductions beyond the January 2000 APR MACT standards.

We are finalizing work practice standards to address emissions during periods of storage vessel emissions control system planned routine maintenance. The standards require that storage vessels not be filled during these times, which eliminates working losses, and limit the amount of time allowed annually for use of this work practice. We anticipate the revised work practice standards will reduce HAP emissions from those allowed under the January 2000 APR MACT standards by preventing working losses and limiting the annual duration of the maintenance period for which the work practice can be used, resulting in an estimated decrease of 0.9 tons of HAP per year per facility beyond the January 2000 APR MACT standards. When compared to the October 2014 rule, which required compliance with the storage vessel emissions standards at all times, including during times of planned routine maintenance of the emissions control system, the HAP emissions reduction may be slightly less than the 0.08 tons of HAP per year projected under the 2014 final rule.

C. What are the cost impacts?

For back-end CPVs at existing affected sources, we are finalizing a revised standard of 8.6 pounds of HAP per ton of resin produced. We project that back-end CPVs at two existing affected sources will require emissions controls to meet the revised standard. For cost purposes, we assumed that each facility would install an RTO. Based on discussions with Georgia-Pacific and Tembec, we understand that the facilities are exploring other options, such as process changes, that may be more cost effective. However, the technical feasibility and potential costs of these options are currently unknown, and our estimate of compliance costs, assuming the use of RTOs, is based on the best information available. We estimate the nationwide capital costs to be \$4.8 million and annualized costs to be \$2.1 million per year. These costs are incremental to those of the 2000 rule, which did not regulate CPVs at existing sources. Compared to our revised estimate of the October 2014 rule costs of \$9.6 million in capital costs and

annualized costs of \$4.2 million,¹ the revised standard represents an approximate 50-percent reduction in industry-wide costs. For front-end CPVs, we anticipate compliance with the emissions standards to be met without additional control, and we estimate there will be no capital or annualized costs associated with achieving these standards.

We estimated the nationwide annualized cost reductions associated with the final work practice standards for periods of planned routine maintenance of an emission control system that is used to comply with emissions standards for vents on fixed roof storage vessels. Compared to our revised cost estimate of the October 2014 rule,² the final storage vessel work practice standards result in an annualized cost reduction for each facility of \$830 per year, which includes a capital cost reduction of \$1,600. We estimate the nationwide annualized cost reduction to be up to \$12,450 per year based on an estimated 15 facilities.

D. What are the economic impacts?

We performed a national economic impact analysis for APR production facilities affected by this final rule. We anticipate that two existing affected sources would install RTOs to comply with this rule at a total annualized cost of \$2.1 million (in 2014\$) per year compared to the January 2000 rule. These total annualized costs of compliance are estimated to be approximately 0.002 percent of sales. Accordingly, we do not project this final rule to have a significant economic impact on the affected entities.

The estimated total annualized cost of this final rule can also be compared to the estimated cost for the industry to comply with all provisions of the October 2014 rule. Based on information received since the October 2014 rule was finalized and the issues reconsidered in this action, we developed a revised estimate of the cost to comply with the 2014 final rule. We estimate the revised annualized cost of complying with the October 2014 rule to be \$4.2 million per year.³ Compared to this revised estimate of the cost of compliance with the October 2014 rule, this final rule will provide regulatory

¹ See memorandum, "National Impacts Associated with Proposed Standards for CPVs and Storage Tanks in the Amino and Phenolic Resins Production Source Category," which is available in the rulemaking docket.

² Same as previous footnote.

³ See Table 3 and Table 4 of the memorandum, "National Impacts Associated with Final Standards for CPVs and Storage Tanks in the Amino and Phenolic Resins Production Source Category," which is available in the rulemaking docket.

relief by reducing annualized compliance costs by \$2.1 million in year 2014 dollars.

More information and details of this analysis, including the conclusions stated above, are provided in the technical document, "Economic Impact Analysis for the Final Amendments to the NESHAP for Amino/Phenolic Resins," which is available in the rulemaking docket.

E. What are the benefits?

We estimate that this final rule will result in an annual reduction of 207 tons of HAP, compared to the January 2000 rule baseline. The EPA estimates this rule will result in 64 tons per year fewer HAP emission reductions than what the EPA projects the 2014 rule would achieve based on the additional information and test data that the EPA obtained following issuance of the 2014 final rule, as described in section III.A.1 of this preamble. We have not quantified or monetized the effects of these emissions changes for this rulemaking. See section IV.B of this preamble for discussion of HAP emissions from CPVs at existing sources under this final rule compared to the October 2014 rule.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action, titled "Economic Impact Analysis for the Final Amendments to the NESHAP for Amino/Phenolic Resins," and included in the docket of this rule.

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

This action is considered an Executive Order 13771 deregulatory action. Details on the 13771 deregulatory figures of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action, titled "Economic Impact Analysis for the Final Amendments to the NESHAP for

Amino/Phenolic Resins,” and included in the docket of this rule.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1869.08. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

This final rule requires recordkeeping and reporting of occurrences when control devices used to comply with the storage vessel provisions undergo planned routine maintenance. Reporting of such occurrences are required to be disclosed in the Periodic Reports as specified at 40 CFR 63.1417.

Respondents/affected entities: The respondents affected by the amendments to 40 CFR part 63, subpart OOO, include, but are not limited to, facilities having a NAICS code 325211 (United States Standard Industrial Classification 2821). Facilities with a NAICS code of 325211 are described as Plastics Material and Resin Manufacturing establishments, which includes facilities engaged in manufacturing amino resins and phenolic resins, as well as other plastic and resin types.

Respondent's obligation to respond: Mandatory under sections 112 and 114 of the CAA.

Estimated number of respondents: 15.

Frequency of response: Once or twice per year.

Total estimated burden: 45 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$2,750 per year, including no annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not

impose any requirements on small entities. The EPA has identified no small entities that are subject to the requirements of 40 CFR 63, subpart OOO.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The EPA's risk assessments for the October 2014 rule (Docket ID No. EPA-HQ-OAR-2012-0133) demonstrate that the current regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects. This final action does not alter those conclusions.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA is formalizing the incorporation of three technical standards that were included in the January 2000 rule for which the EPA had previously not formally requested the Office of the Federal Register to include in 40 CFR 63.14 with a reference back to the sections in 40 CFR 63, subpart OOO. These three standards were included in the original January 2000 rule. These three standards were already incorporated in 40 CFR 63.14, and were formally requested for other rules. These standards are API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989; ASTM D1946–90 (Reapproved 1994), Standard Method for Analysis of Reformed Gas by Gas Chromatography; and ASTM D2879–83, Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope. API Publication 2517 is used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature. API Publication 2517 is available to the public for free viewing online in the Read Online Documents section on API's website at <https://publications.api.org>. In addition to this free online viewing availability on API's website, hard copies and printable versions are available for purchase from API. ASTM D2879 is also used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature. ASTM D1946 is used to measure the concentration of carbon monoxide and hydrogen in a process vent gas stream. ASTM D2879 and ASTM D1946 are available to the public for free viewing online in the Reading Room section on ASTM's website at <https://www.astm.org/READINGLIBRARY/>. In addition to this free online viewing availability on ASTM's website, hardcopies and printable versions are available for purchase from ASTM. Additional information can be found at <http://www.api.org> and <https://www.astm.org/Standard/standards-and-publications.html>.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). In the October 2014 rule, the EPA determined that the current health risks posed by emissions from these source categories are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects. This final action does not alter the conclusions made in the October 2014 rule regarding these analyses.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: October 4, 2018.

Andrew R. Wheeler,
Acting Administrator.

Accordingly, 40 CFR part 63 is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

■ 2. Section 63.14 is amended by revising paragraphs (e)(1), (h)(17), and (h)(27) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) API Publication 2517, *Evaporative Loss from External Floating-Roof Tanks*, Third Edition, February 1989, IBR approved for §§ 63.111, 63.1402, and 63.2406.

* * * * *

(h) * * *

(17) ASTM D1946–90 (Reapproved 1994), *Standard Method for Analysis of*

Reformed Gas by Gas Chromatography, IBR approved for §§ 63.11(b) and 63.1412.

* * * * *

(27) ASTM D2879–83, *Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope*, IBR approved for §§ 63.111, 63.1402, 63.2406, and 63.12005.

* * * * *

Subpart 000—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

■ 3. Section 63.1400 is amended by revising paragraph (b)(4) to read as follows:

§ 63.1400 Applicability and designation of affected sources.

* * * * *

(b) * * *

(4) Equipment that does not contain organic hazardous air pollutants (HAP) and is located within an APPU that is part of an affected source;

* * * * *

■ 4. Section 63.1401 is amended by revising paragraph (b) to read as follows:

§ 63.1401 Compliance schedule.

* * * * *

(b) Existing affected sources shall be in compliance with this subpart (except §§ 63.1404, 63.1405, and 63.1411(c)) no later than 3 years after January 20, 2000. Existing affected sources shall be in compliance with the storage vessel requirements of § 63.1404 and the pressure relief device monitoring requirements of § 63.1411(c) by October 9, 2017. Existing affected sources shall be in compliance with the continuous process vent requirements of § 63.1405(b) by October 15, 2019.

* * * * *

■ 5. Section 63.1402 paragraph (b) is amended by:

- a. Adding in alphabetical order definitions for "Back-end continuous process vent", "Front-end continuous process vent", "Non-reactor process vent", and "Reactor process vent"; and
- b. Removing the definitions for "Non-reactor batch process vent" and "Reactor batch process vent"

The additions read as follows:

§ 63.1402 Definitions.

* * * * *

(b) * * *

Back-end continuous process vent means a continuous process vent for operations related to processing liquid resins into a dry form. Back-end process operations include, but are not limited

to, flaking, grinding, blending, mixing, drying, pelletizing, and other finishing operations, as well as latex and crumb storage. Back-end does not include storage and loading of finished product or emission points that are regulated under §§ 63.1404 or 63.1409 through 63.1411 of this subpart.

* * * * *

Front-end continuous process vent means a continuous process vent for operations in an APPU related to producing liquid resins, including any product recovery, stripping and filtering operations, and prior to any flaking or drying operations.

* * * * *

Non-reactor process vent means a batch or continuous process vent originating from a unit operation other than a reactor. Non-reactor process vents include, but are not limited to, process vents from filter presses, surge control vessels, bottoms receivers, weigh tanks, and distillation systems.

* * * * *

Reactor process vent means a batch or continuous process vent originating from a reactor.

* * * * *

■ 6. Section 63.1403 is amended by revising paragraph (a) to read as follows:

(a) *Provisions of this subpart.* Except as allowed under paragraph (b) of this section, the owner or operator of an affected source shall comply with the provisions of §§ 63.1404 through 63.1410, as appropriate. When emissions are vented to a control device or control technology as part of complying with this subpart, emissions shall be vented through a closed vent system meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process).

* * * * *

■ 7. Section 63.1404 is amended by revising paragraph (a)(1) introductory text and adding paragraph (c) to read as follows:

§ 63.1404 Storage vessel provisions.

(a) * * *

(1) Reduce emissions of total organic HAP by 95 weight-percent. Control shall be achieved by venting emissions through a closed vent system to any combination of control devices meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process). When complying with the requirements of 40

CFR part 63, subpart SS, the following apply for purposes of this subpart:

* * * * *

(c) Whenever gases or vapors containing HAP are routed from a storage vessel through a closed-vent system connected to a control device used to comply with the requirements of paragraph (a) or (b) of this section, the control device must be operating except as provided for in paragraph (c)(1) or (2) of this section.

(1) The control device may only be bypassed for the purpose of performing planned routine maintenance of the control device. When the control device is bypassed, the owner or operator must comply with paragraphs (c)(1)(i) through (iii) of this section.

(i) The control device may only be bypassed when the planned routine maintenance cannot be performed during periods that storage vessel emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance shall not exceed 240 hours per each calendar year.

(iii) The level of material in the storage vessel shall not be increased during periods that the closed-vent system or control device is bypassed to perform planned routine maintenance.

(2) The gases or vapors containing HAP are routed from the storage vessel through a closed-vent system connected to an alternate control device meeting the requirements of paragraph (a)(1) or the alternative standard in paragraph (b) of this section.

■ 8. Section 63.1405 is amended by:

- a. Revising paragraphs (a) introductory text and paragraph (a)(2) introductory text;
- b. Removing paragraph (a)(3);
- c. Revising paragraph (b); and
- d. Adding paragraph (c).

The revisions and additions read as follows:

§ 63.1405 Continuous process vent provisions.

(a) *Emission standards for new affected sources.* For each continuous process vent located at a new affected source with a Total Resource Effectiveness (TRE) index value, as determined following the procedures specified in § 63.1412(j), less than or equal to 1.2, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. As an alternative to complying with paragraph (a) of this section, an owner or operator may comply with paragraph (c)(1) of this section.

* * * * *

(2) Reduce emissions of total organic HAP by 85 weight-percent. Control shall be achieved by venting emissions through a closed vent system to any combination of control devices meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or process). When complying with the requirements of 40 CFR part 63, subpart SS, the following apply for purposes of this subpart:

* * * * *

(b) *Emission standards for existing affected sources.* For each continuous process vent located at an existing affected source, the owner or operator shall comply with either paragraph (b)(1) or (2) of this section. As an alternative to complying with paragraph (b) of this section, an owner or operator may comply with paragraph (c)(2) of this section.

(1) Vent all emissions of organic HAP to a flare.

(2) Reduce emissions as specified in paragraphs (b)(2)(i) through (iii) of this section, as applicable.

(i) The owner or operator of a back-end continuous process vent shall reduce total organic HAP emissions to less than or equal to 4.3 kilograms of total organic HAP per megagram of resin produced (8.6 pounds of total organic HAP per ton of resin produced).

(ii) The owner or operator of a front-end reactor continuous process vent shall reduce total organic HAP emissions to less than or equal to 0.28 kilograms of total organic HAP per hour (0.61 pounds of total organic HAP per hour).

(iii) The owner or operator of a front-end non-reactor continuous process vent shall reduce total organic HAP emissions to less than or equal to 0.010 kilograms of total organic HAP per hour (0.022 pounds of total organic HAP per hour).

(c) *Alternative emission standards.* As an alternative to complying with paragraphs (a) or (b) of this section, an owner or operator may comply with paragraph (c)(1) or (2) of this section, as appropriate.

(1) For each continuous process vent located at a new affected source, the owner or operator shall vent all organic HAP emissions from a continuous process vent meeting the TRE value specified in paragraph (a) of this section to a non-flare combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any

continuous process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraph (a)(1) or (2) of this section.

(2) For each continuous process vent located at an existing affected source, the owner or operator shall vent all organic HAP emissions from a continuous process vent to a non-flare combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any continuous process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraph (b)(1) or (2) of this section.

■ 9. Section 63.1412 is amended by revising paragraphs (a), (g)(2)(ii), and (k)(2) to read as follows:

§ 63.1412 Continuous process vent applicability assessment procedures and methods.

(a) *General.* The provisions of this section provide procedures and methods for determining the applicability of the control requirements specified in § 63.1405(a) to continuous process vents.

* * * * *

(g) * * *
(2) * * *

(ii) American Society for Testing and Materials D1946–90 (Reapproved 1994) (incorporated by reference, see § 63.14) to measure the concentration of carbon monoxide and hydrogen.

* * * * *

(k) * * *

(2) If the TRE index value calculated using engineering assessment is less than or equal to 4.0, the owner or operator is required either to perform the measurements specified in paragraphs (e) through (h) of this section for control applicability assessment or comply with the control requirements specified in § 63.1405(a).

* * * * *

- 10. Section 63.1413 is amended by:
 - a. Revising paragraph (a) introductory text;
 - b. Adding paragraph (a)(1)(iii);
 - c. Revising paragraphs (a)(3) introductory text, (a)(4) introductory text, and paragraphs (c)(2) and (c)(4) through (6);
 - d. Adding paragraph (c)(7);
 - e. Revising paragraphs (f) and (h)(1);
 - f. Redesignating paragraph (h)(2) as (h)(3);
 - g. Adding new paragraph (h)(2);
 - h. Revising newly redesignated paragraphs (h)(3) introductory text

(h)(3)(i), (h)(3)(ii) introductory text, (h)(3)(ii)(B)(1) and (3), and (h)(3)(iii);

- i. Adding paragraph (h)(4);
- j. Revising paragraphs (i)(1)(iii) and (iv); and
- k. Adding paragraph (i)(1)(v).

The revisions and additions read as follows:

§ 63.1413 Compliance demonstration procedures.

(a) *General.* For each emission point, the owner or operator shall meet three stages of compliance, with exceptions specified in this subpart. First, the owner or operator shall conduct a performance test or design evaluation to demonstrate either the performance of the control device or control technology being used or the uncontrolled total organic HAP emissions rate from a continuous process vent. Second, the owner or operator shall meet the requirements for demonstrating initial compliance (e.g., a demonstration that the required percent reduction or emissions limit is achieved). Third, the owner or operator shall meet the requirements for demonstrating continuous compliance through some form of monitoring (e.g., continuous monitoring of operating parameters).

* * * * *

(1) * * *

(iii) *Uncontrolled continuous process vents.* Owners or operators are required to conduct either a performance test or a design evaluation for continuous process vents that are not controlled through either a large or small control device.

* * * * *

(3) *Design evaluations.* As provided in paragraph (a) of this section, a design evaluation may be conducted to demonstrate the organic HAP removal efficiency for a control device or control technology, or the uncontrolled total organic HAP emissions rate from a continuous process vent. As applicable, a design evaluation shall address the organic HAP emissions rate from uncontrolled continuous process vents, the composition and organic HAP concentration of the vent stream(s) entering a control device or control technology, the operating parameters of the emission point and any control device or control technology, and other conditions or parameters that reflect the performance of the control device or control technology or the organic HAP emission rate from a continuous process vent. A design evaluation also shall address other vent stream characteristics and control device operating parameters as specified in any one of paragraphs (a)(3)(i) through (vi) of this section, for controlled vent streams, depending on

the type of control device that is used. If the vent stream(s) is not the only inlet to the control device, the efficiency demonstration also shall consider all other vapors, gases, and liquids, other than fuels, received by the control device.

* * * * *

(4) *Establishment of parameter monitoring levels.* The owner or operator of a control device that has one or more parameter monitoring level requirements specified under this subpart, or specified under subparts referenced by this subpart, shall establish a maximum or minimum level, as denoted on Table 4 of this subpart, for each measured parameter using the procedures specified in paragraph (a)(4)(i) or (ii) of this section. Except as otherwise provided in this subpart, the owner or operator shall operate control devices such that the hourly average, daily average, batch cycle daily average, or block average of monitored parameters, established as specified in this paragraph, remains above the minimum level or below the maximum level, as appropriate.

* * * * *

(c) * * *

(2) Initial compliance with § 63.1405(a)(1) or (b)(1) (venting of emissions to a flare) shall be demonstrated following the procedures specified in paragraph (g) of this section.

* * * * *

(4) Continuous compliance with § 63.1405(a)(1) or (b)(1) (venting of emissions to a flare) shall be demonstrated following the continuous monitoring procedures specified in § 63.1415.

(5) Initial and continuous compliance with the production-based emission limit specified in § 63.1405(b)(2)(i) shall be demonstrated following the procedures in paragraph (h)(1) of this section.

(6) Initial and continuous compliance with the emission rate limits specified in § 63.1405(b)(2)(ii) and (iii) shall be demonstrated following the procedures of either paragraphs (c)(6)(i) or (ii) of this section.

(i) Continuous process vents meeting the emission rate limit using a closed vent system and a control device or recovery device or by routing emissions to a fuel gas system or process shall follow the procedures in 40 CFR part 63, subpart SS. When complying with the requirements of 40 CFR part 63, subpart SS, the following apply for purposes of this subpart:

(A) The requirements specified in of § 63.1405 (a)(2)(i) through (viii).

(B) When 40 CFR part 63, subpart SS refers to meeting a weight-percent emission reduction or ppmv outlet concentration requirement, meeting an emission rate limit in terms of kilograms of total organic HAP per hour shall also apply.

(ii) Continuous process vents meeting the emission rate limit by means other than those specified in paragraph (c)(6)(i) of this section shall follow the procedures specified in paragraph (h)(2) of this section.

(7) Initial and continuous compliance with the alternative standards specified in § 63.1405(c) shall be demonstrated following the procedures in paragraph (f) of this section.

* * * * *

(f) *Compliance with alternative standard.* Initial and continuous compliance with the alternative standards in §§ 63.1404(b), 63.1405(c), 63.1406(b), 63.1407(b)(1), and 63.1408(b)(1) are demonstrated when the daily average outlet organic HAP concentration is 20 ppmv or less when using a combustion control device or 50 ppmv or less when using a non-combustion control device. To demonstrate initial and continuous compliance, the owner or operator shall follow the test method specified in § 63.1414(a)(6) and shall be in compliance with the monitoring provisions in § 63.1415(e) no later than the initial compliance date and on each day thereafter.

* * * * *

(h) * * *

(1) Each owner or operator complying with the mass emission limit specified in § 63.1405(b)(2)(i) shall determine initial compliance as specified in paragraph (h)(1)(i) of this section and continuous compliance as specified in paragraph (h)(1)(ii) of this section.

(i) *Initial compliance.* Initial compliance shall be determined by comparing the results of the performance test or design evaluation, as specified in paragraph (a)(1) of this section, to the mass emission limit specified in § 63.1405(b)(2)(i).

(ii) *Continuous compliance.* Continuous compliance shall be based on the daily average emission rate calculated for each operating day. The first continuous compliance average daily emission rate shall be calculated using the first 24-hour period or otherwise-specified operating day after the compliance date. Continuous compliance shall be determined by comparing the daily average emission rate to the mass emission limit specified in § 63.1405(b)(2)(i).

(2) As required by paragraph (c)(6)(ii) of this section, each owner or operator

complying with the emission rate limits specified in § 63.1405(b)(2)(ii) and (iii), as applicable, by means other than those specified in paragraph (c)(6)(i) of this section, shall determine initial compliance as specified in paragraph (h)(2)(i) of this section and continuous compliance as specified in paragraph (h)(2)(ii) of this section.

(i) *Initial compliance.* Initial compliance shall be determined by comparing the results of the performance test or design evaluation, as specified in paragraph (a)(1) of this section, to the emission rate limits specified in § 63.1405(b)(2)(ii) and (iii), as applicable.

(ii) *Continuous compliance.* Continuous compliance shall be based on the hourly average emission rate calculated for each operating day. The first continuous compliance average hourly emission rate shall be calculated using the first 24-hour period or otherwise-specified operating day after the compliance date. Continuous compliance shall be determined by comparing the average hourly emission rate to the emission rate limit specified in § 63.1405(b)(2)(ii) or (iii), as applicable.

(3) *Procedures to determine continuous compliance with the mass emission limit specified in § 63.1405(b)(2)(i).*

(i) The daily emission rate, kilograms of organic HAP per megagram of product, shall be determined for each operating day using Equation 5 of this section:

$$ER = \frac{E_i}{RP_m} \quad [\text{Eq.5}]$$

Where:

ER = Emission rate of organic HAP from continuous process vent, kg of HAP/Mg product.

E_i = Emission rate of organic HAP from continuous process vent i as determined using the procedures specified in paragraph (h)(3)(ii) of this section, kg/day.

RP_m = Amount of resin produced in one month as determined using the procedures specified in paragraph (h)(3)(iii) of this section, Mg/day.

(ii) The daily emission rate of organic HAP, in kilograms per day, from an individual continuous process vent (E_i) shall be determined. Once organic HAP emissions have been estimated, as specified in paragraph (h)(3)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(3)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology, the owner or operator may use the estimated organic HAP emissions (E_i) until the estimated

organic HAP emissions are no longer representative due to a process change or other reason known to the owner or operator. If organic HAP emissions (E_i) are determined to no longer be representative, the owner or operator shall redetermine organic HAP emissions for the continuous process vent following the procedures in paragraph (h)(3)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(3)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology.

* * * * *

(B) * * *

(1) Uncontrolled organic HAP emissions shall be determined following the procedures in paragraph (h)(3)(ii)(A) of this section.

* * * * *

(3) Controlled organic HAP emissions shall be determined by applying the control device or control technology efficiency, determined in paragraph (h)(3)(ii)(B)(2) of this section, to the uncontrolled organic HAP emissions, determined in paragraph (h)(3)(ii)(B)(1) of this section.

(iii) The rate of resin produced, RP_M (Mg/day), shall be determined based on production records certified by the owner or operator to represent actual production for the day. A sample of the records selected by the owner or operator for this purpose shall be provided to the Administrator in the Precompliance Report as required by § 63.1417(d).

(4) *Procedures to determine continuous compliance with the emission rate limit specified in § 63.1405(b)(2)(ii) or (iii).*

(i) The hourly emission rate, kilograms of organic HAP per hour, shall be determined for each hour during the operating day using Equation 6 of this section:

$$E_H = K_2 \left(\sum_{j=1}^n C_j M_j \right) Q_S \quad [\text{Eq.6}]$$

Where:

E_H = Hourly emission rate of organic HAP in the sample, kilograms per hour.

K_2 = Constant, $2,494 \times 10^{-6}$ (parts per million)⁻¹ (gram-mole per standard cubic meter) (kilogram/gram) (minutes/hour), where standard temperature for (gram-mole per standard cubic meter) is 20 °C.

n = Number of components in the sample.

C_j = Organic HAP concentration on a dry basis of organic compound j in parts per million as determined by the methods specified in paragraph (h)(4)(ii) of this section.

M_j = Molecular weight of organic compound j , gram/gram-mole.

Q_S = Continuous process vent flow rate, dry standard cubic meters per minute, at a

temperature of 20 °C, as determined by the methods specified in paragraph (h)(4)(ii) of this section.

(ii) The average hourly emission rate, kilograms of organic HAP per hour, shall be determined for each operating day using Equation 7 of this section:

$$AE = \frac{\sum_{i=1}^n E_H}{n} \quad [\text{Eq.7}]$$

Where:

AE = Average hourly emission rate per operating day, kilograms per hour.

n = Number of hours in the operating day.

(ii) Continuous process vent flow rate and organic HAP concentration shall be determined using the procedures specified in § 63.1414(a), or by using the engineering assessment procedures in paragraph (h)(4)(iii) of this section.

(iii) *Engineering assessment.* For the purposes of determining continuous compliance with the emission rate limit specified in § 63.1405(b)(2)(ii) or (iii) using Equations 6 and 7, engineering assessments may be used to determine continuous process vent flow rate and organic HAP concentration. An engineering assessment includes, but is not limited to, the following examples:

(A) Previous test results, provided the tests are representative of current operating practices.

(B) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(C) Maximum volumetric flow rate or organic HAP concentration specified or implied within a permit limit applicable to the continuous process vent.

(D) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to, the following:

(1) Estimation of maximum organic HAP concentrations based on process stoichiometry material balances or saturation conditions; and

(2) Estimation of maximum volumetric flow rate based on physical equipment design, such as pump or blower capacities.

* * * * *

(i) * * *

(1) * * *

(iii) Exceedance of the mass emission limit (*i.e.*, having an average value higher than the specified limit) monitored according to the provisions of paragraph (e)(2) of this section for batch process vents and according to the provisions of paragraph (h)(1) of this section for continuous process vents;

(iv) Exceedance of the organic HAP outlet concentration limit (*i.e.*, having an average value higher than the

specified limit) monitored according to the provisions of § 63.1415(e); and

(v) Exceedance of the emission rate limit (i.e., having an average value higher than the specified limit) determined according to the provisions of paragraph (h)(2) of this section.

* * * * *

■ 11. Section 63.1415 is amended by revising paragraph (e) to read as follows:

§ 63.1415 Monitoring requirements.

* * * * *

(e) *Monitoring for the alternative standards.* For control devices that are used to comply with the provisions of § 63.1404(b), § 63.1405(c), § 63.1406(b), § 63.1407(b), or § 63.1408(b) the owner or operator shall conduct continuous monitoring of the outlet organic HAP concentration whenever emissions are vented to the control device. Continuous monitoring of outlet organic HAP concentration shall be accomplished using an FTIR instrument following Method PS-15 of 40 CFR part 60, appendix B. The owner or operator shall calculate a daily average outlet organic HAP concentration.

■ 12. Section 63.1416 is amended by:

■ a. Revising paragraphs (f)(1) and (3), (f)(5) introductory text, and (f)(5)(ii);

■ b. Adding paragraph (f)(5)(iii);

■ c. Redesignating paragraph (f)(6) as (f)(7);

■ d. Adding new paragraph (f)(6);

■ e. Revising newly redesignated paragraph (f)(7) introductory text and paragraph (g)(5)(v)(E); and

■ f. Adding paragraph (g)(6).

The revisions and additions read as follows:

§ 63.1416 Recordkeeping requirements.

* * * * *

(f) * * *

(1) *TRE index value records.* Each owner or operator of a continuous process vent at a new affected source shall maintain records of measurements, engineering assessments, and calculations performed according to the procedures of § 63.1412(j) to determine the TRE index value. Documentation of engineering assessments, described in § 63.1412(k), shall include all data, assumptions, and procedures used for the engineering assessments.

* * * * *

(3) *Organic HAP concentration records.* Each owner or operator shall record the organic HAP concentration as measured using the sampling site and organic HAP concentration determination procedures (if applicable) specified in § 63.1412(b) and (e), or determined through engineering assessment as specified in § 63.1412(k).

* * * * *

(5) If a continuous process vent is seeking to demonstrate compliance with the mass emission limit specified in § 63.1405(b)(2)(i), keep records specified in paragraphs (f)(5)(i) through (iii) of this section.

* * * * *

(ii) Identification of the period of time that represents an operating day.

(iii) The daily organic HAP emissions from the continuous process vent determined as specified in § 63.1413(h)(3).

(6) If a continuous process vent is seeking to demonstrate compliance with the emission rate limits specified in § 63.1405(b)(2)(ii) or (iii), keep records specified in paragraphs (f)(6)(i) through (iii) of this section.

(i) The results of the initial compliance demonstration specified in § 63.1413(h)(2)(i).

(ii) Identification of the period of time that represents an operating day.

(iii) The average hourly organic HAP emissions from the continuous process vent determined as specified in § 63.1413(h)(4).

(7) When using a flare to comply with § 63.1405(a)(1) or (b)(1), keep the records specified in paragraphs (f)(7)(i) through (f)(7)(iii) of this section.

* * * * *

(g) * * *

(5) * * *

(v) * * *

(E) The measures adopted to prevent future such pressure releases.

(6) An owner or operator shall record, on a semiannual basis, the information specified in paragraphs (g)(6)(i) through (iii) of this section, as applicable, for those planned routine maintenance operations that would require the control device not to meet the requirements of § 63.1404(a) or (b) of this subpart.

(i) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next 6 months. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

(ii) A description of the planned routine maintenance that was performed for the control device during the previous 6 months. This description shall include the type of maintenance performed and the total number of hours during these 6 months that the control device did not meet the requirement of § 63.1404 (a) or (b) of this subpart, as applicable, due to planned routine maintenance.

(iii) For each storage vessel for which planned routine maintenance was

performed during the previous 6 months, record the height of the liquid in the storage vessel at the time the control device is bypassed to conduct the planned routine maintenance and at the time the control device is placed back in service after completing the routine maintenance. These records shall include the date and time the liquid height was measured.

■ 13. Section 63.1417 is amended by:

■ a. Revising paragraphs (d) introductory text, (d)(8), (e)(1) introductory text, (e)(9), (f) introductory text, (f)(1) and (2), (f)(5) introductory text, and (f)(12)(ii);

■ b. Adding paragraphs (f)(14) through (16); and

■ c. Revising paragraph (h)(7) introductory text.

The revisions and additions read as follows:

§ 63.1417 Reporting requirements.

* * * * *

(d) *Precompliance Report.* Owners or operators of affected sources requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as described in § 63.1414(d)(6)(i)(C); wishing to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii); establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3); or following the procedures in § 63.1413(e)(2); or following the procedures in § 63.1413(h)(3), shall submit a Precompliance Report according to the schedule described in paragraph (d)(1) of this section. The Precompliance Report shall contain the information specified in paragraphs (d)(2) through (11) of this section, as appropriate.

* * * * *

(8) If an owner or operator is complying with the mass emission limit specified in § 63.1405(b)(2)(i), the sample of production records specified in § 63.1413(h)(3) shall be submitted in the Precompliance Report.

* * * * *

(e) * * *

(1) The results of any emission point applicability determinations, performance tests, design evaluations, inspections, continuous monitoring system performance evaluations, any other information used to demonstrate compliance, and any other information, as appropriate, required to be included

in the Notification of Compliance Status under 40 CFR part 63, subpart WW and subpart SS, as referred to in § 63.1404 for storage vessels; under 40 CFR part 63, subpart SS, as referred to in § 63.1405 for continuous process vents; under § 63.1416(f)(1) through (3), (f)(5)(i) and (ii), and (f)(6)(i) and (ii) for continuous process vents; under § 63.1416(d)(1) for batch process vents; and under § 63.1416(e)(1) for aggregate batch vent streams. In addition, each owner or operator shall comply with paragraphs (e)(1)(i) and (ii) of this section.

* * * * *

(9) Data or other information used to demonstrate that an owner or operator may use engineering assessment to estimate emissions for a batch emission episode, as specified in § 63.1414(d)(6)(iii)(A).

* * * * *

(f) *Periodic Reports.* Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) and (13) through (16) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180 day period. In addition, for equipment leaks subject to § 63.1410, the owner or operator shall submit the information specified in 40 CFR part 63, subpart UU, and for heat exchange systems subject to § 63.1409, the owner or operator shall submit the information specified in § 63.1409. Section 63.1415 shall govern the use of monitoring data to determine compliance for emissions points required to apply controls by the provisions of this subpart.

(1) Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) and (13) through (16) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180 day period. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status is due. Subsequent reports shall cover each preceding 6-month period.

(2) If none of the compliance exceptions specified in paragraphs (f)(3) through (11) and (13) through (16) of this section occurred during the 6-month period, the Periodic Report required by paragraph (f)(1) of this

section shall be a statement that the affected source was in compliance for the preceding 6-month period and no activities specified in paragraphs (f)(3) through (11) and (13) through (16) of this section occurred during the preceding 6-month period.

* * * * *

(5) If there is a deviation from the mass emission limit specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the following information, as appropriate, shall be included:

* * * * *

(12) * * *

(ii) The quarterly reports shall include all information specified in paragraphs (f)(3) through (11) and (13) through (16) of this section applicable to the emission point for which quarterly reporting is required under paragraph (f)(12)(i) of this section. Information applicable to other emission points within the affected source shall be submitted in the semiannual reports required under paragraph (f)(1) of this section.

* * * * *

(14) If there is a deviation from the mass emission limit specified in § 63.1405(b)(2)(i), the report shall include the daily average emission rate calculated for each operating day for which a deviation occurred.

(15) If there is a deviation from the emission rate limit specified in § 63.1405(b)(2)(ii) or (iii), the report shall include the following information for each operating day for which a deviation occurred:

(i) The calculated average hourly emission rate.

(ii) The individual hourly emission rate data points making up the average hourly emission rate.

(16) For periods of storage vessel routine maintenance in which a control device is bypassed, the owner or operator shall submit the information specified in § 63.1416(g)(6)(i) through (iii) of this subpart.

(h) * * *

(7) Whenever a continuous process vent becomes subject to control requirements under § 63.1405, as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability assessment, whichever is sooner. The report may be submitted as part of the next Periodic Report required by paragraph (f) of this section.

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2017-0311; FRL-9980-56]

Pyraclostrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pyraclostrobin in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). **DATES:** This regulation is effective October 15, 2018. Objections and requests for hearings must be received on or before December 14, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0311, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfrNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers

determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2017-0311 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 14, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0311, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.
- *Hand Delivery:* To make special arrangements for hand delivery or

delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of October 23, 2017 (82 FR 49020) (FRL-9967-37), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E8569) by IR-4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester) and its desmethoxy metabolite, methyl-N-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl] phenylcarbamate expressed as parent compound in or on *Brassica*, leafy greens, subgroup 4-16B at 16.0 ppm, celtuce at 29.0 ppm, Florence, fennel at 29.0 ppm, kohlrabi at 5.0 ppm, leaf petiole vegetable subgroup 22B at 29.0 ppm, leafy greens subgroup 4-16A at 40 ppm, tropical and subtropical, medium to large fruit, smooth, inedible peel, subgroup 24B at 0.6 ppm, and vegetable, *Brassica*, head and stem, group 5-16 at 5.0 ppm. The petition also requested that the following established tolerances be removed: Avocado at 0.6 ppm, banana at 0.04 ppm, *Brassica*, head and stem, subgroup 5A at 5.0 ppm, *Brassica* leafy greens, subgroup 5B, at 16.0 ppm, and vegetable, leafy, except *Brassica*, group 4 at 29 ppm. That document referenced a summary of the petition prepared by BASF, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes

exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue"

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for pyraclostrobin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with pyraclostrobin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The most consistently observed effects of pyraclostrobin exposure across species, genders, and treatment durations were diarrhea, decreased body weight, and decreased food consumption. Pyraclostrobin also causes intestinal disturbance as indicated by increased incidence of diarrhea or duodenum mucosal thickening. These intestinal effects appeared to be related to the irritating action on the mucus membranes as demonstrated by redness and chemosis (*i.e.*, swelling of the conjunctiva) seen in the primary eye irritation study. In the rat acute and subchronic neurotoxicity studies, neuropathology and behavior changes were not observed.

In the rat and rabbit developmental toxicity studies, developmental toxicity (*i.e.* skeletal variations, post-implantation loss, and fetal resorption) was observed, as well as maternal toxicity (*i.e.* diarrhea, decreased body weight, food consumption, and clinical signs of toxicity). In the reproduction study, systemic toxicity manifested as decreased body weight in both the parents and offspring; no reproductive toxicity was observed.

In the rat subchronic inhalation toxicity studies, inhalation toxicity

consisted of both portal of entry effects (*i.e.*, olfactory atrophy/necrosis and histiocytosis in the lungs) and systemic effects (*i.e.*, hyperplasia in the duodenum).

Pyraclostrobin was classified by the Agency as “Not Likely to be Carcinogenic to Humans” based on the lack of treatment-related increase in tumor incidence in adequately conducted carcinogenicity studies in rats and mice. Pyraclostrobin did not cause mutagenicity or genotoxicity in the *in vivo* and *in vitro* assays. Pyraclostrobin did not cause immunotoxicity in mice assays.

Specific information on the studies received and the nature of the adverse effects caused by pyraclostrobin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> on pages 34–39 in the document titled “Pyraclostrobin. Human Health Risk Assessment for a Petition for the Establishment of Use on Greenhouse-Grown Leafy Greens, Except Head Lettuce, Subgroup 4–16A; Cucurbit Vegetables, Group 9; and Fruiting Vegetables, Group 8–10 and Crop Group Conversions and Expansion of Tolerances for Brassica, Leafy Greens, Subgroup 4–16B; Celtuce; Florence Fennel; Kohlrabi; Leaf Petiole Vegetables, Subgroup 22B; Tropical and Subtropical, Medium to Large Fruit, Inedible Peel, Subgroup 23B; and Brassica Head and Stem, Group 5–16 and a Revised Tolerance Level for Leafy Greens, Subgroup 4–16A” in docket ID number EPA–HQ–OPP–2017–0311.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any

amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

A summary of the toxicological endpoints for pyraclostrobin used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 10, 2015 (80 FR 19231) (FRL–9925–02).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pyraclostrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing pyraclostrobin tolerances in 40 CFR 180.582. EPA assessed dietary exposures from pyraclostrobin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for pyraclostrobin. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture’s National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, the acute dietary exposure assessments were performed assuming 100 percent crop treated (PCT) and incorporating tolerance-level or highest field-trial residues.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA’s NHANES/WWEIA. As to residue levels in food, the chronic dietary exposure assessments were performed using average percent crop treated estimates and tolerance-level or average field-trial residues.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that pyraclostrobin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated

residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, and the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the PCT for existing uses in the chronic dietary assessment as follows:

Almonds 45%; apples 20%; apricots 30%; barley 10%; green beans 5%; blueberries 40%; broccoli 5%; Brussels sprouts 15%; cabbage 10%; caneberrries 50%; cantaloupes 15%; carrots 35%; cauliflower 5%; celery <2.5%; cherries 55%; chicory 5%; corn 10%; cotton (seed treatment) 10%; cucumber 5%; dry beans/peas 10%; garlic 10%; grapefruit 35%; grapes 30%; hazelnuts 20%; lemons 5%; lettuce 5%; nectarines 15%; oats 5%; onions 30%; oranges 5%; peaches 25%; peanuts 20%; pears 20%; green peas 5%; pecans 5%; peppers 15%; pistachios 30%; potatoes 20%; pumpkins 15%; soybeans (seed treatment) 10%; spinach 5%; squash 15%; strawberries 65%; sugar beets 50%; sugarcane 5%; sweet corn 5%; tangerines 10%; tomatoes 25%; walnuts 10%; watermelons 25%; wheat 5%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS),

proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 2.5%, in which case 2.5% is used as the average PCT, or less than 1%, in which case 1% is used as the average PCT.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for pyraclostrobin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pyraclostrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide>.

Based on the Pesticide Root Zone Model and Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of pyraclostrobin for acute exposures are estimated to be 35.6 parts per billion (ppb) for surface water and 0.02 ppb for ground water and for chronic exposures are estimated to be 2.3 ppb for surface water and 0.02 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 35.6 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessment, the water concentration of value 2.3 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pyraclostrobin is currently registered for the following uses that could result in residential handler and post-application exposures: Treated gardens, fruit or nut trees, tomato transplants, and turf. EPA assessed residential exposure using the following assumptions: Short-term adult handler exposures via the dermal and inhalation routes resulting from application of

pyraclostrobin to gardens, trees, and turf. Short-term dermal post-application exposures were assessed for adults, youth 11 to 16 years old, and children 6 to 11 years old. Short-term dermal and incidental oral exposures were assessed for children 1 to less than 2 years old. Intermediate-term exposures are not likely because of the intermittent nature of applications in residential settings.

For the aggregate assessment, inhalation and dermal exposures were not aggregated together because the toxicity effect from the inhalation route of exposure was different than the effect from the dermal route of exposure. The scenarios with the highest residential exposures that were used in the short-term aggregate assessment for pyraclostrobin are as follows:

- Adult short-term aggregate assessment—residential dermal post-application exposure via activities on treated turf.
- Youth (11 to 16 years old) short-term aggregate assessment—residential dermal exposure from post-application golfing on treated turf.
- Children (6 to 11 years old) short-term aggregate assessment—residential dermal exposures from post-application activities in treated gardens.
- Children (1 to less than 2 years old) short-term aggregate assessment—residential dermal and hand-to-mouth exposures from post-application exposure to treated turf.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide>.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

EPA has not found pyraclostrobin to share a common mechanism of toxicity with any other substances, and pyraclostrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pyraclostrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such

chemicals, see EPA’s website at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence that pyraclostrobin results in increased quantitative susceptibility in rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. Although there is evidence of increased qualitative susceptibility in the prenatal development study in rabbits, the Agency did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of pyraclostrobin. The degree of concern for prenatal and/or postnatal toxicity is low.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

- i. The toxicity database for pyraclostrobin is complete.
- ii. There is no indication that pyraclostrobin is a neurotoxic chemical. Effects seen in the acute and subchronic neurotoxicity studies in rats are considered to reflect perturbations in mitochondrial respiration leading to effects on energy production rather than signs of neurotoxicity; therefore, there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.
- iii. There is no evidence that pyraclostrobin results in increased quantitative susceptibility in rats in the prenatal developmental study or in young rats in the 2-generation reproduction study. The prenatal rabbit developmental toxicity study showed

evidence of increased qualitative susceptibility to prenatal rabbits; however, this study was chosen for endpoint selection for the acute dietary (females 13–49) and short-term dermal exposure scenarios. This study has a clearly defined NOAEL of 5.0 mg/kg/day. EPA did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of pyraclostrobin. The degree of concern for prenatal and/or postnatal toxicity is low.

iv. There are no residual uncertainties identified in the exposure databases. The acute dietary exposure assessments were performed assuming 100 PCT and tolerance-level or highest field trial residues. The chronic dietary exposure assessments were performed using average PCT estimates, when available, and tolerance-level or average field trial residues. These data are reliable and are not expected to underestimate risks to adults or children. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pyraclostrobin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pyraclostrobin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pyraclostrobin will occupy 88% of the aPAD for females 13–49 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyraclostrobin from food and water will utilize 29% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in

Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of pyraclostrobin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pyraclostrobin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pyraclostrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 110 for children 1 to 2 years old, 360 for children 6 to 11 years old, 1500 for youth 11 to 16 years old, and 230 for adults. Because EPA's level of concern for pyraclostrobin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Intermediate-term adverse effects were identified; however, pyraclostrobin is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for pyraclostrobin.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, pyraclostrobin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pyraclostrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Two adequate methods are available to enforce the tolerance expression for residues of pyraclostrobin and the metabolite BF 500–3 in or on plant commodities: A liquid chromatography with tandem mass spectrometry (LC/MS/MS) method, BASF Method D9908; and a high-performance LC with ultraviolet detection (HPLC/UV) method, Method D9904. The methods may be found in the Pesticide Analytical Manual, Volume I.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for pyraclostrobin in or on various commodities including kale, collards, curly kale, Scotch kale, thousand-headed kale (not including marrow stem kale) at 1 ppm; radish leaves (including radish tops) at 20 ppm; lettuce, head at 2 ppm; banana at 0.02 ppm; mango at 0.05 ppm; papaya at 0.15 ppm; Brussels sprouts at 0.3 ppm; cabbages, head at 0.2 ppm; and flower-head brassicas (includes broccoli, broccoli Chinese and cauliflower) at 0.1 ppm. These MRLs are different than the tolerances established for pyraclostrobin in the United States, however, they cannot be harmonized because the tolerance/MRL expressions for the U.S. and Codex are not harmonized and the submitted residue data support higher tolerance levels than those set by Codex, indicating that harmonization would cause legal application of pyraclostrobin by U.S. users to result in exceedances of domestic tolerances.

C. Revisions to Petitioned-for Tolerances

For tolerance values that vary from what the petitioner requested, EPA is

establishing tolerance values in order to conform to current Agency policy on significant figures. The tolerance for tropical and subtropical, medium to large fruit, smooth, inedible peel, subgroup 24B is not being established at this time. The request for a tolerance for subgroup 24B was submitted in connection with an application for registration of a pesticide product with multiple active ingredients. Because one of those active ingredients is not currently approved for use on the commodities in subgroup 24B, EPA is not approving use of the combination product on commodities in subgroup 24B. Therefore, EPA is not establishing the tolerance for subgroup 24B because it is not necessary at this time. Because a tolerance is not being established for subgroup 24B, the existing tolerances for avocado and banana are not being removed as proposed.

V. Conclusion

Therefore, tolerances are established for residues of pyraclostrobin carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester) and its desmethoxy metabolite, methyl-N-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl] phenylcarbamate (BF 500-3), expressed as parent compound, in or on *Brassica*, leafy greens, subgroup 4-16B, except watercress at 16 ppm; celtuce at 29 ppm; fennel, Florence at 29 ppm; kohlrabi at 5.0 ppm; leaf petiole vegetable, subgroup 22B at 29 ppm; leafy greens, subgroup 4-16A at 40 ppm; and vegetable, *Brassica*, head and stem, group 5-16 at 5.0 ppm. Additionally, the following established tolerances are removed as unnecessary due to the establishment of the above tolerances: *Brassica*, head and stem, subgroup 5A; *Brassica* leafy greens, subgroup 5B; and vegetable, leafy, except brassica, group 4.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of

Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), nor is it a regulatory action under Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 2, 2018.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.582:

- i. Add alphabetically the commodities “*Brassica*, leafy greens, subgroup 4-16B, except watercress”; “celtuce”; “fennel, Florence”; “kohlrabi”; “leaf petiole vegetable, subgroup 22B”; “leafy greens, subgroup 4-16A”; and “vegetable, *Brassica*, head and stem, group 5-16” to the table in paragraph (a)(1); and
- ii. Remove the entries for “*Brassica*, head and stem, subgroup 5A”; “*Brassica*, leafy greens, subgroup 5B”; and “vegetable, leafy, except brassica, group 4” from the table in paragraph (a)(1).

The additions read as follows:

§ 180.582 Pyraclostrobin; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million
* * * * *	*
<i>Brassica</i> , leafy greens, subgroup 4-16B, except watercress	16
* * * * *	*
Celtuce	29
* * * * *	*
Fennel, Florence	29
* * * * *	*
Kohlrabi	5.0
Leaf petiole vegetable, subgroup 22B	29
Leafy greens, subgroup 4-16A ..	40
* * * * *	*
Vegetable, <i>Brassica</i> , head and stem, group 5-16	5.0

Commodity					Parts per million
*	*	*	*	*	*

[FR Doc. 2018-22282 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2017-0273; FRL-9983-96]

Etoxazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of etoxazole in or on multiple commodities which are identified and discussed later in this document. In addition, it removes certain previously established tolerances that are superseded by this final rule. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 15, 2018. Objections and requests for hearings must be received on or before December 14, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the

SUPPLEMENTARY INFORMATION.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0273, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2017-0273 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 14, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0273, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 23, 2017 (82 FR 49020) (FRL-9967-37), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E8559) by IR-4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, New Jersey 08540. The petition requested that 40 CFR 180.593 be amended by establishing tolerances for residues of the miticide/insecticide etoxazole, (2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole), in or on Corn, sweet, kernel plus cob with husks removed at 0.01 parts per million (ppm); Corn, sweet, forage at 1.5 ppm; Corn, sweet, stover at 5.0 ppm; Fruit, pome, group 11-10 at 0.20 ppm; Nut, tree, group 14-12 at 0.01 ppm; Fruit, stone, group 12-12 at 1.0 ppm; and Cottonseed subgroup 20C at 0.05 ppm. In addition, upon establishment of new tolerances referenced above, the petitioner requested the removal of existing tolerances in 40 CFR 180.593 for residues of etoxazole in or on Fruit, pome, group 11 at 0.20 ppm; Fruit, stone, group 12, except plum at 1.0 ppm; Nut, tree, group 14 at 0.01 ppm; Cotton, undelinted seed at 0.05 ppm; Pistachio at 0.01 ppm; Plum at 0.15 ppm; and Plum, prune, dried at 0.30 ppm. That document referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Consistent with the authority in FFDCA 408(d)(4)(A)(i), EPA is issuing tolerances that vary from what the

petitioner sought. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue”

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for etoxazole including exposure resulting from the tolerances established by this action. EPA’s assessment of exposures and risks associated with etoxazole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information

concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The effects in the etoxazole database show liver toxicity in all species tested (enzyme release, hepatocellular swelling and histopathological indicators), and the severity does not appear to increase with time. In rats only, there were effects on incisors (elongation, whitening, and partial loss of upper and/or lower incisors). There is no evidence of neurotoxicity or immunotoxicity. No toxicity was seen at the limit dose in a 28-day dermal toxicity study in rats. Etoxazole was not mutagenic.

No increased quantitative or qualitative susceptibilities were observed following *in utero* exposure to rats or rabbits in the developmental studies; however, offspring toxicity was more severe (increased pup mortality) than maternal toxicity (increased liver and adrenal weights) at the same dose (158.7 milligram/kilogram/day (mg/kg/day)) in the rat reproduction study indicating increased qualitative susceptibility. Etoxazole is not likely to be carcinogenic. This decision was based on weight-of-evidence approach including the lack of carcinogenicity in two studies in mice, lack of carcinogenicity in one study in rats, and the lack of hormonal and reproductive effects in special studies. Etoxazole was categorized as having low acute toxicity via the oral, dermal, and inhalation routes. It is not an eye or dermal irritant or a dermal sensitizer.

Specific information on the studies received and the nature of the adverse effects caused by etoxazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> in document titled “Etoxazole: Human Health Risk

Assessment in Support of Proposed Use a Sweet Corn, and Proposed Crop Group Updates for Pome Fruit 11–10, Tree Nut Group 14–12, Stone Fruit Group 12–12, and Cotton Subgroup 20C at pages 22–27 in docket ID number EPA–HQ–OPP–2017–0273.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

A summary of the toxicological endpoints for etoxazole used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ETOXAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	POD and uncertainty/FQPA Safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Chronic dietary (All populations)	NOAEL = 4.62 mg/kg/day. UF _A = 10x UF _H = 10x FQPA SF = 1x	cPAD = cRfD = 0.046 mg/kg/day.	Chronic Oral Toxicity Study—Dog. LOAEL = 23.5 mg/kg/day based upon increased alkaline phosphatase activity, increased liver weights, liver enlargement (females), and incidences of centrilobular hepatocellular swelling in the liver.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ETOXAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/Scenario	POD and uncertainty/FQPA Safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Cancer (Oral, dermal, inhalation).	EPA has classified etoxazole as “not likely to be carcinogenic to humans” according to EPA <i>Proposed Guidelines for Carcinogen Risk Assessment</i> (April 10, 1996).		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population-adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to etoxazole, EPA considered exposure under the petitioned-for tolerances as well as all existing etoxazole tolerances in 40 CFR 180.593. EPA assessed dietary exposures from etoxazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for etoxazole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA; 2003–2008). As to residue levels in food, EPA assumed tolerance-level residues or tolerance-level residues adjusted to account for the residues of concern, 100% crop treated (PCT), and in the absence of empirical data, default processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has classified etoxazole as “not likely” to be carcinogenic to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for etoxazole. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for etoxazole in drinking water. These simulation models take into account data on the physical, chemical, and fate/

transport characteristics of etoxazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide>.

Based on the First Index Reservoir Screening Tool (FIRST), and Pesticide Root Zone Model Ground Water (PRZM GW) models, the estimated drinking water concentrations (EDWCs) of etoxazole for chronic exposures are estimated to be 4.761 parts per billion (ppb) for surface water and <0.01 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the chronic dietary risk assessment, the water concentration of value 4.761 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Etoxazole is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

EPA has not found etoxazole to share a common mechanism of toxicity with any other substances, and etoxazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that etoxazole does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine

which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data are available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No increased quantitative or qualitative susceptibilities were observed following *in utero* exposure to rats or rabbits in the developmental studies. There is evidence of increased qualitative offspring susceptibility in the rat reproduction study, but the concern is low since: (1) The effects in pups are well-characterized with a clear NOAEL; (2) the selected endpoints are protective of the doses where the offspring toxicity is observed; and (3) offspring effects occur at the same doses as parental toxicity so protecting for parental effects is protective of offspring effects. There are no residual uncertainties for pre- and post-natal toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for etoxazole is complete.

ii. There is no indication that etoxazole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. The observed qualitative postnatal susceptibility is protected for by the selected endpoints.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to etoxazole in drinking water. These assessments will not underestimate the exposure and risks posed by etoxazole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, etoxazole is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to etoxazole from food and water will utilize 15% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for etoxazole.

3. *Short- and Intermediate-term risks.* Short- and intermediate-term aggregate exposures take into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

A short- and intermediate-term adverse effect was identified; however, etoxazole is not registered for any use patterns that would result in either short- or intermediate-term residential exposure. Short- and intermediate-term risks are assessed based on short- or intermediate-term residential exposure

plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risks), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risks for etoxazole.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, etoxazole is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to etoxazole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate methodologies (Valent Method RM-37, gas chromatography/mass-selective detector (GC/MSD) or GC/nitrogen-phosphorus detector (NPD)) are available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; email address: residuemethods@epa.gov.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex has established maximum residue limits (MRLs) for residues of

etoxazole in or on pome fruit (0.07 ppm) and tree nut (0.01 ppm). The relevant U.S. tolerances are harmonized with the tree nut MRL but cannot be harmonized with the pome fruit MRL because doing so could result in exceedances for application consistent with the domestic registration.

C. Revisions to Petitioned-for Tolerances

Instead of the petitioned-for tolerance on Fruit, stone, group 12–12 at 1.0 ppm, EPA is establishing separate subgroup tolerances for this crop group including Cherry subgroup 12–12A at 1.0 ppm, Peach subgroup 12–12B at 1.0 ppm, and Plum subgroup 12–12C at 0.15 ppm; and is retaining the existing separate, lower tolerance on Plum, prune, dried at 0.30 ppm as that remains necessary to cover the processed commodity. Separate subgroup tolerances are being established because there is more than a factor of five between the residue levels for the cherry and peach subgroups and the residues levels for commodities in the plum subgroup.

V. Conclusion

Therefore, tolerances are established for residues of etoxazole, (2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole, in or on Cherry subgroup 12–12A at 1.0 ppm; Corn, sweet, forage at 1.5 ppm; Corn, sweet, kernel plus cob with husks removed at 0.01 ppm; Corn, sweet, stover at 5.0 ppm; Cottonseed subgroup 20C at 0.05 ppm; Fruit, pome, group 11–10 at 0.20 ppm; Nut, tree group 14–12 at 0.01 ppm; Peach subgroup 12–12B at 1.0 ppm and Plum subgroup 12–12C at 0.15 ppm. In addition, this regulation removes existing tolerances in 40 CFR 180.593 for residues of etoxazole in or on Fruit, pome, group 11 at 0.20 ppm; Fruit, stone, group 12, except plum at 1.0 ppm; Nut, tree, group 14 at 0.01 ppm; Cotton, undelinted seed at 0.05 ppm; Pistachio at 0.01 ppm; and Plum at 0.15 ppm that are superseded by this action.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect

Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will

submit a report containing this rule 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 2, 2018.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend the table in § 180.593(a) as follows:

■ a. Add alphabetically the entries for “Cherry subgroup 12–12A”; “Corn, sweet, forage”; “Corn, sweet, kernel plus cob with husks removed”; “Corn, sweet, stover”; “Cottonseed subgroup 20C”; “Fruit, pome, group 11–10”; “Nut, tree group 14–12”; Peach subgroup 12–12B”; and “Plum subgroup 12–12C”.

■ b. Remove the entries for “Cotton, undelimited seed”; “Fruit, pome, group 11”; “Fruit, stone, group 12, except plum”; “Nut, tree, group 14”; “Pistachio”; and “Plum.”

§ 180.593 Etoxazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
Cherry subgroup 12–12A	1.0
Corn, sweet, forage	1.5
Corn, sweet, kernel plus cob with husks removed	0.01
Corn, sweet, stover	5.0
Cottonseed subgroup 20C	0.05
Fruit, pome, group 11–10	0.20
Nut, tree group 14–12	0.01
Peach subgroup 12–12B	1.0

Commodity	Parts per million
Plum subgroup 12–12C	0.15

[FR Doc. 2018–22279 Filed 10–12–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 17–79, WC Docket No. 17–84; FCC 18–133]

Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (“Commission” or “FCC”) issues guidance and adopts rules to streamline the wireless infrastructure siting review process to facilitate the deployment of next-generation wireless facilities. Specifically, in the Declaratory Ruling, the Commission identifies specific fee levels for the deployment of Small Wireless Facilities, and it addresses state and local consideration of aesthetic concerns that effect the deployment of Small Wireless Facilities. In the Order, the Commission addresses the “shot clocks” governing the review of wireless infrastructure deployments and establishes two new shot clocks for Small Wireless Facilities.

DATES: Effective January 14, 2019.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Declaratory Ruling and Third Report and Order (Declaratory Ruling and Order), WT Docket No. 17–79 and WC Docket No. 17–84; FCC 18–133, adopted September 26, 2018 and released September 27, 2018. The full text of this document is available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. Also, it may be purchased from the Commission’s duplicating contractor at

Portals II, 445 12th Street SW, Room CY-B402, Washington, DC 20554; the contractor's website, <http://www.bcpweb.com>; or by calling (800) 378-3160, facsimile (202) 488-5563, or email FCC@BCPIWEB.com. Copies of the Declaratory Ruling and Order also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number WT Docket 17-79 and WC Docket No. 17-84. Additionally, the complete item is available on the Federal Communications Commission's website at <http://www.fcc.gov>.

Synopsis

I. Declaratory Ruling

1. In the Declaratory Ruling, the Commission notes that a number of appellate courts have articulated different and often conflicting views regarding the scope and nature of the limits Congress imposed on state and local governments through Sections 253 and 332. In light of these diverging views, Congress's vision for a consistent, national policy framework, and the need to ensure that the Commission's approach continues to make sense in light of the relatively new trend towards the large-scale deployment of Small Wireless Facilities, the Commission takes the opportunity to clarify and update the FCC's reading of the limits Congress imposed. The Commission does so in three main respects.

2. First, the Commission expresses its agreement with the views already stated by the First, Second, and Tenth Circuits that the "materially inhibit" standard articulated in 1997 by the Clinton-era FCC's *California Payphone* decision is the appropriate standard for determining whether a state or local law operates as a prohibition or effective prohibition within the meaning of Sections 253 and 332.

3. Second, the Commission notes, as numerous courts have recognized, that state and local fees and other charges associated with the deployment of wireless infrastructure can effectively prohibit the provision of service. At the same time, courts have articulated various approaches to determining the types of fees that run afoul of Congress's limits in Sections 253 and 332. The Commission thus clarifies the particular standard that governs the fees and charges that violate Sections 253 and 332 when it comes to the Small Wireless Facilities at issue in this decision. Namely, fees are only permitted to the extent that they represent a reasonable approximation of the local government's objectively reasonable costs and are

non-discriminatory. In this section, the Commission also identifies specific fee levels for the deployment of Small Wireless Facilities that presumptively comply with this standard. The Commission does so to help avoid unnecessary litigation, while recognizing that it is the standard itself, not the particular, presumptive fee levels the Commission articulates, that ultimately will govern whether a particular fee is allowed under Sections 253 and 332. So, fees above those levels would be permissible under Sections 253 and 332 to the extent a locality's actual, reasonable costs (as measured by the standard above) are higher.

4. Finally, the Commission focuses on a subset of other, non-fee provisions of state and local law that could also operate as prohibitions on service. The Commission does so in particular by addressing state and local consideration of aesthetic concerns in the deployment of Small Wireless Facilities. The Commission notes that the Small Wireless Facilities that are the subject of this Declaratory Ruling remain subject to the Commission's rules governing Radio Frequency (RF) emissions exposure.

A. Overview of the Section 253 and Section 332(c)(7) Framework Relevant to Small Wireless Facilities Deployment

5. As an initial matter, the Commission notes that its Declaratory Ruling applies with equal measure to the effective prohibition standard that appears in both Sections 253(a) and 332(c)(7). This ruling is consistent with the basic canon of statutory interpretation that identical words appearing in neighboring provisions of the same statute should be interpreted to have the same meaning. Moreover, both of these provisions apply to wireless telecommunications services as well as to commingled services and facilities.

6. As explained in *California Payphone* and reaffirmed here, a state or local legal requirement will have the effect of prohibiting wireless telecommunications services if it materially inhibits the provision of such services. *California Payphone Ass'n*, 12 FCC Rcd 14191 (1997). The Commission clarifies that an effective prohibition occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service. This test is met not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities. Under the *California*

Payphone standard, a state or local legal requirement could materially inhibit service in numerous ways—not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services. Thus, an effective prohibition includes materially inhibiting additional services or improving existing services.

7. The Commission's reading of Section 253(a) and Section 332(c)(7)(B)(i)(II) reflects and supports a marketplace in which services can be offered in a multitude of ways with varied capabilities and performance characteristics consistent with the policy goals in the 1996 Act and the Communications Act. To limit Sections 253(a) and 332(c)(7)(B)(i)(II) to protecting only against coverage gaps or the like would be to ignore Congress's contemporaneously-expressed goals of "promot[ing] competition[,] . . . secur[ing] . . . higher quality services for American telecommunications consumers and encourage[ing] the rapid deployment of new telecommunications technologies." In addition, as the Commission recently explained, the implementation of the Act "must factor in the fundamental objectives of the Act, including the deployment of a 'rapid, efficient . . . wire and radio communication service with adequate facilities at reasonable charges' and 'the development and rapid deployment of new technologies, products and services for the benefit of the public . . . without administrative or judicial delays[, and] efficient and intensive use of the electromagnetic spectrum.'" These provisions demonstrate that the Commission's interpretation of Section 253 and Section 332(c)(7)(B)(i)(II) is in accordance with the broader goals of the various statutes that the Commission is entrusted to administer.

8. *California Payphone* further concluded that providers must be allowed to compete in a "fair and balanced regulatory environment." As reflected in decisions such as the Commission's *Texas PUC Order*, a state or local legal requirement can function as an effective prohibition either because of the resulting "financial burden" in an absolute sense, or, independently, because of a resulting competitive disparity. *Public Utility Comm'n of Texas, et al., Pet. for Decl. Ruling and/or Preemption of Certain Provisions of the Texas Pub. Util. Reg. Act of 1995*, 13 FCC Rcd 3460 (1997). The Commission clarifies that "[a]

regulatory structure that gives an advantage to particular services or facilities has a prohibitory effect, even if there are no express barriers to entry in the state or local code; the greater the discriminatory effect, the more certain it is that entities providing service using the disfavored facilities will experience prohibition.” This conclusion is consistent with both Commission and judicial precedent recognizing the prohibitory effect that results from a competitor being treated materially differently than similarly-situated providers. The Commission provides its authoritative interpretation below of the circumstances in which a “financial burden,” as described in the *Texas PUC Order*, constitutes an effective prohibition in the context of certain state and local fees.

B. State and Local Fees

9. Cognizant of the changing technology and its interaction with regulations created for a previous generation of service, the Commission sought comment on the scope of Sections 253 and 332(c)(7) and on any new or updated guidance the Commission should provide, potentially through a Declaratory Ruling. In particular, the Commission sought comment on whether it should provide further guidance on how to interpret and apply the phrase “prohibit or have the effect of prohibiting.”

10. The Commission concludes that ROW access fees, and fees for the use of government property in the ROW, such as light poles, traffic lights, utility poles, and other similar property suitable for hosting Small Wireless Facilities, as well as application or review fees and similar fees imposed by a state or local government as part of their regulation of the deployment of Small Wireless Facilities inside and outside the ROW, violate Sections 253 or 332(c)(7) unless these conditions are met: (1) The fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations.

11. *Capital Expenditures.* Apart from the text, structure, and legislative history of the 1996 Act, an additional, independent justification for the Commission’s interpretation follows from the simple, logical premise, supported by the record, that state and local fees in one place of deployment necessarily have the effect of reducing the amount of capital that providers can use to deploy infrastructure elsewhere, whether the reduction takes place on a

local, regional or national level. The Commission is persuaded that providers and infrastructure builders, like all economic actors, have a finite (though perhaps fluid) amount of resources to use for the deployment of infrastructure. This does not mean that these resources are limitless, however. The Commission concludes that fees imposed by localities, above and beyond the recovery of localities’ reasonable costs, materially and improperly inhibit deployment that could have occurred elsewhere. This and regulatory uncertainty created by such effectively prohibitive conduct creates an appreciable impact on resources that materially limits plans to deploy service. This record evidence emphasizes the importance of evaluating the effect of fees on Small Wireless Facility deployment on an aggregate basis. The record persuades the Commission that fees associated with Small Wireless Facility deployment lead to “a substantial increase in costs”—particularly when considered in the aggregate—thereby “plac[ing] a significant burden” on carriers and materially inhibiting their provision of service contrary to Section 253 of the Act.

12. The record reveals that fees above a reasonable approximation of cost, even when they may not be perceived as excessive or likely to prohibit service in isolation, will have the effect of prohibiting wireless service when the aggregate effects are considered, particularly given the nature and volume of anticipated Small Wireless Facility deployment. The record reveals that these effects can take several forms. In some cases, the fees in a particular jurisdiction will lead to reduced or entirely forgone deployment of Small Wireless Facilities in the near term for that jurisdiction. In other cases, where it is essential for a provider to deploy in a given area, the fees charged in that geographic area can deprive providers of capital needed to deploy elsewhere, and lead to reduced or forgone near-term deployment of Small Wireless Facilities in other geographic areas. In both of those scenarios the bottom-line outcome on the national development of 5G networks is the same—diminished deployment of Small Wireless Facilities critical for wireless service and building out 5G networks.

13. *Relationship to Section 332.* The Commission clarifies that the statutory phrase “prohibit or have the effect of prohibiting” in Section 332(c)(7)(B)(i)(II) has the same meaning as the phrase “prohibits or has the effect of prohibiting” in Section 253(a). There is no evidence to suggest that Congress

intended for virtually identical language to have different meanings in the two provisions. Instead, the Commission finds it more reasonable to conclude that the language in both sections should be interpreted to have the same meaning and to reflect the same standard, including with respect to preemption of fees that could “prohibit” or have “the effect of prohibiting” the provision of covered service. Both sections were enacted to address concerns about state and local government practices that undermined providers’ ability to provide covered services, and both bar state or local conduct that prohibits or has the effect of prohibiting service.

14. To be sure, Sections 253 and 332(c)(7) may relate to different categories of state and local fees. Ultimately, the Commission needs not resolve here the precise interplay between Sections 253 and 332(c)(7). It is enough for it to conclude that, collectively, Congress intended for the two provisions to cover the universe of fees charged by state and local governments in connection with the deployment of telecommunications infrastructure. Given the analogous purposes of both sections and the consistent language used by Congress, the Commission finds the phrase “prohibit or have the effect of prohibiting” in Section 332(c)(7)(B)(i)(II) should be construed as having the same meaning and governed by the same preemption standard as the nearly identical language in Section 253(a).

15. *Application of the Interpretations and Principles Established Here.* Consistent with the interpretations above, the requirement that compensation be limited to a reasonable approximation of objectively reasonable costs and be non-discriminatory applies to all state and local government fees paid in connection with a provider’s use of the ROW to deploy Small Wireless Facilities including, but not limited to, fees for access to the ROW itself, and fees for the attachment to or use of property within the ROW owned or controlled by the government (e.g., street lights, traffic lights, utility poles, and other infrastructure within the ROW suitable for the placement of Small Wireless Facilities). This interpretation applies with equal force to any fees reasonably related to the placement, construction, maintenance, repair, movement, modification, upgrade, replacement, or removal of Small Wireless Facilities within the ROW, including, but not limited to, application or permit fees such as siting applications, zoning variance applications, building permits, electrical

permits, parking permits, or excavation permits.

16. Applying the principles established in this Declaratory Ruling, a variety of fees not reasonably tethered to costs appear to violate Sections 253(a) or 332(c)(7) in the context of Small Wireless Facility deployments. For example, the Commission agrees with courts that have recognized that gross revenue fees generally are not based on the costs associated with an entity's use of the ROW, and where that is the case, are preempted under Section 253(a). In addition, although the Commission rejects calls to preclude a state or locality's use of third party contractors or consultants, or to find all associated compensation preempted, the Commission makes clear that the principles discussed herein regarding the reasonableness of cost remain applicable. Thus, fees must not only be limited to a reasonable approximation of costs, but in order to be reflected in fees the *costs themselves* must also be reasonable. Accordingly, any unreasonably high costs, such as excessive charges by third party contractors or consultants, may not be passed on through fees even though they are an actual "cost" to the government. If a locality opts to incur unreasonable costs, Sections 253 and 332(c)(7) do not permit it to pass those costs on to providers. Fees that depart from these principles are not saved by Section 253(c), as the Commission discusses below.

17. *Interpretation of Section 253(c) in the Context of Fees.* In this section, the Commission turns to the interpretation of several provisions in Section 253(c), which provides that state or local action that otherwise would be subject to preemption under Section 253(a) may be permissible if it meets specified criteria. Section 253(c) expressly provides that state or local governments may require telecommunications providers to pay "fair and reasonable compensation" for use of public ROWs but requires that the amounts of any such compensation be "competitively neutral and nondiscriminatory" and "publicly disclosed."

18. The Commission interprets the ambiguous phrase "fair and reasonable compensation," within the statutory framework it outlined for Section 253, to allow state or local governments to charge fees that recover a reasonable approximation of the state or local governments' actual and reasonable costs. The Commission concludes that an appropriate yardstick for "fair and reasonable compensation," and therefore an indicator of whether a fee violates Section 253(c), is whether it

recovers a reasonable approximation of a state or local government's objectively reasonable costs of, respectively, maintaining the ROW, maintaining a structure within the ROW, or processing an application or permit.

19. The existence of Section 253(c) makes clear that Congress anticipated that "effective prohibitions" could result from state or local government fees, and intended through that clause to provide protections in that respect, as discussed in greater detail herein. Against that backdrop, the Commission finds it unlikely that Congress would have left providers entirely at the mercy of effectively unconstrained requirements of state or local governments. The Commission's interpretation of Section 253(c), in fact, is consistent with the views of many municipal commenters, at least with respect to one-time permit or application fees, and the members of the BDAC Ad Hoc Committee on Rates and Fees who unanimously concurred that one-time fees for municipal applications and permits, such as an electrical inspection or a building permit, should be based on the cost to the government of processing that application. The Ad Hoc Committee noted that "[the] cost-based fee structure [for one-time fees] unanimously approved by the committee accommodates the different siting related costs that different localities may incur to review, and process permit applications, while precluding excessive fees that impede deployment." The Commission finds that the same reasoning should apply to other state and local government fees such as ROW access fees or fees for the use of government property within the ROW.

20. The Commission recognizes that state and local governments incur a variety of direct and actual costs in connection with Small Wireless Facilities, such as the cost for staff to review the provider's siting application, costs associated with a provider's use of the ROW, and costs associated with maintaining the ROW itself or structures within the ROW to which Small Wireless Facilities are attached. The Commission also recognizes that direct and actual costs may vary by location, scope, and extent of providers' planned deployments, such that different localities will have different fees under the interpretation set forth in this Declaratory Ruling.

21. Because the Commission interprets fair and reasonable compensation as a *reasonable approximation* of costs, it does not suggest that localities must use any specific accounting method to

document the costs they may incur when determining the fees they charge for Small Wireless Facilities within the ROW. Moreover, in order to simplify compliance, when a locality charges both types of recurring fees identified above (*i.e.*, for access to the ROW and for use of or attachment to property in the ROW), the Commission sees no reason for concern with how it has allocated costs between those two types of fees. It is sufficient under the statute that the total of the two recurring fees reflects the total costs involved. Fees that cannot ultimately be shown by a state or locality to be a reasonable approximation of their costs, such as high fees designed to subsidize local government costs in another geographic area or accomplish some public policy objective beyond the providers' use of the ROW, are not "fair and reasonable compensation . . . for use of the public rights-of-way" under Section 253(c). Likewise, the Commission agrees with both industry and municipal commenters that excessive and arbitrary consulting fees or other costs should not be recoverable as "fair and reasonable compensation," because they are not a function of the provider's "use" of the public ROW.

22. In addition to requiring that compensation be "fair and reasonable," Section 253(c) requires that it be "competitively neutral and nondiscriminatory." The Commission has previously interpreted this language to prohibit states and localities from charging fees on new entrants and not on incumbents. Courts have similarly found that states and localities may not impose a range of fees on one provider but not on another and even some municipal commenters acknowledge that governments should not discriminate on the fees charged to different providers. The record reflects continuing concerns from providers, however, that they face discriminatory charges. The Commission reiterates its previous determination that state and local governments may not impose fees on some providers that they do not impose on others. The Commission would also be concerned about fees, whether one-time or recurring, related to Small Wireless Facilities, that exceed the fees for other wireless telecommunications infrastructure in similar situations, and to the extent that different fees are charged for similar use of the public ROW.

23. *Fee Levels Likely to Comply with Section 253.* The Commission's interpretations of Section 253(a) and "fair and reasonable compensation" under Section 253(c) provides guidance for local and state fees charged with

respect to one-time fees generally, and recurring fees for deployments in the ROW. Following suggestions for the Commission to “establish a presumptively reasonable ‘safe harbor’ for certain ROW and use fees,” and to facilitate the deployment of specific types of infrastructure critical to the rollout of 5G in coming years, the Commission identifies in this section three particular types of fee scenarios and supply specific guidance on amounts that are presumptively not prohibited by Section 253. Informed by its review of information from a range of sources, the Commission concludes that fees at or below these amounts presumptively do not constitute an effective prohibition under Section 253(a) or Section 332(c)(7) and are presumed to be “fair and reasonable compensation” under Section 253(c).

24. Based on its review of the Commission’s pole attachment rate formula, which would require fees below the levels described in this paragraph, as well as small cell legislation in twenty states, local legislation from certain municipalities in states that have not passed small cell legislation, and comments in the record, the Commission presumes that the following fees would not be prohibited by Section 253 or Section 332(c)(7): (a) \$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five, or \$1,000 for non-recurring fees for a new pole (*i.e.*, not a collocation) intended to support one or more Small Wireless Facilities, and (b) \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW.

25. By presuming that fees at or below the levels above comply with Section 253, the Commission assumes that there would be almost no litigation by providers over fees set at or below these levels. Likewise, the Commission’s review of the record, including the many state small cell bills passed to date, indicate that there should be only very limited circumstances in which localities can charge higher fees consistent with the requirements of Section 253. In those limited circumstances, a locality could prevail in charging fees that are above this level by showing that such fees nonetheless comply with the limits imposed by Section 253—that is, that they are (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are non-discriminatory.

Allowing localities to charge fees above these levels upon this showing recognizes local variances in costs.

C. Other State and Local Requirements That Govern Small Facilities Deployment

26. There are also other types of state and local land-use or zoning requirements that may restrict Small Wireless Facility deployments to the degree that they have the effect of prohibiting service in violation of Sections 253 and 332. In this section, the Commission discusses how those statutory provisions apply to requirements outside the fee context both generally, and with particular focus on aesthetic and undergrounding requirements.

27. As discussed above, a state or local legal requirement constitutes an effective prohibition if it “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.” The Commission’s interpretation of that standard, as set forth above, applies equally to fees and to non-fee legal requirements. And as with fees, Section 253 contains certain safe harbors that permit some legal requirements that might otherwise be preempted by Section 253(a). Section 253(b) saves “requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. And Section 253(c) preserves state and local authority to manage the public rights-of-way.

28. Given the wide variety of possible legal requirements, the Commission does not attempt here to determine which of every possible non-fee legal requirements are preempted for having the effect of prohibiting service, although the Commission’s discussion of fees above should prove instructive in evaluating specific requirements. Instead, the Commission focuses on some specific types of requirements raised in the record and provide guidance on when those particular types of requirements are preempted by the statute.

29. *Aesthetics.* The Commission sought comment on whether deployment restrictions based on aesthetic or similar factors are widespread and, if so, how Sections 253 and 332(c)(7) should be applied to them. The Commission provides guidance on whether and in what circumstances aesthetic requirements violate the Act. This will help localities develop and

implement lawful rules, enable providers to comply with these requirements, and facilitate the resolution of disputes. The Commission concludes that aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance.

30. Like fees, compliance with aesthetic requirements imposes costs on providers, and the impact on their ability to provide service is just the same as the impact of fees. The Commission therefore draws on its analysis of fees to address aesthetic requirements. The Commission explained above that fees that merely require providers to bear the direct and reasonable costs that their deployments impose on states and localities should not be viewed as having the effect of prohibiting service and are permissible. Analogously, aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are also permissible. In assessing whether this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable and directed at remedying the impact of the wireless infrastructure deployment. For example, a minimum spacing requirement that has the effect of materially inhibiting wireless service would be considered an effective prohibition of service.

31. Finally, in order to establish that they are reasonable and reasonably directed to avoiding aesthetic harms, aesthetic requirements must be objective—*i.e.*, they must incorporate clearly-defined and ascertainable standards, applied in a principled manner—and must be published in advance. “Secret” rules that require applicants to guess at what types of deployments will pass aesthetic muster substantially increase providers’ costs without providing any public benefit or addressing any public harm. Providers cannot design or implement rational plans for deploying Small Wireless Facilities if they cannot predict in advance what aesthetic requirements they will be obligated to satisfy to obtain permission to deploy a facility at any given site.

32. The Commission appreciates that at least some localities will require some time to establish and publish aesthetics

standards that are consistent with this Declaratory Ruling. Based on its review and evaluation of commenters' concerns, the Commission anticipates that such publication should take no longer than 180 days after publication of this decision in the **Federal Register**.

33. *Undergrounding requirements.* The Commission understands that some local jurisdictions have adopted undergrounding provisions that require infrastructure to be deployed below ground based, at least in some circumstances, on the locality's aesthetic concerns. A number of providers have complained that these types of requirements amount to an effective prohibition. In addressing this issue, the Commission first reiterates that while undergrounding requirements may well be permissible under state law as a general matter, any local authority to impose undergrounding requirements under state law does not remove the imposition of such undergrounding requirements from the provisions of Section 253. In this sense, the Commission notes that a requirement that *all* wireless facilities be deployed underground would amount to an effective prohibition given the propagation characteristics of wireless signals. Thus, undergrounding requirements can amount to effective prohibitions by materially inhibiting the deployment of wireless service.

34. *Minimum spacing requirements.* Some parties complain of municipal requirements regarding the spacing of wireless installations—*i.e.*, mandating that facilities be sited at least 100, 500, or 1,000 feet, or some other minimum distance, away from other facilities, ostensibly to avoid excessive overhead “clutter” that would be visible from public areas. The Commission acknowledges that while some such requirements may violate 253(a), others may be reasonable aesthetic requirements. For example, under the principle that any such requirements be reasonable and publicly available in advance, it is difficult to envision any circumstances in which a municipality could reasonably promulgate a new minimum spacing requirement that, in effect, prevents a provider from replacing its preexisting facilities or collocating new equipment on a structure already in use. Such a rule change with retroactive effect would almost certainly have the effect of prohibiting service under the standards the Commission articulate here. Therefore, such requirements should be evaluated under the same standards as other aesthetic requirements.

D. States and Localities Act in Their Regulatory Capacities When Authorizing and Setting Terms for Wireless Infrastructure Deployment in Public Rights of Way

35. The Commission confirms that its interpretations today extend to state and local governments' terms for access to public ROW that they own or control, including areas on, below, or above public roadways, highways, streets, sidewalks, or similar property, as well as their terms for use of or attachment to government-owned property within such ROW, such as light poles, traffic lights, and similar property suitable for hosting Small Wireless Facilities. As explained below, for two alternative and independent reasons, the Commission disagrees with state and local government commenters who assert that, in providing or denying access to government-owned structures, these governmental entities function solely as “market participants” whose rights cannot be subject to federal preemption under Section 253(a) or Section 332(c)(7).

36. First, this effort to differentiate between such governmental entities' “regulatory” and “proprietary” capacities in order to insulate the latter from preemption ignores a fundamental feature of the market participant doctrine. Specifically, Section 253(a) expressly preempts certain state and local “legal requirements” and makes no distinction between a state or locality's regulatory and proprietary conduct. Indeed, as the Commission has long recognized, Section 253(a)'s sweeping reference to “state [and] local statute[s] [and] regulation[s]” and “other State [and] local legal requirement[s]” demonstrates Congress's intent “to capture a broad range of state and local actions that prohibit or have the effect of prohibiting entities from providing telecommunications services.” Section 253(b) mentions “requirement[s],” a phrase that is even broader than that used in Section 253(a) but covers “universal service,” “public safety and welfare,” “continued quality of telecommunications,” and “safeguard[s] for the] rights of consumers.” The subsection does not recognize a distinction between regulatory and proprietary. Section 253(c), which expressly insulates from preemption certain state and local government activities, refers in relevant part to “manag[ing] the public rights-of-way” and “requir[ing] fair and reasonable compensation,” while eliding any distinction between regulatory and proprietary action in either context. The Commission has previously observed

that Section 253(c) “makes explicit a local government's continuing authority to issue construction permits regulating how and when construction is conducted on roads and other public rights-of-way;” the Commission concludes here that, as a general matter, “manag[ement]” of the ROW includes any conduct that bears on access to and use of those ROW, notwithstanding any attempts to characterize such conduct as proprietary. This reading, coupled with Section 253(c)'s narrow scope, suggests that Congress's omission of a blanket proprietary exception to preemption was intentional and thus that such conduct can be preempted under Section 253(a). The Commission therefore construes Section 253(c)'s requirements, including the requirement that compensation be “fair and reasonable,” as applying equally to charges imposed via contracts and other arrangements between a state or local government and a party engaged in wireless facility deployment. This interpretation is consistent with Section 253(a)'s reference to “State or local legal requirement[s],” which the Commission has consistently construed to include such agreements. In light of the foregoing, whatever the force of the market participant doctrine in other contexts, the Commission believes the language, legislative history, and purpose of Sections 253(a) and (c) are incompatible with the application of this doctrine in this context. The Commission observes once more that “[o]ur conclusion that Congress intended this language to be interpreted broadly is reinforced by the scope of section 253(d),” which “directs the Commission to preempt any statute, regulation, or legal requirement *permitted* or imposed by a state or local government if it contravenes sections 253(a) or (b). A more restrictive interpretation of the term ‘other legal requirements’ easily could permit state and local restrictions on competition to escape preemption based solely on the way in which [State] action [is] structured. The Commission does not believe that Congress intended this result.”

37. Similarly, the Commission interprets Section 332(c)(7)(B)(ii)'s references to “any request[s] for authorization to place, construct, or modify personal wireless service facilities” broadly, consistent with Congressional intent. As described below, the Commission finds that “any” is unqualifiedly broad, and that “request” encompasses anything required to secure all authorizations necessary for the deployment of

personal wireless services infrastructure. In particular, the Commission finds that Section 332(c)(7) includes authorizations relating to access to a ROW, including but not limited to the “place[ment], construct[ion], or modificat[ion]” of facilities on government-owned property, for the purpose of providing “personal wireless service.” The Commission observes that this result, too, is consistent with Commission precedent, which involved a contract that provided exclusive access to a ROW. As but one example, to have limited that holding to exclude government-owned property within the ROW even if the carrier needed access to that property would have the effect of diluting or completely defeating the purpose of Section 332(c)(7).

38. Second, and in the alternative, even if Section 253(a) and Section 332(c)(7) were to permit leeway for states and localities acting in their proprietary role, the examples in the record would be excepted because they involve states and localities fulfilling regulatory objectives. In the proprietary context, “a State acts as a ‘market participant with no interest in setting policy.’” The Commission contrasts state and local governments’ purely proprietary actions with states and localities acting with respect to managing or controlling access to property within public ROW, or to decisions about where facilities that will provide personal wireless service to the public may be sited. As several commenters point out, courts have recognized that states and localities “hold the public streets and sidewalks in trust for the public” and “manage public ROW in their regulatory capacities.” These decisions could be based on a number of regulatory objectives, such as aesthetics or public safety and welfare, some of which, as the Commission notes elsewhere, would fall within the preemption scheme envisioned by Congress. In these situations, the State or locality’s role seems to be indistinguishable from its function and objectives as a regulator. To the extent that there is some distinction, the temptation to blend the two roles for purposes of insulating conduct from federal preemption cannot be underestimated in light of the overarching statutory objective that telecommunications service and personal wireless services be deployed without material impediments.

39. The Commission believes that Section 253(c) is properly construed to suggest that Congress did not intend to permit states and localities to rely on their ownership of property within a

ROW as a pretext to advance regulatory objectives that prohibit or have the effect of prohibiting the provision of covered services, and thus that such conduct is preempted. The Commission’s interpretations here are intended to facilitate the implementation of the scheme Congress intended and to provide greater regulatory certainty to states, municipalities, and regulated parties about what conduct is preempted under Section 253(a). Should factual questions arise about whether a state or locality is engaged in such behavior, Section 253(d) affords state and local governments and private parties an avenue for specific preemption challenges.

E. Responses to Challenges to the Commission’s Interpretive Authority and Other Arguments

40. The Commission rejects claims that it lacks authority to issue authoritative interpretations of Sections 253 and 332(c)(7) in this Declaratory Ruling. The Commission acts here pursuant to its broad authority to interpret key provisions of the Communications Act, consistent with the Commission’s exercise of that interpretive authority in the past. In this instance, the Commission finds that issuing a Declaratory Ruling is necessary to remove what the record reveals is substantial uncertainty and to reduce the number and complexity of legal controversies regarding certain fee and non-fee state and local legal requirements in connection with Small Wireless Facility infrastructure. The Commission thus exercises its authority in this Declaratory Ruling to interpret Section 253 and Section 332(c)(7) and explain how those provisions apply in the specific scenarios at issue here.

41. Nothing in Sections 253 or 332(c)(7) purports to limit the exercise of the Commission’s general interpretive authority. Congress’s inclusion of preemption provisions in Section 253(d) and Section 332(c)(7)(B)(v) does not limit the Commission’s ability pursuant to other sections of the Act to construe and provide its authoritative interpretation as to the meaning of those provisions. Any preemption under Section 253 and/or Section 332(c)(7)(B) that subsequently occurs will proceed in accordance with the enforcement mechanisms available in each context. But whatever enforcement mechanisms may be available to preempt specific state and local requirements, nothing in Section 253 or Section 332(c)(7) prevents the Commission from declaring that a category of state or local laws is inconsistent with Section 253(a) or

Section 332(c)(7)(B)(i)(II) because it prohibits or has the effect of prohibiting the relevant covered service.

42. The Commission’s interpretations of Sections 253 and Section 332(c)(7) are likewise not at odds with the Tenth Amendment and constitutional precedent, as some commenters contend. In particular, the Commission’s interpretations do not directly “compel the states to administer federal regulatory programs or pass legislation.” The outcome of violations of Section 253(a) or Section 332(c)(7)(B) of the Act are no more than a consequence of “the limits Congress already imposed on State and local governments” through its enactment of Section 332(c)(7).

43. The Commission also rejects the suggestion that the limits Section 253 places on state and local rights-of-way fees and management will unconstitutionally interfere with the relationship between a state and its political subdivisions. As relevant to its interpretations here, it is not clear, at first blush, that such concerns would be implicated. Because state and local legal requirements can be written and structured in myriad ways, and challenges to such state or local activities could be framed in broad or narrow terms, the Commission declines to resolve such questions here, divorced from any specific context.

II. Third Report and Order

44. In this Third Report and Order, the Commission addresses the application of shot clocks to state and local review of wireless infrastructure deployments. The Commission does so by taking action in three main areas. First, the Commission adopts a new set of shot clocks tailored to support the deployment Small Wireless Facilities. Second, the Commission adopts a specific remedy that applies to violations of these new Small Wireless Facility shot clocks, which the Commission expects will operate to significantly reduce the need for litigation over missed shot clocks. Third, the Commission clarifies a number of issues that are relevant to all of the FCC’s shot clocks, including the types of authorizations subject to these time periods.

A. New Shot Clocks for Small Wireless Facility Deployments

45. In 2009, the Commission concluded that it should use shot clocks to define a presumptive “reasonable period of time” beyond which state or local inaction on wireless infrastructure siting applications would constitute a “failure to act” within the meaning of

Section 332. The Commission adopted a 90-day clock for reviewing collocation applications and a 150-day clock for reviewing siting applications other than collocations. The record here suggests that the two existing Section 332 shot clocks have increased the efficiency of deploying wireless infrastructure. Many localities already process wireless siting applications in less time than required by those shot clocks and a number of states have enacted laws requiring that collocation applications be processed in 60 days or less. Some siting agencies acknowledge that they have worked to gain efficiencies in processing siting applications and welcome the addition of new shot clocks tailored to the deployment of small scale facilities. Given siting agencies' increased experience with existing shot clocks, the greater need for rapid siting of Small Wireless Facilities nationwide, and the lower burden siting of these facilities places on siting agencies in many cases, the Commission takes this opportunity to update its approach to speed the deployment of Small Wireless Facilities.

1. Two New Section 332 Shot Clocks for Deployment of Small Wireless Facilities

46. In this section, the Commission adopts two new Section 332 shot clocks for Small Wireless Facilities—60 days for review of an application for collocation of Small Wireless Facilities using a preexisting structure and 90 days for review of an application for attachment of Small Wireless Facilities using a new structure. These new Section 332 shot clocks carefully balance the well-established authority that states and local authorities have over review of wireless siting applications with the requirements of Section 332(c)(7)(ii) to exercise that authority “within a reasonable period of time . . . taking into account the nature and scope of the request.” Further, the Commission’s decision is consistent with the BDAC’s Model Code for Municipalities’ recommended timeframes, which utilize this same 60-day and 90-day framework for collocation of Small Wireless Facilities and new structures and are similar to shot clocks enacted in state level small cell bills and the real world experience of many municipalities which further supports the reasonableness of its approach. The Commission’s actions will modernize the framework for wireless facility siting by taking into consideration that states and localities should be able to address the siting of Small Wireless Facilities in a more expedited review period than needed for larger facilities.

47. The Commission finds compelling reasons to establish a new presumptively reasonable Section 332 shot clock of 60 days for collocations of Small Wireless Facilities on existing structures. The record demonstrates the need for, and reasonableness of, expediting the siting review of these collocations. Notwithstanding the implementation of the current shot clocks, more streamlined procedures are both reasonable and necessary to provide greater predictability for siting applications nationwide for the deployment of Small Wireless Facilities. The two current Section 332 shot clocks do not reflect the evolution of the application review process and evidence that localities can complete reviews more quickly than was the case when the existing Section 332 shot clocks were adopted nine years ago. Since 2009, localities have gained significant experience processing wireless siting applications. Indeed, many localities already process wireless siting applications in less than the required time and several jurisdictions require by law that collocation applications be processed in 60 days or less. With the passage of time, siting agencies have become more efficient in processing siting applications. These facts demonstrate that a shorter, 60-day shot clock for processing collocation applications for Small Wireless Facilities is reasonable.

48. As the Commission found in 2009, collocation applications are generally easier to process than new construction because the community impact is likely to be smaller. In particular, the addition of an antenna to an existing tower or other structure is unlikely to have a significant visual impact on the community. The size of Small Wireless Facilities poses little or no risk of adverse effects on the environment or historic preservation. Indeed, many jurisdictions do not require public hearings for approval of such attachments, underscoring their belief that such attachments do not implicate complex issues requiring a more searching review.

49. Further, the Commission finds no reason to believe that applying a 60-day time frame for Small Wireless Facility collocations under Section 332 creates confusion with collocations that fall within the scope of “eligible facilities requests” under Section 6409 of the Spectrum Act, which are also subject to a 60-day review. The type of facilities at issue here are distinctly different and the definition of a Small Wireless Facility is clear. Further, siting authorities are required to process Section 6409 applications involving the

swap out of certain equipment in 60 days, and the Commission sees no meaningful difference in processing these applications than processing Section 332 collocation applications in 60 days. There is no reason to apply different time periods (60 vs. 90 days) to what is essentially the same review: Modification of an existing structure to accommodate new equipment. Finally, adopting a 60-day shot clock will encourage service providers to collocate rather than opting to build new siting structures which has numerous advantages.

50. For similar reasons, the Commission also finds it reasonable to establish a new 90-day Section 332 shot clock for new construction of Small Wireless Facilities. Ninety days is a presumptively reasonable period of time for localities to review such siting applications. Small Wireless Facilities have far less visual and other impact than the facilities the Commission considered in 2009 and should accordingly require less time to review. Indeed, some state and local governments have already adopted 60-day maximum reasonable periods of time for review of *all* small cell siting applications, and, even in the absence of such maximum requirements, several are already reviewing and approving small-cell siting applications within 60 days or less after filing. Numerous industry commenters advocated a 90-day shot clock for all non-collocation deployments. Based on this record, the Commission finds review of an application to deploy a Small Wireless Facility using a new structure warrants more review time than a mere collocation, but less than the construction of a macro tower. For the reasons explained below, the Commission also specifies today a provision that will initially reset these two new shot clocks in the event that a locality receives a materially incomplete application.

2. Batched Applications for Small Wireless Facilities

51. Given the way in which Small Wireless Facilities are likely to be deployed, in large numbers as part of a system meant to cover a particular area, the Commission anticipates that some applicants will submit “batched” applications: Multiple separate applications filed at the same time, each for one or more sites *or* a single application covering multiple sites. The Commission sought comment on whether batched applications should be subject to either longer or shorter shot clocks than would apply if each component of the batch were submitted

separately. The Commission sees no reason why the shot clocks for batched applications to deploy Small Wireless Facilities should be longer than those that apply to individual applications because, in many cases, the batching of such applications has advantages in terms of administrative efficiency that could actually make review easier. The Commission's decision flows from its current Section 332 shot clock policy. Under the two existing Section 332 shot clocks, if an applicant files multiple siting applications on the same day for the same type of facilities, each application is subject to the same number of review days by the siting agency. These multiple siting applications are equivalent to a batched application and therefore the shot clocks for batching should follow the same rules as if the applications were filed separately. Accordingly, when applications to deploy Small Wireless Facilities are filed in batches, the shot clock that applies to the batch is the same one that would apply had the applicant submitted individual applications. Should an applicant file a single application for a batch that includes both collocated and new construction of Small Wireless Facilities, the longer 90-day shot clock will apply, to ensure that the siting authority has adequate time to review the new construction sites.

52. The Commission recognizes the concerns raised by parties arguing for a longer time period for at least some batched applications but concludes that a separate rule is not necessary to address these concerns. Under the Commission's approach, in extraordinary cases, a siting authority, as discussed below, can rebut the presumption of reasonableness of the applicable shot clock period where a batch application causes legitimate overload on the siting authority's resources. Thus, contrary to some localities' arguments, the Commission's approach provides for a certain degree of flexibility to account for exceptional circumstances. In addition, consistent with, and for the same reasons as the Commission's conclusion below that Section 332 does not permit states and localities to prohibit applicants from requesting multiple types of approvals simultaneously, the Commission finds that Section 332(c)(7)(B)(ii) similarly does not allow states and localities to refuse to accept batches of applications to deploy Small Wireless Facilities.

B. New Remedy for Violations of the Small Wireless Facilities Shot Clocks

53. In adopting these new shot clocks for Small Wireless Facility applications,

the Commission also provides an additional remedy that it expects will substantially reduce the likelihood that applicants will need to pursue additional and costly relief in court at the expiration of those time periods.

54. The Commission determines that the failure of a state or local government to issue a decision on a Small Wireless Facility siting application within the presumptively reasonable time periods above will constitute a "failure to act" within the meaning of Section 332(c)(7)(B)(v). Therefore, a provider is, at a minimum, entitled to the same process and remedies available for a failure to act within the new Small Wireless Facility shot clocks as they have been under the FCC's 2009 shot clocks. But the Commission also adds an additional remedy for the new Small Wireless Facility shot clocks.

55. State or local inaction by the end of the Small Wireless Facility shot clock will function not only as a Section 332(c)(7)(B)(v) failure to act but also amount to a presumptive prohibition on the provision of personal wireless services within the meaning of Section 332(c)(7)(B)(i)(II). Accordingly, the Commission would expect the state or local government to issue all necessary permits without further delay. In cases where such action is not taken, the Commission assumes, for the reasons discussed below, that the applicant would have a straightforward case for obtaining expedited relief in court.

56. As discussed in the Declaratory Ruling, a regulation under Section 332(c)(7)(B)(i)(II) constitutes an effective prohibition if it materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. Missing shot clock deadlines would thus presumptively have the effect of unlawfully prohibiting service in that such failure to act can be expected to materially limit or inhibit the introduction of new services or the improvement of existing services. Thus, when a siting authority misses the applicable shot clock deadline, the applicant may commence suit in a court of competent jurisdiction alleging a violation of Section 332(c)(7)(B)(i)(II), in addition to a violation of Section 332(c)(7)(B)(ii), as discussed above. The siting authority then will have an opportunity to rebut the presumption of effective prohibition by demonstrating that the failure to act was reasonable under the circumstances and, therefore, did not materially limit or inhibit the applicant from introducing new services or improving existing services.

57. Given the seriousness of failure to act within a reasonable period of time,

the Commission expects, as noted above, siting authorities to issue without any further delay all necessary authorizations when notified by the applicant that they have missed the shot clock deadline, absent extraordinary circumstances. Where the siting authority nevertheless fails to issue all necessary authorizations and litigation is commenced based on violations of Sections 332(c)(7)(B)(i)(II) and/or 332(c)(7)(B)(ii), the Commission expects that applicants and other aggrieved parties will likely pursue equitable judicial remedies. Given the relatively low burden on state and local authorities of simply acting—one way or the other—within the Small Wireless Facility shot clocks, the Commission thinks that applicants would have a relatively low hurdle to clear in establishing a right to expedited judicial relief.

58. The Commission expects that courts will typically find expedited and permanent injunctive relief warranted for violations of Sections 332(c)(7)(B)(i)(II) and 332(c)(7)(B)(ii) of the Act when addressing the circumstances discussed in this Order. The Commission believes that this approach is sensible because guarding against barriers to the deployment of personal wireless facilities not only advances the goal of Section 332(c)(7)(B) but also policies set out elsewhere in the Communications Act and 1996 Act, as the Commission recently has recognized in the case of Small Wireless Facilities. This is so whether or not these barriers stem from bad faith. Nor does the Commission anticipate that there would be unresolved issues implicating the siting authority's expertise and therefore requiring remand in most instances.

59. The guidance provided here should reduce the need for, and complexity of, case-by-case litigation and reduce the likelihood of vastly different timing across various jurisdictions for the same type of deployment. This clarification, along with the other actions the Commission takes in this Third Report and Order, should streamline the courts' decision-making process and reduce the possibility of inconsistent rulings. Consequently, the Commission believes that its approach helps facilitate courts' ability to "hear and decide such [lawsuits] on an expedited basis," as the statute requires.

60. The Commission's updated interpretation of Section 332(c)(7) for Small Wireless Facilities effectively balances the interest of wireless service providers to have siting applications granted in a timely and streamlined manner and the interest of localities to

protect public safety and welfare and preserve their authority over the permitting process. The Commission's specialized deployment categories, in conjunction with the acknowledgement that in rare instances, it may legitimately take longer to act, recognize that the siting process is complex and handled in many different ways under various states' and localities' long-established codes. Further, the Commission's approach tempers localities' concerns about the inflexibility of a deemed granted proposal because the new remedy the Commission adopts here accounts for the breadth of potentially unforeseen circumstances that individual localities may face and the possibility that additional review time may be needed in truly exceptional circumstances. The Commission further finds that its interpretive framework will not be unduly burdensome on localities because a number of states have already adopted even more stringent deemed granted remedies.

C. Clarification of Issues Related to All Section 332 Shot Clocks

1. Authorizations Subject to the "Reasonable Period of Time" Provision of Section 332(c)(7)(B)(ii)

61. Section 332(c)(7)(B)(ii) requires state and local governments to act "within a reasonable period of time" on "any request for authorization to place, construct, or modify personal wireless service facilities." The Commission has not addressed the specific types of authorizations subject to this requirement. After carefully considering these arguments, the Commission finds that "any request for authorization to place, construct, or modify personal wireless service facilities" under Section 332(c)(7)(B)(ii) means all authorizations necessary for the deployment of personal wireless services infrastructure. This interpretation finds support in the record and is consistent with the courts' interpretation of this provision and the text and purpose of the Act.

62. The Commission's interpretation remains faithful to the purpose of Section 332(c)(7) to balance Congress's competing desires to preserve the traditional role of state and local governments in regulating land use and zoning, while encouraging the rapid development of new telecommunications technologies. Under the Commission's interpretation, states and localities retain their authority over personal wireless facilities deployment. At the same time, deployment will be kept on track by

ensuring that the entire approval process necessary for deployment is completed within a reasonable period of time, as defined by the shot clocks addressed in this Third Report and Order.

2. Codification of Section 332 Shot Clocks

63. In addition to establishing two new Section 332 shot clocks for Small Wireless Facilities, the Commission takes this opportunity to codify its two existing Section 332 shot clocks for siting applications that do not involve Small Wireless Facilities. In 2009 the Commission found that 90 days is a reasonable time frame for processing collocation applications and 150 days is a reasonable time frame to process applications other than collocations. Since these Section 332 shot clocks were adopted as part of a declaratory ruling, they were not codified in the Commission's rules. The Commission sought comment on whether to modify these shot clocks. The Commission finds no need to modify them here and will continue to use these shot clocks for processing Section 332 siting applications that do not involve Small Wireless Facilities. The Commission does, though, codify these two existing shot clocks in its rules alongside the two newly-adopted shot clocks so that all interested parties can readily find the shot clock requirements in one place.

3. Collocations on Structures Not Previously Zoned for Wireless Use

64. The Commission takes this opportunity to clarify that for purposes of the Section 332 shot clocks, attachment of facilities to existing structures constitutes collocation, regardless of whether the structure or the location has previously been zoned for wireless facilities. As the Commission stated in 2009, "an application is a request for collocation if it does not involve a 'substantial increase in the size of a tower' as defined in the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas." The definition of "[c]ollocation" in the NPA provides for the "mounting or installation of an antenna on an existing tower, *building or structure* for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, *whether or not there is an existing antenna on the structure.*" The NPA's definition of collocation explicitly encompasses collocations on structures and buildings that have not yet been zoned for wireless use. To interpret the NPA any other way would be unduly narrow and

there is no persuasive reason to accept a narrower interpretation. This is particularly true given that the NPA definition of collocation stands in direct contrast with the definition of collocation in the Spectrum Act, pursuant to which facilities only fall within the scope of an "eligible facilities request" if they are attached to towers or base stations that have already been zoned for wireless use.

4. When Shot Clocks Start and Incomplete Applications

65. In 2014 the Commission clarified that a shot clock begins to run when an application is first submitted, not when the application is deemed complete. The clock can be paused, however, if the locality notifies the applicant within 30 days that the application is incomplete. The locality may pause the clock again if it provides written notice within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The Commission sought comment on these determinations.

66. Based on the record, the Commission finds no cause to alter the Commission's prior determinations and now codifies them in its rules. Codified rules, easily accessible to applicants and localities alike, should provide helpful clarity. The complaints by states and localities about the sufficiency of some of the applications they receive are adequately addressed by the Commission's current policy, which preserves the states' and localities' ability to pause review when they find an application to be incomplete. The Commission does not find it necessary at this point to shorten the 30-day initial review period for completeness because, as was the case when this review period was adopted in the 2009, it remains consistent with review periods for completeness under existing state wireless infrastructure deployment statutes and still "gives State and local governments sufficient time for reviewing applications for completeness, while protecting applicants from a last minute decision that an application should be denied as incomplete."

67. However, for applications to deploy Small Wireless Facilities, the Commission implements a modified tolling system designed to help ensure that providers are submitting complete applications on day one. This step accounts for the fact that the shot clocks applicable to such applications are shorter than those established in 2009 and, because of which, there may instances where the prevailing tolling

rules would further shorten the shot clocks to such an extent that it might be impossible for siting authorities to act on the application. For Small Wireless Facilities applications, the siting authority has 10 days from the submission of the application to determine whether the application is incomplete. The shot clock then resets once the applicant submits the supplemental information requested by the siting authority. Thus, for example, for an application to collocate Small Wireless Facilities, once the applicant submits the supplemental information in response to a siting authority's timely request, the shot clock resets, effectively giving the siting authority an additional 60 days to act on the Small Wireless Facilities collocation application. For subsequent determinations of incompleteness, the tolling rules that apply to non-Small Wireless Facilities would apply—that is, the shot clock would toll if the siting authority provides written notice within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information.

68. As noted above, multiple authorizations may be required before a deployment is allowed to move forward. For instance, a locality may require a zoning permit, a building permit, an electrical permit, a road closure permit, and an architectural or engineering permit for an applicant to place, construct, or modify its proposed personal wireless service facilities. All of these permits are subject to Section 332's requirement to act within a reasonable period of time, and thus all are subject to the shot clocks the Commission adopts or codifies here.

69. The Commission also finds that mandatory pre-application procedures and requirements do not toll the shot clocks. The Commission concludes that the ability to toll a shot clock when an application is found incomplete or by mutual agreement by the applicant and the siting authority should be adequate to address these concerns. Much like a requirement to file applications one after another, requiring pre-application review would allow for a complete circumvention of the shot clocks by significantly delaying their start date. An application is not ruled on within "a reasonable period of time after the request is duly filed" if the state or locality takes the full ordinary review period after having delayed the filing in the first instance due to required pre-application review. Indeed, requiring a pre-application review before an application may be filed is similar to imposing a moratorium, which the

Commission has made clear does not stop the shot clocks from running. Therefore, the Commission concludes that if an applicant proffers an application, but a state or locality refuses to accept it until a pre-application review has been completed, the shot clock begins to run when the application is proffered.

70. That said, the Commission encourages *voluntary* pre-application discussions, which may well be useful to both parties. The record indicates that such meetings can clarify key aspects of the application review process, especially with respect to large submissions or applicants new to a particular locality's processes and may speed the pace of review. To the extent that an applicant voluntarily engages in a pre-application review to smooth the way for its filing, the shot clock will begin when an application is filed, presumably after the pre-application review has concluded.

71. The Commission also reiterates that the remedies granted under Section 332(c)(7)(B)(v) are independent of, and in addition to, any remedies that may be available under state or local law. Thus, where a state or locality has established its own shot clocks, an applicant may pursue any remedies granted under state or local law in cases where the siting authority fails to act within those shot clocks. However, the applicant must wait until the Commission shot clock period has expired to bring suit for a "failure to act" under Section 332(c)(7)(B)(v).

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

72. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM), released in April 2017 (82 FR 22453, May 16, 2017). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The comments received are addressed below in Section 2. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of the Rules

73. In the Third Report and Order, the Commission continues its efforts to promote the timely buildout of wireless infrastructure across the country by eliminating regulatory impediments that unnecessarily delay bringing personal wireless services to consumers. The record shows that lengthy delays in approving siting applications by siting

agencies has been a persistent problem. With this in mind, the Third Report and Order establishes and codifies specific rules concerning the amount of time siting agencies may take to review and approve certain categories of wireless infrastructure siting applications. More specifically, the Commission addresses its Section 332 shot clock rules for infrastructure applications which will be presumed reasonable under the Communications Act. As an initial matter, the Commission establishes two new shot clocks for Small Wireless Facilities applications. For collocation of Small Wireless Facilities on preexisting structures, the Commission adopts a 60-day shot clock which applies to both individual and batched applications. For applications associated with Small Wireless Facilities new construction the Commission adopts a 90-day shot clock for both individual and batched applications. The Commission also codifies two existing Section 332 shot clocks for all other Non-Small Wireless Facilities that were established in 2009 without codification. These existing shot clocks require 90-days for processing of all other Non-Small Wireless Facilities collocation applications, and 150-days for processing of all other Non-Small Wireless Facilities applications other than collocations.

74. The Third Report and Order addresses other issues related to both the existing and new shot clocks. In particular the Commission addresses the specific types of authorizations subject to the "Reasonable Period of Time" provisions of Section 332(c)(7)(B)(ii), finding that "any request for authorization to place, construct, or modify personal wireless service facilities" under Section 332(c)(7)(B)(ii) means all authorizations a locality may require, and to all aspects of and steps in the siting process, including license or franchise agreements to access ROW, building permits, public notices and meetings, lease negotiations, electric permits, road closure permits, aesthetic approvals, and other authorizations needed for deployment of personal wireless services infrastructure. The Commission also addresses collocation on structures not previously zoned for wireless use, when the four Section 332 shot clocks begin to run, the impact of incomplete applications on the Commission's Section 332 shot clocks, and how state imposed shot clocks remedies effect the Commission's Section 332 shot clocks remedies.

75. The Commission discusses the appropriate judicial remedy that applicants may pursue in cases where a

siting authority fails to act within the applicable shot clock period. In those situations, applicants may commence an action in a court of competent jurisdiction alleging a violation of Section 332(c)(7)(B)(i)(II) and seek injunctive relief granting the application. Notwithstanding the availability of a judicial remedy if a shot clock deadline is missed, the Commission recognizes that the Section 332 time frames might not be met in exceptional circumstances and has refined its interpretation of the circumstances when a period of time longer than the relevant shot clock would nonetheless be a reasonable period of time for action by a siting agency. In addition, a siting authority that is subject to a court action for missing an applicable shot clock deadline has the opportunity to demonstrate that the failure to act was reasonable under the circumstances and, therefore, did not materially limit or inhibit the applicant from introducing new services or improving existing services thereby rebutting the effective prohibition presumption.

76. The rules adopted in the Third Report and Order will accelerate the deployment of wireless infrastructure needed for the mobile wireless services of the future, while preserving the fundamental role of localities in this process. Under the Commission's new rules, localities will maintain control over the placement, construction and modification of personal wireless facilities, while at the same time the Commission's new process will streamline the review of wireless siting applications.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

77. Only one party—the Smart Cities and Special Districts Coalition—filed comments specifically addressing the rules and policies proposed in the IRFA. They argue that any shortening or alteration of the Commission's existing shot clocks or the adoption of a deemed granted remedy will adversely affect small local governments, special districts, property owners, small developers, and others by placing their siting applications behind wireless provider siting applications. Subsequently, NATOA filed comments concerning the draft FRFA. NATOA argues that the new shot clocks impose burdens on local governments and particularly those with limited resources. NATOA asserts that the new shot clocks will spur more deployment applications than localities currently process.

78. These arguments, however, fail to acknowledge that Section 332 shot clocks have been in place for years and reflect Congressional intent as seen in the statutory language of Section 332. The record in this proceeding demonstrates the need for, and reasonableness of, expediting the siting review of certain facility deployments. More streamlined procedures are both reasonable and necessary to provide greater predictability. The current shot clocks do not reflect the evolution of the application review process and evidence that localities can complete reviews more quickly than was the case when the original shot clocks were adopted nine years ago. Localities have gained significant experience processing wireless siting applications and several jurisdictions already have in place laws that require applications to be processed in less time than the Commission's new shot clocks. With the passage of time, siting agencies have become more efficient in processing siting applications and this, in turn, should reduce any economic burden the Commission's new shot clock provisions have on them.

79. The Commission has carefully considered the impact of its new shot clocks on siting authorities and has established shot clocks that take into consideration the nature and scope of siting requests by establishing shot clocks of different lengths of time that depend on the nature of the siting request at issue. The length of these shot clocks is based in part on the need to ensure that local governments have ample time to take any steps needed to protect public safety and welfare and to process other pending utility applications. Since local siting authorities have gained experience in processing siting requests in an expedited fashion, they should be able to comply with the Commission's new shot clocks.

80. The Commission has taken into consideration the concerns of the Smart Cities and Special Districts Coalition and NATOA. It has established shot clocks that will not favor wireless providers over other applicants with pending siting applications. Further, instead of adopting a deemed granted remedy that would grant a siting application when a shot clock lapses without a decision on the merits, the Commission provides guidance as to the appropriate judicial remedy that applicants may pursue and examples of exceptional circumstance where a siting authority may be justified in needing additional time to review a siting application then the applicable shot clock allows. Under this approach, the

applicant may seek injunctive relief as long as several minimum requirements are met. The siting authority, however, can rebut the presumptive reasonableness of the applicable shot clock under certain circumstances. The circumstances under which a siting authority might have to do this will be rare. Under this carefully crafted approach, the interests of siting applicants, siting authorities, and citizens are protected.

3. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

81. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

82. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

4. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

83. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

84. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States

which translates to 28.8 million businesses.

85. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

86. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.”

87. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

88. The Commission’s own data—available in its Universal Licensing System—indicate that, as of May 17, 2018, there are 264 Cellular licensees that will be affected by the Commission’s actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

89. *Personal Radio Services*. Personal radio services provide short-range, low-power radio for personal communications, radio signaling, and business communications not provided for in other services. Personal radio services include services operating in spectrum licensed under part 95 of the Commission’s rules. These services include Citizen Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service. There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. All such entities in this category are wireless, therefore the Commission applies the definition of Wireless Telecommunications Carriers (except Satellite), pursuant to which the SBA’s small entity size standard is defined as those entities employing 1,500 or fewer persons. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. The Commission notes however that many of the licensees in this category are individuals and not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum

utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities that may be affected by the Commission’s actions in this proceeding.

90. *Public Safety Radio Licensees*. Public Safety Radio Pool licensees as a general matter, include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications. The appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, the Commission includes under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services. There are 3,121 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of March 29, 2017. The Commission estimates that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

91. *Private Land Mobile Radio Licensees*. Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications. The appropriate size standard for this category under SBA

rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of PLMR Licensees are small entities.

92. According to the Commission's records, a total of approximately 400,622 licenses comprise PLMR users. Of this number there are a total of 3,374 licenses in the frequencies range 173.225 MHz to 173.375 MHz, which is the range affected by the Third Report and Order. The Commission does not require PLMR licensees to disclose information about number of employees and does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. The Commission however believes that a substantial number of PLMR licensees may be small entities despite the lack of specific information.

93. *Multiple Address Systems.* Entities using Multiple Address Systems (MAS) spectrum, in general, fall into two categories: (1) Those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses. With respect to the first category, Profit-based Spectrum use, the size standards established by the Commission define "small entity" for MAS licensees as an entity that has average annual gross revenues of less than \$15 million over the three previous calendar years. A "Very small business" is defined as an entity that, together with its affiliates, has average annual gross revenues of not more than \$3 million over the preceding three calendar years. The SBA has approved these definitions. The majority of MAS operators are licensed in bands where the Commission has implemented a geographic area licensing approach that requires the use of competitive bidding procedures to resolve mutually exclusive applications.

94. The Commission's licensing database indicates that, as of April 16, 2010, there were a total of 11,653 site-based MAS station authorizations. Of these, 58 authorizations were associated with common carrier service. In addition, the Commission's licensing database indicates that, as of April 16, 2010, there were a total of 3,330 Economic Area market area MAS authorizations. The Commission's licensing database also indicates that, as of April 16, 2010, of the 11,653 total MAS station authorizations, 10,773

authorizations were for private radio service. In 2001, an auction for 5,104 MAS licenses in 176 EAs was conducted. Seven winning bidders claimed status as small or very small businesses and won 611 licenses. In 2005, the Commission completed an auction (Auction 59) of 4,226 MAS licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands. Twenty-six winning bidders won a total of 2,323 licenses. Of the 26 winning bidders in this auction, five claimed small business status and won 1,891 licenses.

95. With respect to the second category, Internal Private Spectrum use consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. For the majority of private internal users, the definition developed by the SBA would be more appropriate than the Commission's definition. The closest applicable definition of a small entity is the "Wireless Telecommunications Carriers (except Satellite)" definition under the SBA rules. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this category, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of firms that may be affected by the Commission's action can be considered small.

96. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable," transmit video programming to subscribers and provide two-way high-speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

97. *BRS*—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual

average gross revenues of no more than \$40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

98. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

99. *EBS*—The Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using

wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to Census Bureau data, the Commission's Universal Licensing System indicates that as of October 2014, there are 2,206 active EBS licenses. The Commission estimates that of these 2,206 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

100. *Location and Monitoring Service (LMS)*. LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined a "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed \$15 million. A "very small business" is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed \$3 million. These definitions have been approved by the SBA. An auction for LMS licenses commenced on February 23, 1999 and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses.

101. *Television Broadcasting*. This Economic Census category "comprises establishments primarily engaged in broadcasting images together with sound." These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having \$38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less, 25 had annual receipts between \$25,000,000 and \$49,999,999 and 70

had annual receipts of \$50,000,000 or more. Based on this data the Commission therefore estimates that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

102. The Commission has estimated the number of licensed commercial television stations to be 1,377. Of this total, 1,258 stations (or about 91 percent) had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 384. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,300 low power television stations, including Class A stations (LPTV) and 3,681 TV translator stations. Given the nature of these services, the Commission will presume that all of these entities qualify as small entities under the above SBA small business size standard.

103. The Commission notes, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations must be included. The Commission estimates, therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of "small business" is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

104. *Radio Stations*. This Economic Census category "comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources." The SBA has established a small business size standard for this category as firms having \$38.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more. Therefore, based on the SBA's size standard the majority of such entities are small entities.

105. According to Commission staff review of the BIA/Kelsey, LLC's Publications, Inc. Media Access Pro Radio Database (BIA) as of January 2018, about 11,261 (or about 99.92 percent) of 11,270 commercial radio stations had revenues of \$38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial AM radio stations to be 4,633 stations and the number of commercial FM radio stations to be 6,738, for a total number of 11,371. The Commission notes, that the Commission has also estimated the number of licensed NCE radio stations to be 4,128. Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

106. The Commission also notes, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a "small business," an entity may not be dominant in its field of operation. The Commission further notes, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus the Commission's estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of "small business" is that

the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

107. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICS Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are \$38.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more. Therefore, based on the SBA's size standard, the Commission concludes that the majority of FM Translator Stations and Low Power FM Stations are small.

108. *Multichannel Video Distribution and Data Service (MVDDS).* MVDDS is a terrestrial fixed microwave service operating in the 12.2–12.7 GHz band. The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. It defined a very small business as an entity with average annual gross revenues not exceeding \$3 million for the preceding three years; a small business as an entity with average annual gross revenues not exceeding \$15 million for the preceding three years; and an entrepreneur as an entity with average annual gross revenues not exceeding \$40 million for the preceding three years. These definitions were approved by the SBA. On January 27, 2004, the Commission completed an auction of 214 MVDDS licenses (Auction No. 53). In this auction, ten winning bidders won a total of 192 MVDDS licenses. Eight of the ten winning bidders claimed small business status and won 144 of the licenses. The Commission also held an auction of MVDDS licenses on December 7, 2005 (Auction 63). Of the three winning bidders who won 22 licenses, two winning bidders, winning 21 of the licenses, claimed small business status.

109. *Satellite Telecommunications.* This category comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of \$32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than \$25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

110. *All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million and 42 firms had annual receipts of \$25 million to \$49,999,999. Thus, a majority of “All Other Telecommunications” firms potentially affected by the Commission's action can be considered small.

111. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), the 39 GHz Service (39 GHz), the 24 GHz Service, and the Millimeter Wave

Service where licensees can choose between common carrier and non-common carrier status. At present, there are approximately 66,680 common carrier fixed licensees, 69,360 private and public safety operational-fixed licensees, 20,150 broadcast auxiliary radio licensees, 411 LMDS licenses, 33 24 GHz DEMS licenses, 777 39 GHz licenses, and five 24 GHz licenses, and 467 Millimeter Wave licenses in the microwave services. The Commission has not yet defined a small business size standard for microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012, show that there were 967 firms in this category that operated for the entire year. Of this total, 955 had employment of 999 or fewer, and 12 firms had employment of 1,000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

112. The Commission notes that the number of firms does not necessarily track the number of licensees. The Commission also notes that it does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. The Commission estimates however, that virtually all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

113. *Non-Licensee Owners of Towers and Other Infrastructure.* Although at one time most communications towers were owned by the licensee using the tower to provide communications service, many towers are now owned by third-party businesses that do not provide communications services themselves but lease space on their towers to other companies that provide communications services. The Commission's rules require that any entity, including a non-licensee, proposing to construct a tower over 200 feet in height or within the glide slope of an airport must register the tower with the Commission's Antenna Structure Registration (“ASR”) system and comply with applicable rules

regarding review for impact on the environment and historic properties.

114. As of March 1, 2017, the ASR database includes approximately 122,157 registration records reflecting a “Constructed” status and 13,987 registration records reflecting a “Granted, Not Constructed” status. These figures include both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which we can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers. Regarding towers that do not require ASR registration, we do not collect information as to the number of such towers in use and therefore cannot estimate the number of tower owners that would be subject to the rules on which the Commission seeks comment. Moreover, the SBA has not developed a size standard for small businesses in the category “Tower Owners.” Therefore, the Commission is unable to determine the number of non-licensee tower owners that are small entities. The Commission believes, however, that when all entities owning 10 or fewer towers and leasing space for collocation are included, non-licensee tower owners number in the thousands. In addition, there may be other non-licensee owners of other wireless infrastructure, including Distributed Antenna Systems (DAS) and small cells that might be affected by the measures on which the Commission seeks comment. The Commission does not have any basis for estimating the number of such non-licensee owners that are small entities.

115. The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million and 15 firms had annual receipts of \$25 million to \$49,999,999. Thus, under this SBA size standard a majority of the firms potentially affected by the Commission’s action can be considered small.

5. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

116. The Third Report and Order does not establish any reporting, recordkeeping, or other compliance requirements for companies involved in wireless infrastructure deployment. In

addition to not adopting any reporting, recordkeeping or other compliance requirements, the Commission takes significant steps to reduce regulatory impediments to infrastructure deployment and, therefore, to spur the growth of personal wireless services. Under the Commission’s approach, small entities as well as large companies will be assured that their deployment requests will be acted upon within a reasonable period of time and, if their applications are not addressed within the established time frames, applicants may seek injunctive relief granting their siting applications. The Commission, therefore, has taken concrete steps to relieve companies of all sizes of uncertainly and has eliminated unnecessary delays.

117. The Third Report and Order also does not impose any reporting or recordkeeping requirements on state and local governments. While some commenters argue that additional shot clock classifications would make the siting process needlessly complex without any proven benefits, the Commission concludes that any additional administrative burden from increasing the number of Section 332 shot clocks from two to four is outweighed by the likely significant benefit of regulatory certainty and the resulting streamlined deployment process. The Commission’s actions are consistent with the statutory language of Section 332 and therefore reflect Congressional intent. Further, siting agencies have become more efficient in processing siting applications and will be able to take advantage of these efficiencies in meeting the new shot clocks. As a result, the additional shot clocks that the Commission adopts will foster the deployment of the latest wireless technology and serve consumer interests.

6. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

118. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): “(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption

from coverage of the rule, or any part thereof, for such small entities.”

119. The steps taken by the Commission in the Third Report and Order eliminate regulatory burdens for small entities as well as large companies that are involved with the deployment of personal wireless services infrastructure. By establishing shot clocks and guidance on injunctive relief for personal wireless services infrastructure deployments, the Commission has standardized and streamlined the permitting process. These changes will significantly minimize the economic burden of the siting process on all entities, including small entities, involved in deploying personal wireless services infrastructure. The record shows that permitting delays imposes significant economic and financial burdens on companies with pending wireless infrastructure permits. Eliminating permitting delays will remove the associated cost burdens and enabling significant public interest benefits by speeding up the deployment of personal wireless services and infrastructure. In addition, siting agencies will be able to utilize the efficiencies that they have gained over the years processing siting applications to minimize financial impacts.

120. The Commission considered but did not adopt proposals by commenters to issue “Best Practices” or “Recommended Practices,” and to develop an informal dispute resolution process and mediation program, noting that the steps taken in the Third Report and Order address the concerns underlying these proposals to facilitate cooperation between parties to reach mutually agreed upon solutions. The Commission anticipates that the changes it has made to the permitting process will provide significant efficiencies in the deployment of personal wireless services facilities and this in turn will benefit all companies, but particularly small entities, that may not have the resources and economies of scale of larger entities to navigate the permitting process. By adopting these changes, the Commission will continue to fulfill its statutory responsibilities, while reducing the burden on small entities by removing unnecessary impediments to the rapid deployment of personal wireless services facilities and infrastructure across the country.

7. Report to Congress

121. The Commission will send a copy of the Third Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the

Commission will send a copy of the Third Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Third Report and Order and FRFA (or summaries thereof) also will be published in the **Federal Register**.

B. Paperwork Reduction Act

122. This Third Report and Order does not contain new or revised information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

C. Congressional Review Act

123. The Commission will send a copy of this Declaratory Ruling and Third Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. 801(a)(1)(A).

IV. Ordering Clauses

124. Accordingly, *it is ordered*, pursuant to sections 1, 4(i)–(j), 7, 201, 253, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 157, 201, 253, 301, 303, 309, 319, 332, that this Declaratory Ruling and Third Report and Order in WT Docket No. 17–79 *is hereby adopted*.

125. *It is further ordered* that part 1 of the Commission's rules is *amended* as set forth in the final rules of this Declaratory Ruling and Third Report and Order, and that these changes *shall be effective* January 14, 2019.

126. *It is further ordered* that this Third Report and Order *shall be effective* January 14, 2019. The Declaratory Ruling and the obligations set forth therein *are effective* on the same day that this Third Report and Order becomes effective. It is our intention in adopting the foregoing Declaratory Ruling and these rule changes that, if any provision of the Declaratory Ruling or the rules, or the application thereof to any person or circumstance, is held to be unlawful, the remaining portions of such Declaratory Ruling and the rules not deemed unlawful, and the application of such Declaratory Ruling and the rules to other person or circumstances, shall remain in effect to the fullest extent permitted by law.

127. *It is further ordered* that, pursuant to 47 CFR 1.4(b)(1), the period for filing petitions for reconsideration or petitions for judicial review of this Declaratory Ruling and Third Report and Order will commence on the date that a summary of this Declaratory Ruling and Third Report and Order is published in the **Federal Register**.

128. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Declaratory Ruling and Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

129. *It is further ordered* that this Declaratory Ruling and Third Report and Order *shall be sent* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Communications common carriers, Communications equipment, Environmental protection, Historic preservation, Radio, Telecommunications.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; Sec. 102(c), Div. P, Public Law 115–141, 132 Stat. 1084; 28 U.S.C. 2461, unless otherwise noted.

- 2. Add subpart U, consisting of §§ 1.6001 through 1.6003, to read as follows:

Subpart U—State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Service Facilities

Sec.

1.6001 Purpose.

1.6002 Definitions.

1.6003 Reasonable periods of time to act on siting applications.

§ 1.6001 Purpose.

This subpart implements 47 U.S.C. 332(c)(7) and 1455.

§ 1.6002 Definitions.

Terms not specifically defined in this section or elsewhere in this subpart have the meanings defined in this part and the Communications Act of 1934, 47 U.S.C. 151 *et seq.* Terms used in this subpart have the following meanings:

(a) *Action or to act* on a siting application means a siting authority's

grant of a siting application or issuance of a written decision denying a siting application.

(b) *Antenna*, consistent with § 1.1320(d), means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of this chapter.

(c) *Antenna equipment*, consistent with § 1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

(d) *Antenna facility* means an antenna and associated antenna equipment.

(e) *Applicant* means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

(f) *Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

(g) *Collocation*, consistent with § 1.1320(d) and the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas, appendix B of this part, section I.B, means—

(1) Mounting or installing an antenna facility on a pre-existing structure; and/or

(2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

(3) The definition of “collocation” in § 1.6100(b)(2) applies to the term as used in that section.

(h) *Deployment* means placement, construction, or modification of a personal wireless service facility.

(i) *Facility or personal wireless service facility* means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

(j) *Siting application or application* means a written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

(k) *Siting authority* means a State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless service facilities.

(l) *Small wireless facilities*, consistent with § 1.1312(e)(2), are facilities that meet each of the following conditions:

(1) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in § 1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of “antenna” in § 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under part 17 of this chapter;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b).

(m) *Structure* means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

§ 1.6003 Reasonable periods of time to act on siting applications.

(a) *Timely action required.* A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.

(b) *Shot clock period.* The shot clock period for a siting application is the sum of—

(1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus

(2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.

(c) *Presumptively reasonable periods of time—*(1) *Review periods for individual applications.* The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:

(i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

(iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.* (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

(ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.

(d) *Tolling period.* Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.

(1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

(2) For all other initial applications, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or

(3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—

(i) The day after the date when the siting authority notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority’s original request under paragraph (d)(1) or (2) of this section; until

(ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;

(iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority’s request under paragraph (d)(1) or (2) of this section.

(e) *Shot clock date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; provided, that if the date calculated in this manner is a “holiday” as defined in § 1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term “business day” means any day as defined in § 1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction.

§ 1.40001 [Redesignated as § 1.6100 and Amended]

■ 3. Redesignate § 1.40001 as § 1.6100 and, in newly redesignated § 1.6100, remove and reserve paragraph (a).

Subpart CC—[Removed]

■ 4. Remove subpart CC.

[FR Doc. 2018-22234 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 83, No. 199

Monday, October 15, 2018

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2018-0899; Product Identifier 2018-NM-099-AD]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 757 airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the inner skin at the lower fastener row is subject to widespread fatigue damage (WFD). This proposed AD would require a general visual inspection of certain lap splice inspection areas for any repair common to the fuselage skin lap splice inspection areas, repetitive dual frequency eddy current (DFEC) inspections of a certain lap splice inner skin for any crack, and applicable on-condition actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 29, 2018.

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 <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0899.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0899; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562-627-5224; fax: 562-627-5210; email: david.truong@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite 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-2018-0899; Product Identifier 2018-NM-099-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to [http://](http://www.regulations.gov)

www.regulations.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program.

Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

We have received a report indicating the inner skin at the lower fastener row is subject to WFD. The inner skin at the lap splice could also have scratches that can grow into scratch cracks, which could interact with multi-site damage (MSD) fastener hole fatigue cracking. This condition, if not addressed, could result in accelerated crack growth rate, which could result in reduced structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 757-53A0111 RB, dated May 21, 2018. The service information describes procedures for a general visual inspection of certain lap splice inspection areas for any repair

common to the fuselage skin lap splice inspection areas, repetitive DFEC inspections of the S-14 lap splice inner skin for any crack, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 757-53A0111 RB, dated May 21, 2018, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0899.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are “required for compliance” (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the “Accomplishment Instructions.” The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.*, only the RC actions).

Costs of Compliance

We estimate that this proposed AD affects 451 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General visual inspection.	Up to 6 work-hours × \$85 per hour = up to \$510.	\$0	Up to \$510	Up to \$230,010.
Repetitive DFEC inspections.	Up to 124 work-hours × \$85 per hour = up to \$10,540 per inspection cycle.	0	Up to \$10,540 per inspection cycle.	Up to \$4,753,540 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

We are 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.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

We 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) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2018–0899; Product Identifier 2018–NM–099–AD.

(a) Comments Due Date

We must receive comments by November 29, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the inner skin at the lower fastener row is subject to widespread fatigue damage (WFD). We are issuing this AD to address scratches that can grow into scratch cracks, which could interact with multi-site damage (MSD) fastener hole fatigue cracking. This condition, if not addressed, could result in accelerated crack growth rate, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

Note 1 to paragraph (g) of this AD:

Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–53A0111, dated May 21, 2018, which is referred to in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, uses the phrase “the original issue date of Requirements Bulletin 757–53A0111 RB,” this AD requires using “the effective date of this AD.”

(2) Where Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, specifies contacting Boeing for alternative inspections or repair instructions, this AD requires alternative inspection or repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Inspections performed in accordance with Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, are not necessary in areas where existing FAA approved repairs cover the affected inspection areas; provided the outermost repair doubler extends a minimum of three rows of fasteners above and below the original group of lap splice fasteners subject to the inspection. Damage tolerance inspections specified for existing repairs must continue. Inspections outside of the repaired boundaries are still required as specified in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: 9-ANM-LAACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562–627–5224; fax: 562–627–5210; email: david.truong@faa.gov.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on September 20, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21966 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2018–0807; Product Identifier 2018–NM–003–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. This proposed AD was prompted by a report that revealed the wheel axles of the main landing gear (MLG) were machined with a radius as small as 0.4 millimeters and a determination that the life limit for the affected wheel axles of the MLG must be reduced. This proposed AD would require an inspection to determine the part number and serial number of each MLG wheel axle and replacement of affected parts prior to exceeding the reduced life limits. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 29, 2018.

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 <http://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 Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No. 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: airworthiness.A330-A340@airbus.com; internet: <http://www.airbus.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0807; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3229.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite 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-2018-0807; Product Identifier 2018-NM-003-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing

date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018-0150, dated July 16, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A330-200, A330-300, A340-200, and A340-300 series airplanes. The MCAI states:

In the past, EASA received a report, via Airbus and Messier-Bugatti-Dowty Ltd, from a MRO [Maintenance Repair Organization], concerning a specific repair accomplished on certain MLG wheel axles. Investigations revealed that the axles were machined with a radius as small as 0.4 mm.

This condition, if not corrected, has a detrimental effect on the fatigue lives of these parts, possibly affecting the structural integrity of the aeroplane. Fatigue analyses were performed and the results indicated that the life limit of the affected MLG wheel axles must be reduced to below the one stated in the A330 and A340 Airbus Airworthiness Limitation Section (ALS) Part 1.

To address this potential unsafe condition, EASA issued AD 2011-0170 [which corresponds to FAA AD 2013-08-03, Amendment 39-17420 (78 FR 23105, April 18, 2013) (“AD 2013-08-03”)], which required the replacement of the MLG wheel axles before exceeding the new reduced demonstrated life limit. After that [EASA] AD was issued, it was discovered that additional MLG wheel axles were subject to repairs by the same MRO. Consequently, EASA issued AD 2013-0067, retaining the requirements of EASA AD 2011-0170, which was superseded, and required the replacement of this additional batch of affected MLG wheel axles.

Since EASA AD 2013-0067 was issued, it was reported that two additional MROs have accomplished similar incorrect repairs on additional MLG wheel axles, necessitating implementation of a reduced life limit. The affected MLG wheel axles, as well as the related life limits, have been published in Airbus SB A330-32-3282 and SB A340-32-4311, as applicable to aeroplane type.

Consequently, EASA issued AD 2017-0245, retaining the requirements of EASA AD 2013-0067, which was superseded, to require identification and replacement of the affected MLG wheel axles.

Since EASA AD 2017-0245, it was determined that some aeroplane models were missing from the Tables in Appendix 1 [of EASA AD 2017-0245]. It was also determined that the compliance times [of EASA AD 2017-0245] needed to be clarified.

For the reasons described above, this [EASA] AD fully retains the requirements of EASA AD 2017-0245, which is superseded, and introduces the necessary clarifications. This [EASA] AD also contains some editorial changes to meet the current [EASA] AD writing standards, without affecting the technical content or requirements.

You may examine the MCAI in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0807.

Relationship Between Proposed AD and AD 2013-08-03

This NPRM does not propose to supersede AD 2013-08-03. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This proposed AD would require an inspection to determine the part number and serial number of each MLG wheel axle and replacement of affected parts prior to exceeding the reduced life limits. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2013-08-03.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A330-32-3282, Revision 03, including Appendixes 01, 02, and 03, dated October 24, 2017; and Service Bulletin A340-32-4311, Revision 03, including Appendixes 01, 02, and 03, dated October 24, 2017. This service information describes procedures for inspecting the MLG wheel axles to determine the part number and serial number, and replacing the affected MLG wheel axles. This service information also specifies reduced life limits for the affected MLG wheel axles. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop

on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 29 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170	\$0	\$170	\$4,930

We estimate the following costs to do any necessary on-condition replacements that would be required

based on the results of any required actions. We have no way of determining

the number of aircraft that might need these on-condition replacements:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
16 work-hours × \$85 per hour = \$1,360 (per part)	\$40,000 (per part)	\$41,360 (per part).

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.

We are 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.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We 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. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2018–0807; Product Identifier 2018–NM–003–AD.

(a) Comments Due Date

We must receive comments by November 29, 2018.

(b) Affected ADs

This AD affects AD 2013–08–03, Amendment 39–17420 (78 FR 23105, April 18, 2013) (“AD 2013–08–03”).

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, specified in paragraphs (c)(1) through (c)(5) of this AD.

(1) Model A330–201, –202, –203, –223, and –243 airplanes, all manufacturer serial numbers (MSNs), except those on which Airbus Modification 54500 has been embodied in production.

(2) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, all manufacturer serial numbers, except MSNs 0896, 0905, and 0913 (which are specified in paragraph (c)(3) of this AD), and except those on which Airbus Modification 54500 has been embodied in production.

(3) Model A330–343 airplanes, MSNs 0896, 0905, and 0913, except those on which the actions in Airbus Service Bulletin A330–32–3273 have been embodied in service.

(4) Model A340–211, –212, and –213 airplanes, all manufacturer serial numbers, except those on which Airbus Modification 54500 has been embodied in production.

(5) Model A340–311, –312, and –313 airplanes, all manufacturer serial numbers, except those on which Airbus Modification 54500 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report that revealed the wheel axles of the main landing gear (MLG) were machined with a radius as

small as 0.4 millimeters and a determination that the life limit for the affected wheel axles of the MLG must be reduced. We are issuing this AD to address fatigue of the wheel axles of the MLG, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Definitions

(1) For the purpose of this AD, the affected MLG wheel axles are listed by part number

and serial number in Appendix 01 (Maintenance Repair Organization (MRO) 1), Appendix 02 (MRO 2), and Appendix 03 (MRO 3) of Airbus Service Bulletin A330–32–3282, Revision 03, dated October 24, 2017; and Airbus Service Bulletin A340–32–4311, Revision 03, dated October 24, 2017; as applicable.

(2) For the purpose of this AD, a serviceable MLG wheel axle is an affected MLG wheel axle that has not exceeded the applicable post-repair life limit values as specified in table 1 to paragraphs (g)(2), (g)(3), and (i) of this AD, table 2 to paragraphs

(g)(2), (g)(3), and (i) of this AD, or table 3 to paragraphs (g)(2), (g)(3), and (i) of this AD; or a part that is not an affected MLG wheel axle.

(3) For the purpose of this AD, the term “post-repair life limits” represents the time-in-service, flight cycles, or flight hours, whichever occurs first, accumulated since repair by the affected MRO specified in table 1 to paragraphs (g)(2), (g)(3), and (i) of this AD, table 2 to paragraphs (g)(2), (g)(3), and (i) of this AD, or table 3 to paragraphs (g)(2), (g)(3), and (i) of this AD.

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Table 1 to paragraphs (g)(2), (g)(3), and (i) of this AD –MRO 1 Post-Repair Life Limits

Affected Airplane(s)	Weight Variant (WV) (series)	Compliance Time (flight cycles (FC) or flight hours (FH), whichever occurs first, as defined by paragraph (g)(3) of this AD for post-repair life limits)
A340-211, A340-212 and A340-213	WV00x	4,600 FC or 29,000 FH
A340-311, A340-312 and A340-313	WV00x	4,700 FC or 22,250 FH
A340-313	WV02x and WV05x	3,950 FC or 16,900 FH
A330-301, A330-321, A330-322, A330-341, and A330-342	WV00x and WV01x	5,050 FC or 15,200 FH
A330-201, A330-202, A330-203, A330-223, and A330-243	WV02x, WV05x, and WV06x	4,450 FC or 17,900 FH
A330-301, A330-302, A330-303, A330-323, A330-342, and A330-343	WV02x and WV05x	5,150 FC or 13,450 FH

Table 2 to paragraphs (g)(2), (g)(3), and (i) of this AD – MRO 2 Post-Repair Life Limits

Affected Airplane(s)	WV (series)	Compliance Time
A or B, whichever occurs later (FC or FH, whichever occurs first, as defined by paragraph (g)(3) of this AD for post-repair life limits)		
A340-211, A340-212, A340-213, A340-311, A340-312, and A340-313	WV00x	A: 25,000 FC or 100,000 FH B: 12 months after the effective date of this AD
A340-311, A340-312, and A340-313	WV02x and WV05x	A: 25,000 FC or 83,100 FH B: 12 months after the effective date of this AD, but not to exceed 25,000 FC or 100,000 FH
A330-301, A330-321, A330-322, A330-341, and A330-342	WV00x, WV01x, WV02x, and WV05x	A: 50,000 FC or 75,000 FH B: 12 months after the effective date of this AD
A330-201, A330-202, A330-203, A330-223, and A330-243	WV02x, WV05x (except WV058), and WV06x	A: 50,000 FC or 75,000 FH B: 12 months after the effective date of this AD
A330-201, A330-202, A330-203, A330-223, and A330-243	WV058	A: 50,000 FC or 70,950 FH B: 12 months after the effective date of this AD, but not to exceed 50,000 FC or 75,000 FH

Table 3 to paragraphs (g)(2), (g)(3), and (i) of this AD – MRO 3 Post-Repair Life Limits

Affected Airplane(s)	WV (series)	Compliance Time A or B, whichever occurs later (FC or FH, whichever occurs first, as defined by paragraph (g)(3) of this AD for post-repair life limits)
A340-211, A340-212, A340-213, A340-311, A340-312, and A340-313	WV00x	A: 25,000 FC or 100,000 FH B: 12 months after the effective date of this AD
A340-311, A340-312, and A340-313	WV02x and WV05x	A: 25,000 FC or 68,800 FH B: 12 months after the effective date of this AD, but not to exceed 25,000 FC or 100,000 FH
A330-301, A330-321, A330-322, A330-341, and A330-342	WV00x and WV01x	A: 50,000 FC or 73,400 FH B: 12 months after the effective date of this AD, but not to exceed 50,000 FC or 75,000 FH
A330-301, A330-321, A330-322, A330-341, and A330-342	WV02x and WV05x	A: 50,000 FC or 64,100 FH B: 12 months after the effective date of this AD, but not to exceed 50,000 FC or 75,000 FH
A330-201, A330-202, A330-203, A330-223, and A330-243	WV02x, WV05x (except WV058), and WV06x	A: 50 000 FC or 62,950 FH B: 12 months after the effective date of this AD, but not to exceed 50,000 FC or 75,000 FH
A330-201, A330-202, A330-203, A330-223, and A330-243	WV058	A: 50 000 FC or 59,350 FH B: 12 months after the effective date of this AD, but not to exceed 50,000 FC or 75,000 FH

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(h) Inspection To Determine Part Number and Serial Number

Within 90 days after the effective date of this AD: Do an inspection of each MLG wheel axle (left-hand and right-hand sides) to determine the part number and serial number. A review of airplane delivery or maintenance records is acceptable to make this determination, in lieu of inspecting a MLG wheel axle, provided those records can be relied upon for that purpose and the part number and serial number of the affected part can be positively identified from that review.

(i) Replacement of Affected MLG Wheel Axles

If any affected MLG wheel axle is found: Within the compliance time specified in table 1 to paragraphs (g)(2), (g)(3), and (i) of this AD, table 2 to paragraphs (g)(2), (g)(3), and (i) of this AD, or table 3 to paragraphs (g)(2), (g)(3), and (i) of this AD; replace each repaired MLG wheel axle with a serviceable MLG wheel axle, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-32-3282, Revision 03, dated October 24, 2017; or Airbus Service Bulletin A340-32-4311, Revision 03, dated October 24, 2017; as applicable. Regardless of the applicable post-repair life limits as specified in table 1 to paragraphs (g)(2), (g)(3), and (i) of this AD, table 2 to paragraphs

(g)(2), (g)(3), and (i) of this AD, or table 3 to paragraphs (g)(2), (g)(3), and (i) of this AD, the life limits as specified in Airbus A330/A340 Airworthiness Limitation Section (ALS) Part 1 cannot be exceeded.

(j) Parts Installation Limitation

As of the effective date of this AD, any affected MLG wheel axle repaired by MRO 1, MRO 2, or MRO 3 may be installed on an airplane, provided the MLG wheel axle is a serviceable part as defined in paragraph (g)(2) of this AD.

(k) Terminating Action for AD 2013-08-03

Accomplishing the inspection and replacement required by paragraphs (h) and (i) of this AD terminates all requirements of AD 2013-08-03.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Section, Transport Standards 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 International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018-0150, dated July 16, 2018, for related information. This MCAI may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0807.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3229.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No. 2, 31700 Blagnac Cedex, France; phone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: airworthiness.A330-A340@airbus.com; internet: <http://www.airbus.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued in Des Moines, Washington, on September 25, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018-21973 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2018-0829; Aerospace Docket No. 18-AGL-23]

RIN 2120-AA66

Proposed Amendment of Class D and E Airspace; Milwaukee, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace and Class E airspace extending upward from 700 feet above the surface at Lawrence J. Timmerman Airport, Milwaukee, WI. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Timmerman VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. This action would also replace the outdated term "Airport/Facility Directory" with "Chart Supplement". Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-9826, or (800) 647-5527. You must identify FAA Docket No. FAA-2018-0829; Aerospace Docket No. 18-AGL-23, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and

subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D airspace and Class E airspace extending upward from 700 feet above the surface at Lawrence J. Timmerman Airport, Milwaukee, WI, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in

triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2018-0829; Airspace Docket No. 18-AGL-23." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending Class D airspace to within a 3.9-mile radius (reduced from a 4.4-mile radius) of Lawrence J. Timmerman

Airport, Milwaukee, WI; and updating the airspace designation from "Milwaukee, Lawrence J. Timmerman Airport, WI" to "Milwaukee, WI", removing the city from the airport name, and making an editorial change replacing "Airport/Facility Directory" with "Chart Supplement" to comply with FAA Order 7400.2L, Procedures for Handling Airspace Matters; and

Amending Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (reduced from an 8.9-mile radius) of Lawrence J. Timmerman Airport, Milwaukee, WI; adding an extension within 2 miles each side of the 218° bearing from Lawrence J. Timmerman Airport extending from the 6.4-mile radius to 11.7 miles southwest of the airport; adding an extension within 9 miles west and 6 miles east of the 328° bearing from the Lawrence J. Timmerman: RWY 15L-LOC extending from the 6.4-mile radius to 10 miles northwest of the airport.

This action is necessary due to an airspace review caused by the decommissioning of the Timmerman VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraph 5000 and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL WI D Milwaukee, WI [Amended]

Lawrence J. Timmerman Airport, WI
(Lat. 43°06'39" N, long. 88°02'04" W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.4-mile radius of Lawrence J. Timmerman Airport, excluding that airspace within the Milwaukee, WI, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 Milwaukee, WI [Amended]

General Mitchell International Airport, WI
(Lat. 42°56'49" N, long. 87°53'49" W)
Batten International Airport, WI
(Lat. 42°45'40" N, long. 87°48'50" W)
Waukesha County Airport, WI
(Lat. 43°02'28" N, long. 88°14'13" W)
Lawrence J. Timmerman Airport, WI
(Lat. 43°06'37" N, long. 88°02'04" W)
Lawrence J. Timmerman: RWY 15L-LOC
(Lat. 43°06'20" N, long. 88°01'44" W)

That airspace extending upward from 700 feet above the surface within a 8.4-mile

radius of General Mitchell International Airport, and within a 6.6-mile radius of Batten International Airport, and within a 7.5-mile radius of Waukesha County Airport, and within 2 miles each side of the 282° bearing from Waukesha County Airport extending from the 7.5-mile radius to 10.5 miles west of Waukesha County Airport, and within a 6.4-mile radius of Lawrence J. Timmerman Airport, and within 2 miles each side of the 218° bearing from the Lawrence J. Timmerman Airport extending from the 6.4-mile radius to 11.7 miles northwest of Lawrence J. Timmerman Airport, and within 9 miles west and 6 miles east of the 328° bearing from the Lawrence J. Timmerman: RWY15-LOC extending from the 6.4-mile radius to 10 miles from the Lawrence J. Timmerman Airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2018-22175 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2015-2892; Airspace Docket No. 15-ANE-2]

RIN-2120-AA66

Proposed Amendment of Class E Airspace; Jackman, ME, and Revocation of Class E Airspace; Newton Field, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface at Newton Field, Jackman, ME, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the airport. Also, this action would remove duplicative Class E airspace for Newton Field, ME. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also would update the geographic coordinates of this airport.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg. Ground Floor,

Rm. W12-140, Washington, DC 20590; Telephone: 1-800-647-5527, or (202)-366-9826. You must identify the Docket No. FAA-2015-2892; Airspace Docket No. 15-ANE-2, at the beginning of your comments. You may also submit and review received comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Newton Field, Jackman, ME, and remove duplicative Newton Field, ME, information to support standard

instrument approach procedures for IFR operations at this airport.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA-2015-2892 and Airspace Docket No. 15-ANE-2) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at <http://www.regulations.gov>.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2015-2892; Airspace Docket No. 15-ANE-2." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface to within a 12.4-mile (increased from a 6-mile) radius of Newton Field, Jackman, ME, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at this airport.

This action would also make an editorial correction to remove the duplicate airspace published in the Order under the designation Newton Field, ME.

The geographic coordinates of the airport also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Jackman, ME [Amended]

Newton Field, ME

(Lat. 45°37'58" N, long. 70°14'56" W)

That airspace extending upward from 700 feet above the surface within a 12.4-mile radius of Newton Field, excluding that airspace outside the United States.

ANE ME E5 Newton Field, ME [Removed]

Issued in College Park, Georgia, on October 3, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–22264 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0828; Airspace Docket No. 18–AGL–22]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Lawrenceville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface at Lawrenceville-Vincennes International Airport, Lawrenceville, IL, and Mount Carmel Municipal Airport, Mount Carmel, IL. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Lawrenceville VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0828; Airspace Docket No. 18–AGL–22, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Lawrenceville-Vincennes International Airport, Lawrenceville, IL, and Mount Carmel Municipal Airport, Mount Carmel, IL, to support IFR operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic,

environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2018-0828; Airspace Docket No. 18-AGL-22." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations

(14 CFR) part 71 by amending Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile radius (reduced from a 7-mile radius) of Lawrenceville-Vincennes International Airport, Lawrenceville, IL; removing the Lawrenceville VOR/DME and the associated extension to the northeast of the Lawrenceville-Vincennes International Airport; and removing the extension to the south of Mount Carmel Municipal Airport, Mount Carmel, IL.

This action is necessary due to an airspace review caused by the decommissioning of the Lawrenceville VOR, which provided navigation information to the instrument procedures at these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL IL E5 Lawrenceville, IL [Amended]

Lawrenceville-Vincennes International Airport, IL

(Lat. 38°45'51" N, long. 87°36'20" W)

Mount Carmel Municipal Airport, IL

(Lat. 38°36'24" N, long. 87°43'36" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Lawrenceville-Vincennes International Airport, and within a 6.5-mile radius of Mount Carmel Municipal Airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2018–22172 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0827; Airspace Docket No. 18–ACE–6]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; West Union, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface

at George L. Scott Municipal Airport, West Union, IA, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database. The FAA is proposing this action due to an airspace review caused by the decommissioning of the Waukon VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0827; Airspace Docket No. 18–ACE–6 at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator.

Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at George L. Scott Municipal Airport, West Union, IA, to support standard instrument approach procedures for IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2018–0827; Airspace Docket No. 18–ACE–6." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in

person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 that would amend the Class E airspace extending upward from 700 feet above the surface at George L. Scott Municipal Airport, West Union, IA, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database. Additionally, an edit would be made removing the city associated with the airport in the airspace legal description to comply with a change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

The FAA is proposing this action due to an airspace review caused by the decommissioning of the Waukon VOR, which provided navigation information to the instrument procedures at this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It,

therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 West Union, IA [Amended]

George L. Scott Municipal Airport, IA
(Lat. 42°59'07" N, long. 91°47'26" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of George L. Scott Municipal Airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2018–22176 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0879; Airspace Docket No. 18–AGL–24]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Oscoda, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E surface airspace at Oscoda-Wurtsmith Airport, Oscoda, MI. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Au Sable VHF omnidirectional range (VOR) navigation aid, which provided navigation guidance for the instrument procedures at the airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates for the airport in the associated airspace would also be updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0879; Airspace Docket No. 18–AGL–24, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed

online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

FOR FURTHER INFORMATION CONTACT:

Walter Tweedy Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5900.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E surface airspace and Class E airspace areas extending upward from 700 feet or more above the surface at Oscoda-Wurtsmith Airport, Oscoda, MI, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in

triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2018-0879; Airspace Docket No. 18-AGL-24." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class E surface airspace within a 4.5-mile radius of Oscoda-Wurtsmith Airport, Oscoda, MI by removing the Au Sable VOR/DME

and the associated extension to the southwest of the airport, due to the decommissioning of the Au Sable VOR, which provided navigation guidance to the instrument procedures at the airport, as part of the VOR MON Program.

Also, the geographic coordinates of the airport in this airspace, and in Class E airspace extending upward from 700 feet above the surface, would be adjusted to coincide with the FAA's aeronautical database.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AGL MI E2 Oscoda, MI [Amended]

Oscoda-Wurtsmith Airport, MI
(Lat. 44°27'06" N, long. 83°23'39" W)

Within a 4.5-mile radius of Oscoda-Wurtsmith Airport.

* * * * *

Paragraph 6005 Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MI E5 Oscoda, MI [Amended]

Oscoda-Wurtsmith Airport, MI
(Lat. 44°27'06" N, long. 83°23'39" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Oscoda-Wurtsmith Airport.

Issued in Fort Worth, Texas, on October 3, 2018.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2018–22192 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0626; Airspace Docket No. 18–ASO–9]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Engelhard, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface

at Hyde County Airport, Engelhard, NC, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving this airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before November 29, 2018.

ADDRESSES: Send comments on this proposed rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg Ground Floor, Rm W12–140, Washington, DC 20590; Telephone: 1–800–647–5527, or (202)–366–9826. You must identify the Docket No. FAA–2018–0626; Airspace Docket No. 18–ASO–9, at the beginning of your comments. You may also submit and review received comments through the internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's

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The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's

authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would establish Class E airspace extending upward from 700 feet above the surface at Hyde County Airport, Engelhard, NC, to support standard instrument approach procedures for IFR operations at this airport.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. You may also submit comments through the internet at <http://www.regulations.gov>.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2018–0626; Airspace Docket No. 18–ASO–9." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov>

www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hyde County Airport, Engelhard, NC, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at Hyde County Airport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Engelhard, NC [New]

Hyde County Airport, NC
(Lat. 35°33'43" N, long. 75°57'20" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hyde County Airport.

Issued in College Park, Georgia, on October 3, 2018.

Ryan W. Almasy,

Manager, operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–22257 Filed 10–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[REG–104872–18]

RIN 1545–BO66

Removal of Regulations on Advance Payments for Goods and Long-Term Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to streamline IRS regulations by removing regulations that are no longer necessary after the enactment of recent tax legislation. Specifically, these regulations would remove existing regulations regarding advance payments for goods and long-term contracts. The regulations would affect accrual method taxpayers who receive advance payments for goods, including those for inventoriable goods.

DATES: Written or electronic comments and requests for a public hearing must be received by January 14, 2019.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–104872–18), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–104872–18), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–104872–18).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Charles Gorham, (202) 317–5091, or Joanna L. Trebat, (202) 317–6890; concerning submissions of comments and requests for a hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document proposes to remove § 1.451–5 of the Income Tax Regulations (26 CFR part 1), and its cross-references, relating to the treatment of advance payments for goods and long-term contracts under section 451 of the Internal Revenue Code (Code).

In general, section 451 provides that the amount of any item of gross income is included in gross income for the

taxable year in which it is received by the taxpayer, unless, under the method of accounting used in computing taxable income, the amount is to be properly accounted for as of a different period.

Under § 1.451–1, accrual method taxpayers generally include items of income in the taxable year when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy (the “all events” test).

Section 1.451–5 generally allows accrual method taxpayers to defer the inclusion of income for advance payments for goods until the taxable year in which they are properly included in income under the taxpayer’s method of accounting for federal income tax purposes if that method results in the advance payments being included in gross income no later than when the advance payments are recognized in gross receipts under the taxpayer’s method of accounting for financial reporting purposes.

Section 13221 of “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,” Public Law 115–97 (the “Act”), amended section 451 by redesignating section 451(b) through (i) as (d) through (k) and adding new subsections (b) and (c).

New section 451(b) generally requires that for accrual method taxpayers the all events test with respect to a particular item of gross income must not be treated as met any later than when the item is taken into account as revenue in a taxpayer’s applicable financial statement, or such other financial statement as the Secretary may prescribe.

New section 451(c) generally requires an accrual method taxpayer that receives any advance payment described in section 451(c)(4) during the taxable year to include the advance payment in income in the taxable year of receipt or make an election to: (1) Include any portion of the advance payment in income in the taxable year of receipt to the extent required under new section 451(b); and (2) include the remaining portion of the advance payment in income in the following taxable year. The election to defer advance payments of goods and services under new section 451(c) is similar to the rules regarding the treatment of advance payments for goods, services, and other specified items provided in Revenue Procedure 2004–34, 2004–1 CB 991. See H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.).

New section 451(c) and its election to defer advance payments override the

deferral method provided by § 1.451–5. See H.R. Rep. No. 115–466, at 429 n.880 (2017) (Conf. Rep.). Accordingly, the Treasury Department and the IRS propose to remove § 1.451–5 and its cross references. Removing § 1.451–5 also will ensure that the new deferral rules of section 451(c) apply uniformly and consistently to all taxpayers as well as simplify tax administration.

The rules of section 446 regarding changes in methods of accounting will apply to taxpayers changing a method of accounting for advance payments from a method described in § 1.451–5 to another method. The Treasury Department and the IRS request comments on whether any changes to existing procedural rules under section 446 for changes in methods of accounting are necessary or desirable as a result of removing § 1.451–5.

Proposed Applicability Date

The removal of these regulations would apply as of the date the Treasury decision adopting this notice of proposed rulemaking is published in the **Federal Register**.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. Because the proposed regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS in the preamble under the **ADDRESSES** section. All comments submitted will be made available at www.regulations.gov for public inspection and copying.

A public hearing will be scheduled, if requested, by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this document is Joanna L. Trebat, Office of the Associate Chief Counsel (Income Tax and Accounting). Other personnel from the IRS and Treasury Department participated in its development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.381(c)(4)–1 is amended by revising the second sentence of paragraph (b)(2) to read as follows:

§ 1.381(c)(4)–1 Method of accounting.

* * * * *

(b) * * *

(2) * * * The installment method under section 453, the mark-to-market method under section 475, the amortization of bond premium under section 171, the percentage of completion method under section 460, the recurring item exception of § 1.461–5, and the income deferral method under section 455 are examples of special methods of accounting. * * *

* * * * *

■ **Par. 3.** Section 1.382–7 is amended by revising the third sentence of paragraph (a) to read as follows:

§ 1.382–7 Built in gains and losses.

(a) * * * Examples to which this paragraph (a) will apply include, but are not limited to, income received prior to the change date that is deferred under section 455 or Rev. Proc. 2004–34 (2004–1 CB 991 (June 1, 2004)) (or any successor revenue procedure) (see § 601.601(d)(2)(ii)(b)).

* * * * *

§ 1.451–5 [Removed]

■ **Par. 4.** Section 1.451–5 is removed.

§ 1.861–18 [Amended]

■ **Par. 5.** Section 1.861–18 is amended in paragraph (i)(4) by:

- 1. Removing *Example 2*;
- 2. Designating *Examples 1* and *3* as paragraphs (i)(4)(i) and (ii), respectively; and
- 3. In the heading for newly designated paragraph (i)(4)(ii), removing “3” and adding “2” in its place.

§ 1.6655–0 [Amended]

■ **Par. 6.** Section 1.6655–0 is amended by removing the entries for § 1.6655–2(f)(3)(i) and (f)(3)(i)(A) and redesignating the entry for § 1.6655–2(f)(3)(i)(B) as § 1.6655–2(f)(3)(i).

§ 1.6655–2 [Amended]

■ **Par. 7.** Section 1.6655–2 is amended by removing paragraphs (f)(3)(i) heading and (f)(3)(i)(A) and redesignating (f)(3)(i)(B) as (f)(3)(i).

■ **Par. 8.** Section 1.6655–6 is amended in paragraph (c) by:

- 1. Revising the heading and introductory text;
- 2. Removing *Example 1*;
- 3. Designating *Example 2* as paragraph (c)(1) and revising the heading of newly designated paragraph (c)(1); and
- 3. Adding a reserved paragraph (c)(2).

The revisions read as follows:

§ 1.6655–6 Methods of accounting.

* * * * *

(c) *Example.* The following example illustrates the rules of this section:

(1)

Example. * * *

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 9.** Add an authority citation for part 602 to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

■ **Par. 10.** Section 602.101 is amended by removing the entry for § 1.451–5 and the parenthetical authority citation at the end of the section.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2018–22025 Filed 10–12–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–104266–18]

RIN 1545–BO12

Guidance Regarding the Transition Tax Under Section 965 and Related Provisions; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations relating to section 965 of the Internal Revenue Code as amended by the Tax Cuts and Jobs Act, which was enacted on December 22, 2017.

DATES: The public hearing is being held on Monday, October 22, 2018, at 10 a.m. The IRS must receive speakers’ outlines of the topics to be discussed at the public hearing by Tuesday, October 16, 2018.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW, Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present a valid photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–104226–18), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–104226–18), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–104226–18).

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Leni C. Perkins (202) 317–6934; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–104226–18) that was published in the *Federal Register* on Thursday, August 9, 2018 (83 FR 39514).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish

to present oral comments at the hearing that submitted written comments by October 9, 2018, must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Tuesday, October 16, 2018.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or by contacting the Publications and Regulations Branch at (202) 317–6901 (not a toll-free number).

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2018–22345 Filed 10–12–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2018–OPE–0076]

RIN 1840–AD36, 1840–AD37, 1840–AD38, 1840–AD40, 1840–AD44

Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings—Accreditation and Innovation

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish negotiated rulemaking committee.

SUMMARY: We announce our intention to establish one negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committee, and we set a schedule for committee meetings. We also announce

the creation of three subcommittees, and request nominations for individuals with pertinent expertise to participate on the subcommittees.

DATES: We must receive your nominations for negotiators to serve on the committees on or before November 15, 2018. The dates, times and locations of the committee meetings are set out in the *Schedule for Negotiations and Subcommittee Meetings* section in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Please send your nominations for negotiators to Aaron Washington, U.S. Department of Education, 400 Maryland Ave. SW, Room 294–12, Washington, DC 20202. Telephone (202) 453–7241. Email: negregnominations@ed.gov.

FOR FURTHER INFORMATION CONTACT: For information about the content of this document, including information about the negotiated rulemaking process or the nomination submission process, contact: Aaron Washington, U.S. Department of Education, 400 Maryland Ave. SW, Room 294–12, Washington, DC 20202. Telephone (202) 453–7241. Email: Aaron.Washington@ed.gov.

For information about negotiated rulemaking in general, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at <https://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html> or contact: Aaron Washington, U.S. Department of Education, 400 Maryland Ave. SW, Room 294–12, Washington, DC 20202. Telephone (202) 453–7241. Email: Aaron.Washington@ed.gov.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 31, 2018, we published in the **Federal Register** (83 FR 36814) an announcement of our intent to establish a negotiated rulemaking committee under section 492 of the HEA to develop proposed regulations related to a number of higher education practices and issues, including: (1) Accreditation; (2) distance learning and educational innovation; (3) TEACH grants; and (4) participation by faith-based educational entities.

We also announced three public hearings at which interested parties could comment on the topics suggested by the U.S. Department of Education (Department) and suggest additional topics for consideration for action by the negotiated rulemaking committees. Those hearings took place on September 6, 2018 in Washington, DC, on

September 11, 2018 in New Orleans, Louisiana, and on September 13, 2018 in Sturtevant, Wisconsin. We invited parties to comment and submit topics for consideration in writing as well. Transcripts from the public hearings are available at <https://www2.ed.gov/policy/highered/reg/hearulemaking/2018/index.html>.

Written comments submitted in response to the July 31, 2018, document may be viewed through the Federal eRulemaking Portal at www.regulations.gov. Instructions for finding comments are available on the site under “How to Use Regulations.gov” in the “Help” section. Individuals can enter docket ID ED–2018–OPE–0076 in the search box to locate the appropriate docket.

Regulatory Issues

After considering the information received at the public hearings and the written comments, we have decided to establish a single *Accreditation and Innovation* negotiated rulemaking committee and three topic-based subcommittees to ensure sufficient representation of subject matter experts for each topic. We believe the addition of a TEACH Grants subcommittee, scheduling additional days for the committee meetings, and the use of redlined regulatory text as the starting point of negotiations instead of issue papers will address concerns raised by commenters and ensure proper attention to each topic.

We list the specific topics the committee is likely to address under *Committee Topics*, below.

We intend to select negotiators for the committee who represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will comply with the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant topics proposed for negotiations. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish a committee that will allow significantly affected parties to be represented while keeping the committee size manageable.

We generally select a primary and alternate negotiator for each constituency represented on a committee. The primary negotiator participates for the purpose of determining consensus. The alternate participates for the purpose of determining consensus in the absence of the primary. Only the primary negotiator may speak during the

negotiations unless the primary negotiator is absent for the day or a significant portion of a day, in which case the alternate may speak during the negotiations.

In addition, individuals who are not selected as members of the committee will be able to observe the committee meetings, will have access to the individuals representing their constituencies, and may be able to participate in informal working groups on various issues between the meetings.

Committee Topics

The Accreditation and Innovation Committee will address the Secretary’s recognition of accrediting agencies and related institutional eligibility issues (34 CFR parts 602 and 600), as well as various technical corrections. The specific topics for negotiation will likely include:

- Requirements for accrediting agencies in their oversight of member institutions and programs.
 - Criteria used by the Secretary to recognize accrediting agencies, emphasizing criteria that focus on educational quality and deemphasizing those that are anti-competitive.
 - Simplification of the Department’s recognition and review of accrediting agencies.
 - Clarification of the core oversight responsibilities amongst each entity in the regulatory triad, including accrediting agencies, States, and the Department to hold institutions accountable.
 - Clarification of the permissible arrangements between an institution of higher education and another organization to provide a portion of an education program (34 CFR 668.5).
 - The roles and responsibilities of institutions and accrediting agencies in the teach-out process (34 CFR 600.32(d) and 602.24).
 - Elimination of regulations related to programs that have not been funded in many years.
 - Needed technical changes and corrections to program regulations that have been identified by the Department.
- As part of the negotiated rulemaking process, we are forming three subcommittees: The Distance Learning and Educational Innovation Subcommittee; the Faith-Based Entities Subcommittee; and the TEACH Grants Subcommittee, to make recommendations to the committee. The committee will ultimately make determinations based on subcommittee recommendations, and committee discussions, on:
- Regulatory changes required to ensure equitable treatment of brick-and-

mortar and distance education programs; enable expansion of direct assessment programs, distance education, and competency-based education; and to clarify disclosure and other requirements of state authorization.

- Protections to ensure that accreditors recognize and respect institutional mission, and evaluate an institution's policies and educational programs based on that mission; and remove barriers to the eligibility of faith-based entities to participate in the title IV, HEA programs.

- TEACH Grant requirements and ways to reduce and correct the inadvertent conversion of grants to loans.

1. The topics that the Distance Learning and Educational Innovation Subcommittee is likely to address include, but are not limited to:

- Simplification of State authorization requirements related to programs offered through distance education or correspondence courses, including disclosures about such programs to enrolled and prospective students and other State authorization issues (34 CFR 600.9 and 668.50).

- The definition of "regular and substantive interaction," as that term is used in the definitions of "correspondence course" and "distance education" (34 CFR 600.2, 600.7, and 668.10).

- The definition of the term "credit hour" (34 CFR 600.2, 602.24 and 668.8).

- The requirement that an institution demonstrates a reasonable relation between the length of a program and entry-level requirements for the recognized occupation for which the program prepares the student (34 CFR 668.8 (e)(1)(iii) and 668.14(b)(26)).

- The barriers to innovation in postsecondary education and to student completion, graduation, or employment, including, but not limited to, regulatory barriers in the Department's institutional eligibility regulations and student assistance general provisions (34 CFR part 600 and 34 CFR part 668).

- Direct assessment programs and competency-based education, focusing on the ability of institutions to develop, and students to progress through, innovative programs responsive to student, employer, and societal needs, including consideration of regulations that are barriers to implementation of such programs, such as certain requirements for term-based academic calendars and satisfactory academic progress.

2. The topics that the TEACH Grants Subcommittee is likely to address include, but are not limited to: The

simplification and clarification of TEACH Grant program requirements to minimize the inadvertent grant-to-loan conversions and to provide opportunities to correct erroneous conversions (34 CFR part 686).

3. The topics that the Faith-Based Institutions Subcommittee is likely to address include, but are not limited to: Requirements for accrediting agencies to honor institutional mission and various provisions of the regulations regarding the eligibility of faith-based entities to participate in the title IV, HEA programs, including the Gaining Early Awareness and Readiness for Undergraduate Programs, and the eligibility of students to obtain certain benefits under those programs (34 CFR 600.11 and parts, 674, 675, 676, 682, 685, 690, 692, and 694).

These subcommittees will address the specified issues and make recommendations to the committee. Subcommittees are not authorized to make decisions for the committee. The subcommittees may be comprised of some Accreditation and Innovation Committee members (negotiators) as well as individuals who are not committee members, but who have expertise that will be helpful in developing proposed regulations. Therefore, in addition to asking for nominations for individual negotiators who represent key stakeholder constituencies for issues to be negotiated to serve on the committee (see *Constituencies for Negotiator Nominations*), we are asking for nominations for individuals with specific types of expertise to serve on one of the three subcommittees (see *Areas of Expertise for the Distance Learning and Educational Innovation Subcommittee*, *Areas of Expertise for the Faith-Based Entities Subcommittee*, and *Areas of Expertise for the TEACH Grants Subcommittee*). The subcommittees' meetings will be held between committee meetings (see *Schedule for Negotiations and Subcommittee Meeting*). Before the conclusion of the negotiations, each subcommittee will present any recommendations for regulatory changes to the Accreditation and Innovation Committee for its consideration. Only the committee has power to reach consensus on regulations.

Constituencies for Negotiator Nominations

We have identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators

individuals for organizations or groups representing these constituencies.

Accreditation and Innovation Committee

- Students.
- Legal assistance organizations that represent students.

- Financial aid administrators at postsecondary institutions.
- National Accreditation Agencies.
- Regional Accreditation Agencies.
- Programmatic Accreditation Agencies.

- Institutions of higher education primarily offering distance education.
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.

- Two-year public institutions of higher education.

- Four-year public institutions of higher education.

- Faith-based institutions of higher education.

- Private, nonprofit institutions of higher education.

- Private, proprietary institutions of higher education.

- Employers.
- Veterans.

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of a negotiating committee, including the committee member representing the Department. However, the Department seeks consensus independently on the predetermined sets of topics addressed by each subcommittee and the committee. Although only the committee, not the subcommittees, can vote on consensus, the issues will be divided into groups by the Department and the committee will have an opportunity to vote on each.

An individual selected as a negotiator is expected to represent the interests of his or her organization or group and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited

from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by a member of such an organization or group.

Areas of Expertise for the Distance Learning and Educational Innovation Subcommittee

The Department plans to select individuals from organizations or groups with expertise in direct assessment programs, distance education, and competency-based education. The subcommittee will focus on the ability of institutions to develop, and students to progress through, innovative programs responsive to student, employer, and societal needs. This subcommittee could consider revisions to regulations that are barriers to implementation of such programs, including certain requirements for term-based academic calendars and satisfactory academic progress. Nominations must include evidence of the nominee's specific knowledge in these areas, citing specific topics outlined in the *Committee Topics* section. Such individuals from organizations or groups may include but are not limited to, representatives of:

- Students.
- Legal assistance organizations that represent students.
- Private, nonprofit institutions of higher education, with knowledge of direct assessment programs and competency-based education.
- Private, for-profit institutions of higher education, with knowledge of direct assessment programs and competency-based education.
- Public institutions of higher education, with knowledge of direct assessment programs and competency-based education.
- Accrediting agencies.
- Associations or organizations that provide guidance to or represent institutions with direct assessment programs and competency-based education.
- Financial aid administrators at postsecondary institutions.
- Academic executive officers at postsecondary institutions.
- Non-profit organizations supporting inter-State agreements related to State authorization of distance or correspondence education programs.
- State higher education executives.

Areas of Expertise for the Faith-Based Entities Subcommittee

The Department plans to select individuals from organizations or

groups with expertise in the eligibility of faith-based entities to participate in the title IV, HEA programs. These would include, but are not limited to, individuals with knowledge of the Federal Work Study programs, the title IV, HEA discretionary grant programs, accreditation, and other areas of the Department's postsecondary education regulations that contain specific provisions concerning faith-based entities. Nominations must include evidence of the nominee's specific knowledge in these areas. Such individuals from organizations or groups may include but are not limited to, representatives of:

- Students.
- Faith-based entities eligible for title IV, HEA programs.
- Officers of institution-based Gaining Early Awareness and Readiness for Undergraduate Program grantees.
- Institutions of higher education with knowledge of faith-based entities' participation in the title IV, HEA programs.
- Institutions of higher education with knowledge of faith-based entities' participation in the title IV, HEA programs and that are eligible to receive Federal assistance under title III, Parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Accrediting agencies.
- Associations or organizations that focus on issues related to faith-based entities or the participation of faith-based entities in Federal programs.
- Financial aid administrators at postsecondary institutions.

Areas of Expertise for the TEACH Grants Subcommittee

The Department plans to select individuals from organizations or groups with expertise in teacher education programs, student financial aid, and high-need teacher education programs. Nominations must include evidence of the nominee's specific knowledge in these areas. Such individuals from organizations or groups may include but are not limited to, representatives of:

- Students who are or have been TEACH Grant recipients.
- Legal assistance organizations that represent students.

• Financial aid administrators at postsecondary institutions.

- State primary and secondary education executive officers.
- Institutions of higher education that award or have awarded TEACH grants and that are eligible to receive Federal assistance under title III, Parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year institutions of higher education that award or have awarded TEACH grants.
- Four-year institutions of higher education that award or have awarded TEACH grants.
- Organizations or associations that represent the interests of students who participate in title IV programs.
- Organizations or associations that represent financial aid administrators.

Nominations

Nominations should include:

- The committee or subcommittee for which the nominee is nominated.
- The name of the nominee, the organization or group the nominee represents, and a description of the interest that the nominee represents.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- The nominee's commitment that he or she will actively and respectfully participate in good faith in the development of the proposed regulations with the goal of reaching consensus and without disparaging other committee members, their organizations, or their motives.
- The nominee's contact information, including address, telephone number, and email address.

For a better understanding of the negotiated rulemaking process, prior to committing to participate, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at <https://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html>.

Nominees will be notified whether or not they have been selected as soon as the Department's review process is completed.

Schedule for Negotiations and Subcommittee Meetings

The Accreditation and Innovation Committee will meet for three sessions on the following dates:

Session 1: January 14–16, 2019

Session 2: February 19–22, 2019

Session 3: March 25–28, 2019

Sessions will run from 9:00 a.m. to 5:00 p.m.

The January committee meetings will be held at a location in the Washington, DC area to be determined.

The February committee meetings will be held at a location in the Washington, DC area to be determined.

The March committee meetings will be held at a location in the Washington, DC area to be determined.

The committee meetings are open to the public.

The Distance Learning and Educational Innovation Subcommittee will meet on the following dates:

Meeting 1: January 17–18, 2019

Meeting 2: February 12–13, 2019

Meeting 3: March 11–12, 2019

Meetings will run from 9:00 a.m. to 5:00 p.m.

The January subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The February subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The March subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The subcommittee meetings will be made available through a Department-provided livestream.

The Faith-Based Entities Subcommittee will meet on the following dates:

Meeting 1: January 17–18, 2019

Meeting 2: February 12–13, 2019

Meeting 3: March 11–12, 2019

Meetings will run from 9:00 a.m. to 5:00 p.m.

The January subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The February subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The March subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The subcommittee meetings will be made available through a Department-provided livestream.

The TEACH Grants Subcommittee will meet on the following dates:

Meeting 1: January 17–18, 2019

Meeting 2: February 12–13, 2019

Meeting 3: March 11–12, 2019

Meetings will run from 9:00 a.m. to 5:00 p.m.

The January subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The February subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The March subcommittee meetings will be held at a location in the Washington, DC area to be determined.

The subcommittee meetings will be made available through a Department-provided livestream.

The Department will publish a separate notice in the **Federal Register** announcing the locations of each meeting.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) by contacting Aaron Washington, U.S. Department of Education, 400 Maryland Ave. SW, Room 294–12, Washington, DC 20202. Telephone (202) 453–7241. Email: Aaron.Washington@ed.gov.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Documents Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Dated: October 11, 2018.

Michael Brickman,

Senior Advisor to the Under Secretary, Delegated the Duties and Responsibilities of the Principal Deputy Under Secretary, Delegated to Perform the Duties of Under Secretary.

[FR Doc. 2018–22506 Filed 10–11–18; 4:15 pm]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2017–0366; FRL–9984–72]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; reopening of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of August 1, 2018 (FRL–9981–16) for significant new use rules (SNURs) for 145 chemical substances. This document reopens the comment period for the proposed rule until November 14, 2018. EPA is reopening the comment period because it received a request to extend the comment period but the request was received too late to publish an extension of the comment period before the comment period expired.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0366 must be received on or before November 14, 2018.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 1, 2018 (83 FR 37455) (FRL–9981–16).

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: moss.kenneth@epa.gov.

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** document of August 1, 2018. In that document, EPA proposed SNURs for 145 chemical substances. EPA received a request to extend the comment period for 30 days but the request was received too late to publish an extension of the comment period before the comment period expired. EPA is hereby reopening the comment period for 30 days.

Note that in the August 1, 2018 issue of the **Federal Register** including the

proposed SNURs for 145 chemical substances, the Agency also issued direct final SNURs for these chemical substances (83 FR 37702) (FRL-9970-23); that action was withdrawn on September 26, 2018 (83 FR 48546) (FRL-9983-72) before it became effective because of the receipt of negative comments. EPA will address all adverse public comments in a subsequent final rule based on the proposed rule.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 1, 2018. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 5, 2018.

Tala R. Henry,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2018-22399 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2017-0414; FRL-9984-69]

RIN 2070-AB27

Significant New Use Rules on Certain Chemical Substances; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of August 17, 2018 for significant new use rules (SNURs) for 27 chemical substances. EPA is reopening the comment period because it received a request to extend the comment period but the request was received too late to publish an extension of the comment period before the comment period expired.

DATES: This document reopens the comment period for the proposed rule until October 30, 2018. Comments,

identified by docket identification (ID) number EPA-HQ-OPPT-2017-0414 must be received on or before October 30, 2018.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 17, 2018 (83 FR 41039) (FRL-9981-82).

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: moss.kenneth@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** document of August 17, 2018 (83 FR 41039) (FRL-9981-82). That document proposed SNURs for 27 chemical substances. EPA received a request to extend the comment period for 15 days but the request was received too late to publish an extension of the comment period before the comment period expired. EPA is hereby reopening the comment period for 15 days.

Note that in the August 17, 2018 issue of the **Federal Register** including the proposed SNURs for 27 chemical substances, the Agency also issued direct final SNURs for these chemical substances (83 FR 40986) (FRL-9971-37). As of the date of signature of this action to reopen the comment period on the proposed rule, that direct final rule was in the process of being withdrawn because of the receipt of negative comments. EPA will address all adverse public comments in a subsequent final rule based on the proposed rule.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 17, 2018 (83 FR 41039) (FRL-9981-82). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 5, 2018.

Tala R. Henry,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2018-22400 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 05-311; FCC 18-131]

Implementation of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on two cable franchising issues raised by the remand from the U.S. Court of Appeals for the Sixth Circuit in *Montgomery County, Md. et al. v. FCC*. The Commission tentatively concludes that, with limited exceptions, “cable-related, in-kind contributions” required by a franchising agreement should be treated as “franchise fees” subject to the statutory five percent cap on franchise fees set forth in Communications Act. It also tentatively concludes that the mixed-use network ruling should be applied to incumbent cable operators to prohibit LFAs from using their video franchising authority to regulate the provision of most non-cable services, including telecommunications services and information services such as broadband internet access service, offered over a cable system by an incumbent cable operator. These tentative conclusions are intended to promote competition by fostering parity between incumbents and new entrants and helping to ensure that local franchising requirements do not discourage cable operators from investing in new facilities and services.

DATES: Comments for this proceeding are due on or before November 14, 2018; reply comments are due on or before December 14, 2018.

ADDRESSES: You may submit comments, identified by MB Docket No. 05-311, by any of the following methods:

■ *Federal Communications Commission's Website:* <http://>

www.fcc.gov/cgb/ecfs/. Follow the instructions for submitting comments.

- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Kathy Berthot, Kathy.Berthot@fcc.gov, of the Media Bureau, Policy Division, (202) 418-7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking*, FCC 18-131, adopted on September 24, 2018 and released on September 25, 2018. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, CY-A257, Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

This *Second Further Notice of Proposed Rulemaking* does not contain any proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

Synopsis

I. Introduction

1. In this *Second Further Notice of Proposed Rulemaking (Second FNPRM)*, we address two issues raised by the remand from the United States Court of Appeals for the Sixth Circuit in *Montgomery County, Md. et al. v. FCC*, which addressed challenges to rules and guidance adopted by the Commission governing how local franchising authorities (LFAs) may regulate incumbent cable operators and cable television services. Specifically, we tentatively conclude that we should treat cable-related, "in-kind" contributions required by a franchising agreement as "franchise fees" subject to the statutory five percent cap on franchise fees set forth in section 622 of the Communications Act of 1934, as amended (the Act), with limited exceptions. We also tentatively conclude that we should apply our prior mixed-use network ruling to incumbent cable operators, thus prohibiting LFAs from using their video franchising authority to regulate the provision of most non-cable services, such as broadband internet access service, offered over a cable system by an incumbent cable operator. We seek comment on these tentative conclusions, which we believe faithfully interpret relevant statutory provisions and will promote competition by fostering parity between incumbents and new entrants and helping to ensure that local franchising requirements do not discourage cable operators from investing in new facilities and services. We also seek comment on whether the proposals and tentative conclusions discussed in this *Second FNPRM*, as well as prior Commission decisions in this proceeding addressing LFA regulation of cable operators, should be applied to state-level franchising actions and state regulations that impose requirements on local franchising.

II. Background

2. Any entity seeking to offer "cable service" as a "cable operator" must comply with the cable franchising provisions of Title VI of the Communications Act. Section 621(b)(1) of the Act prohibits a cable operator from providing cable service without first obtaining a cable franchise. Section 621(a)(1) circumscribes the power of LFAs to award or deny such franchises. As originally enacted by Congress as part of the 1984 Cable Act, section 621(a)(1) simply stated that "[a] franchising authority may award, in accordance with the provisions of this title, 1 or more franchises within its

jurisdiction." In a 1990 Report to Congress, however, the Commission concluded that in order "[t]o encourage more robust competition in the local video marketplace, the Congress should . . . forbid local franchising authorities from unreasonably denying a franchise to potential competitors who are ready and able to provide service." In response to this Report, Congress revised section 621(a)(1) in 1992 to provide that "[a] franchising authority may award, in accordance with the provisions of this title, 1 or more franchises within its jurisdiction; except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise."

3. In 2007, finding that the existing operation of the local franchising process constituted an unreasonable barrier to new entrants in the marketplace for cable services and to their deployment of broadband, the Commission issued the *First Report and Order*, which adopted new rules and guidance to implement section 621(a)(1). The Commission concluded that section 621(a)(1) prohibits not only the ultimate unreasonable denial of a competitive franchise application, but also the establishment by LFAs of procedures and other requirements that have the effect of unreasonably interfering with the ability of a would-be competitor to obtain a competitive franchise. To eliminate unreasonable barriers to entry into the marketplace for cable services and to encourage investment by new video entrants in broadband facilities, the Commission adopted rules and guidance construing the meaning of "unreasonable" for purposes of section 621(a)(1), including rules and guidance governing the treatment of certain costs and fees charged to new entrants into the marketplace for cable services and the regulation of new entrants' "mixed-use" networks (*i.e.*, facilities used to provide both cable services and non-cable services).

4. With respect to costs and fees, the Commission determined that unless certain specified costs, fees, and other compensation required by LFAs are counted toward the statutory five percent cap on franchise fees, an LFA's demand for such fees could result in an unreasonable refusal to award a competitive franchise to a new entrant. Under section 622(b) of the Act, the amount of franchise fees that an LFA may collect from a cable operator for any twelve-month period is limited to five percent of the cable operator's gross revenues derived in such period from the operation of the cable system to

provide cable services. Section 622(g)(2) sets forth certain exclusions from the term “franchise fee.” In particular, section 622(g)(2)(D) excludes “requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages.” Such “incidental” requirements or charges may be assessed by an LFA without counting toward the five percent cap. The Commission concluded that, with respect to franchise agreements for new entrants, non-incidental franchise-related costs required by LFAs must count toward the five percent franchise fee cap and provided guidance as to what constitutes such non-incidental franchise-related costs. The Commission found that non-incidental costs include attorney fees and consultant fees, application or processing fees that exceed the reasonable cost of processing the application, acceptance fees, free or discounted services provided to an LFA, any requirement to lease or purchase equipment from an LFA at prices higher than market value, and in-kind payments.

5. The Commission further found that in the context of some franchise negotiations, LFAs have required from new entrants “in-kind” payments or contributions that are unrelated to the provision of cable services. The Commission clarified that any requests for in-kind contributions made by LFAs unrelated to the provision of cable services by a new competitive entrant are subject to the statutory five percent franchise fee cap.

6. Additionally, the Commission clarified that a cable operator may not be required to pay franchise fees on revenues from non-cable services. As noted above, section 622(b) provides that the “franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator’s gross revenues derived in such period from the operation of the cable system to provide cable services.” The Commission noted that it had determined in the *Cable Modem Declaratory Ruling* that an LFA may not assess franchise fees on non-cable services, such as cable modem service, stating that “revenue from cable modem service would not be included in the calculation of gross revenues from which the franchise fee ceiling is determined.” Although that decision related specifically to internet access service revenues, the Commission concluded that the same would be true for other “non-cable” service revenues.

7. Regarding mixed-use networks (*i.e.*, networks that provide broadband, voice services, and other non-cable services in addition to video programming services), the Commission clarified that LFAs’ jurisdiction applies only to the provision of video programming services over new entrants’ cable systems. To the extent that a new entrant provides non-cable services and/or operates facilities that do not qualify as a cable system, the Commission concluded that it is unreasonable for an LFA to refuse to award a franchise based on issues related to such services or facilities. The Commission further clarified that an LFA may not use its video franchising authority to attempt to regulate a new entrant’s entire network beyond the provision of cable services. The Commission found that “the provision of video services pursuant to a cable franchise does not provide a basis for customer service regulation by local law or franchise agreement of a cable operator’s entire network, or any services beyond cable services.” The Commission based its decision on the common carrier exception to the definition of “cable system” in section 602(7)(C) of the Act, which explicitly states that a common carrier facility subject to Title II is considered a cable system only “to the extent such facility is used in the transmission of video programming. . . .” The Commission preempted local regulations that attempt to regulate any non-cable services offered by new entrants, finding that such regulations are beyond the scope of LFAs’ authority and inconsistent with section 602(7)(C).

8. The rules adopted in the *First Report and Order* applied only to new entrants applying for cable franchises. Concurrently with its adoption of those rules, the Commission issued a *Further Notice of Proposed Rulemaking* seeking comment on whether to apply the findings in the *First Report and Order* to incumbent cable operators as they negotiate renewal of their existing franchise agreements, noting that many of these findings also appeared germane to existing franchisees.

9. In the *Second Report and Order*, the Commission extended a number of the rules adopted in the *First Report and Order* to incumbent cable operators. The Commission concluded that the findings in the *First Report and Order* interpreting section 622 should apply equally to incumbents and new entrants because Section 622 “does not distinguish between incumbent providers and new entrants.” Thus, the Commission found that in-kind contributions are not to be regarded as “incidental” and therefore must count

toward the five percent franchise fee cap for incumbent cable operators. The Commission further found that the clarification that a cable operator is not required to pay franchise fees on revenues from non-cable services applies to incumbent cable operators. The Commission also determined that its findings on mixed-use networks provided in the *First Report and Order* should apply equally to incumbents and new entrants, noting that these findings relied on its statutory interpretation of “cable system” in section 602(7)(C), which “does not distinguish between incumbent providers and new entrants.” The Commission thus clarified that LFAs’ jurisdiction over incumbent cable operators applies only to the provision of cable services over cable systems and that an LFA may not use its franchising authority to regulate non-cable services offered by incumbent cable operators.

10. The Sixth Circuit Court of Appeals subsequently issued a decision rejecting LFA challenges to the *First Report and Order*. With respect to franchise fees charged to new entrants, the court upheld the Commission’s listing of the non-incidental charges that fall within the purview of the statutory five percent franchise fee cap, which includes in-kind payments. The court found that the Commission’s interpretation of the phrase “incidental to” in section 622(g)(2)(D) of the Act was reasonable and therefore was entitled to deference under *Chevron*.

11. In 2015, the Commission issued an order responding to several LFA petitions for reconsideration of the *Second Report and Order*. LFAs challenged the inclusion of in-kind payments in calculating the franchise fee cap for incumbent cable operators, arguing that the Commission’s findings in the *Second Report and Order* give an overly expansive scope to section 622(g)(2)(D) and expanded the definition of in-kind payments set forth in the *First Report and Order*. The Commission disagreed, finding that the *Second Report and Order* merely extended the *First Report and Order*’s conclusions regarding application of the term “incidental” in section 622(g)(2)(D) to incumbent cable operators. The Commission also rejected LFAs’ arguments that the *First Report and Order* included in the franchise fee cap only in-kind payments that are unrelated to cable service, not in-kind payments that are related to cable service. The Commission observed that in a section entitled “Charges incidental to the awarding or enforcing of a franchise,” the *First Report and Order* identified “free or discounted services provided to an LFA” as one type of

“non-incident” cost that counted toward the franchise fee cap. The Commission explained that in that context, the *First Report and Order* was referring to free or discounted cable services. The Commission further found that consistent with the *First Report and Order*, the *Second Report and Order* noted that non-incident in-kind payments must count toward the five percent franchise fee cap for incumbent cable operators and did not expressly limit this requirement to in-kind payments that are unrelated to cable service.

12. The *Order on Reconsideration* also declined to modify the conclusions in the *Second Report and Order* regarding mixed-use networks. The Commission observed that the *Second Report and Order* extended the Commission’s findings on mixed-use networks to incumbent cable operators, clarifying that LFAs’ jurisdiction over incumbent cable operators is limited to the provision of cable services over cable systems and that LFAs may not use their franchising authority to regulate non-cable services provided by incumbent cable operators. The Commission rejected the LFAs’ argument that the legislative history of the 1984 Cable Act indicates that they have authority over cable systems in their provision of non-cable services, explaining that while the legislative history discusses what constitutes a cable service, it does not address whether localities may regulate non-cable services provided over cable systems.

13. In *Montgomery County*, the Sixth Circuit Court of Appeals addressed challenges by LFAs to the *Second Report and Order* and the *Order on Reconsideration*. The court rejected LFA arguments that non-cash exactions are not “franchise fees” as defined by section 622(g)(1), noting that section 622(g)(1) defines “franchise fee” to include “any tax, fee, or assessment of any kind” and that the terms “tax” and “assessment” can include nonmonetary exactions. The court found, however, that the fact that the term “franchise fee” can include in-kind contributions “does not mean that it necessarily does include every one of them.” The court concluded that the Commission failed to offer any explanation in the *Second Report and Order* or in the *Order on Reconsideration* as to why section 622(g)(1) allows it to treat cable-related, “in-kind” exactions as franchise fees. LFAs had claimed that the Commission’s interpretation would limit their ability to enforce statutory requirements for PEG channel capacity and for build-out obligations in low-income areas, and the court noted that

the Commission’s orders did not reflect any consideration of this LFA concern. The court also stated that the FCC failed to define what “in-kind” means. The court therefore vacated as arbitrary and capricious the *Second Report and Order* and the *Order on Reconsideration* to the extent that they treat cable-related, “in-kind” exactions as “franchise fees” under section 622(g)(1). The court directed the Commission to determine and explain on remand to what extent cable-related, in-kind contributions are “franchise fees” under the Act.

14. The court in *Montgomery County* also agreed with LFAs that neither the *Second Report and Order* nor the *Order on Reconsideration* offer a valid statutory basis for the application of the mixed-use ruling to bar LFAs from regulating the provision of non-telecommunications services by incumbent cable operators. (The court noted that the LFAs’ primary concern with the mixed-use ruling is that it would prevent them from regulating “institutional networks” or “I-Nets”—communication networks which are constructed or operated by the cable operator and which are generally available only to subscribers who are not residential customers—even though the Act makes clear that LFAs may regulate I-Nets. The court observed, however, that the Commission acknowledged that its mixed-use ruling was not meant to prevent LFAs from regulating I-Nets.) The court stated that the Commission’s decision in the *First Report and Order* to apply the mixed-use ruling to new entrants had been defensible because section 602(7)(C) of the Act expressly states that LFAs may regulate Title II carriers only to the extent that they provide cable services and the Commission found that new entrants generally are Title II carriers. The court observed that in extending the mixed-use ruling to incumbent cable operators in the *Second Report and Order*, the Commission merely relied on the *First Report and Order*’s interpretation of section 602(7)(C), noting that section 602(7)(C) “does not distinguish between incumbent providers and new entrants.” The court found, however, that this reasoning is not an affirmative basis for the Commission’s decision in the *Second Report and Order* to apply the mixed-use ruling to incumbent cable operators because section 602(7)(C) by its terms applies only to Title II carriers and “many incumbent cable operators are not Title II carriers.” The court further found that the *Order on Reconsideration* did not offer any statutory explanation for the Commission’s decision to extend

the mixed-use ruling to incumbent cable operators. Accordingly, the court concluded that the Commission’s extension of the mixed-use ruling to incumbent cable operators that are not common carriers was arbitrary and capricious. The court vacated the mixed-use ruling as applied to those incumbent cable operators and remanded for the Commission “to set forth a valid statutory basis, if there is one, for the rule as so applied.”

15. As we address the court’s remand in this proceeding, we view the proposals discussed below as part of the Commission’s larger, ongoing effort to reduce regulatory barriers to infrastructure investment. For example, the Commission’s open wireline and wireless infrastructure proceedings have advanced a number of regulatory reforms to spur wireline and wireless service deployment, and additional reforms remain under consideration for future Commission action. In the wireline proceeding, the Commission has already enacted numerous reforms to our rules and procedures regarding pole attachments, copper retirement, and discontinuances of legacy services that will better enable providers to invest in next-generation networks. In the wireless proceeding, to enable and to speed the deployment of advanced wireless services throughout the United States, we revised the rules and procedures for deployments subject to the National Historic Preservation Act and National Environmental Policy Act. We also made changes to the historic preservation review requirement for replacement utility poles, and have sought comment on a proposal that would make existing infrastructure available for additional wireless deployments on towers that previously have been unavailable. Similarly, with this item, we seek to faithfully interpret the statutory provisions at issue in a way that preserves incentives for all cable operators to deploy infrastructure that can be used to provide numerous services, including video, voice, and broadband internet access service, to consumers.

III. Discussion

A. Cable-Related, In-Kind Contributions

16. We tentatively conclude that we should treat cable-related, in-kind contributions required by LFAs from cable operators as a condition or requirement of a franchise agreement as “franchise fees” subject to the statutory five percent franchise fee cap set forth in section 622 of the Act, with limited exceptions as described below. We tentatively conclude that this

interpretation is most consistent with the statutory language and legislative history and seek comment on our analysis.

17. Section 622(b) directs that “the franchise fees paid by a cable operator” for any 12-month period “shall not exceed 5 percent of such cable operator’s gross revenues.” Section 622(g)(1) defines “franchise fee” broadly to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator . . . solely because of their status as such.” The court in *Montgomery County* acknowledged that the term “franchise fee” can include in-kind contributions, but stated that further explanation was necessary in order for the Commission to conclude that cable-related, in-kind contributions are covered within the definition. We note that the broad definition of “franchise fee” in the statute covers “any kind” of tax, fee, or assessment, without distinguishing between whether it is related or unrelated to the provision of cable service. The legislative history, in discussing the definition of “franchise fee,” likewise suggests no such distinction was intended by Congress. The court’s decision in *Montgomery County* did not disturb the Commission’s treatment of in-kind contributions unrelated to the provision of cable services as franchise fees subject to the statutory five percent cap. We see no basis in the statute or legislative history for distinguishing between in-kind contributions unrelated to the provision of cable services and cable-related, in-kind contributions for purposes of the five percent franchise fee cap. If in-kind contributions unrelated to the provision of cable services were not treated as franchise fees, LFAs could easily evade the five percent cap by requiring any manner of in-kind contributions, rather than a monetary fee. Likewise, if cable-related, in-kind contributions are not counted as franchise fees, LFAs could circumvent the five percent cap by requiring, for example, unlimited free or discounted cable services and facilities for LFAs, in addition to a five percent franchise fee. We believe this result would be contrary to Congress’s intent as reflected in the broad definition of “franchise fee” in the statute. We seek comment on this analysis.

18. Section 622(g)(2) sets forth five exclusions from the term “franchise fee.” To begin with, section 622(g)(2)(A) excludes “any tax, fee, or assessment of general applicability.” The legislative history explains that a tax, fee, or assessment of general applicability includes “such payments as a general

sales tax, an entertainment tax imposed on other entertainment businesses as well as the cable operator, and utility taxes or utility user taxes.” By definition, a tax, fee, or assessment of general applicability does not cover cable-related, in-kind contributions. Thus, we tentatively conclude the exclusion set forth in subsection (A) is not applicable here. Additionally, section 622(g)(2)(E) excludes fees imposed under the Copyright Act under title 17, United States Code, and thus does not appear to apply to cable-related, in-kind contributions. Furthermore, section 622(g)(2)(D) excludes “requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages.” Although the statute does not define the term “incidental,” based on the interpretive canon of *noscitur a sociis*, the exemplary list delineated within the text of the provision—*i.e.*, “bonds,” “security funds,” “letters of credit,” “insurance,” “indemnification,” “penalties,” and “liquidated damages”—suggests that the term refers to costs or requirements related to assuring that a cable operator is financially and legally qualified to operate a cable system, not to cable-related, in-kind contributions. The legislative history similarly explains that a “franchise fee is defined so as not to include any bonds, security funds, or other incidental requirements for costs necessary to the enforcement of the franchise.” The court in *Alliance* upheld the Commission’s determination that under section 622(g)(2)(D), the term “incidental” is “limited to the list of incidentals in the statutory provision, as well as other minor expenses.” The Commission has determined that non-incidentals costs required by LFAs must count toward the five percent franchise fee cap. The *First Report and Order* listed various examples of non-incidentals costs, including in-kind payments unrelated to provision of cable service. For the reasons stated above, we tentatively conclude that cable-related, in-kind contributions, such as free or discounted cable services demanded by an LFA, likewise do not qualify as “incidental” charges under the exclusion in subsection (D). We seek comment on this analysis.

19. Additionally, section 622(g)(2)(B) contains an exclusion for PEG support payments, but only with respect to franchises granted prior to 1984. To the extent that any such franchises are still in effect, we tentatively conclude that

under section 622(g)(2)(B), PEG support payments made pursuant to such franchises are cable-related, in-kind contributions excluded from the five percent franchise fee cap. We seek comment on this tentative conclusion. Finally, for any franchise granted after 1984, section 622(g)(2)(C) contains a narrow exclusion covering PEG “capital costs which are required by the franchise.” The legislative history explains that with “regard [] [to] PEG access in new franchises, payments for capital costs required by the franchise to be made by the cable operator are not defined as fees under this provision.” The court in *Alliance* affirmed the Commission’s interpretation of the exemption in section 622(g)(2)(C) as being limited to “those costs incurred in or associated with the construction of PEG access facilities.” Accordingly, under the statute, for purposes of franchises granted after 1984, we tentatively conclude that PEG capital costs required by the franchise are in-kind, cable-related contributions excluded from the five percent cap. We seek comment on the above analysis. We also understand that costs for studio equipment are treated as capital costs for purposes of section 622(g)(2)(C) by both cable operators and LFAs given that most PEG facilities are already constructed. We seek comment on this practice.

20. We tentatively conclude that treating cable-related, in-kind contributions as “franchise fees” would not undermine provisions in the Act that authorize or require LFAs to impose cable-related obligations on franchisees. We note, in this regard, that the Act authorizes LFAs to require that channel capacity be designated for PEG use and that channel capacity on I-Nets be designated for educational and governmental use. The fact that the Act authorizes LFAs to impose such obligations does not, however, mean that the value of these obligations should be excluded from the five percent cap on franchise fees. Indeed, the statute suggests otherwise. Section 622(g)(2) carves out only limited exclusions for PEG-related costs—*i.e.*, PEG support payments required by any franchise granted prior to 1984 and PEG capital costs required by any franchise granted after 1984. Section 622(g)(2) makes no mention of an I-Net-related exclusion, nor does it contain a general exclusion for all PEG related costs. Since Congress enacted the PEG and I-Net provisions at the same time it added the franchise fee provisions, it could have explicitly excluded those costs in addressing the scope of the PEG-related

costs in that subsection if it had intended they not count toward the cap. Based on this, we tentatively find that treating all cable-related, in-kind contributions as “franchise fees,” unless expressly excluded by the statute, would best effectuate the statutory purpose. To the extent that an LFA wishes to impose such obligations, the LFA can count the value of the services or facilities towards the cable operator’s franchise fee payment, if the services or facilities are not exempt from the franchise fee cap in section 622(g)(2). In our view, an LFA should not be permitted to make an end run around the statutory cap by requiring a cable operator to pay franchise fees equal to five percent of its gross revenues for cable services and also assume the costs of cable-related, in-kind contributions. We seek comment on this view.

21. LFAs have previously suggested that our proposed interpretation would treat as franchise fees all costs related to franchise requirements, even those allowed under the Cable Act. We disagree. For example, the Act directs LFAs “to assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides,” a mandate which may cause LFAs to impose build-out obligations on cable operators. Although these obligations are not free for cable operators, we do not propose to interpret build-out obligations as contributions to the LFA. Because build-out obligations (unlike I-Net facilities) involve the construction of facilities that are not specifically for the use or benefit of the LFA or any other entity designated by the LFA, but rather are part of the provision of cable service in the franchise area and the facilities ultimately may result in profit to the cable operator, we do not think they should be considered contributions to an LFA. Under this approach, the cost that these obligations impose on cable operators would not count toward the five-percent franchise fee cap. We seek comment on this proposed interpretation. We also seek comment on whether there are other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated the LFA and therefore should not be considered contributions to an LFA.

22. Additionally, we tentatively conclude that this treatment of cable-related, in-kind contributions should be applied to both new entrants and incumbent cable operators. As discussed above, in adopting rules and guidance implementing section

621(a)(1), including rules governing the treatment of certain costs and fees charged by LFAs, the Commission found that the existing operation of the local franchising process constituted an unreasonable barrier to new entrants in the marketplace for cable services and to their deployment of broadband. Specifically, the Commission found that the local franchising process unreasonably delays new entrants from upgrading their networks to provide video services, which discourages investment in the fiber-based infrastructure necessary for the provision of broadband services by depriving new entrants of revenues needed to offset the costs of such deployment. We acknowledge that this distinguishes new entrants from incumbent cable operators, who have already deployed their infrastructure for both video and broadband. Nevertheless, we believe that applying the same treatment of cable-related, in-kind contributions to both new entrants and incumbent cable operators would ensure a more level playing field and that the Commission should not place its thumb on the scale to give a regulatory advantage to any competitor. Moreover, as the Commission has previously observed, Section 622 “does not distinguish between incumbent providers and new entrants.” We seek comment on this proposal.

23. We seek comment on the effect, if any, that our statutory interpretation would have on LFAs’ ability to impose cable-related, in-kind obligations on new entrants and incumbents consistent with the statutory provisions described above. To the extent that commenters assert that it would unreasonably hamper LFAs’ ability to impose such obligations, we request that they provide specific cost data or other information to support their position. Conversely, what effect, if any, would excluding cable-related, in-kind contributions from “franchise fees” (*i.e.*, allowing LFAs to seek unlimited cable-related, in-kind contributions on top of the five percent franchise fee permitted by section 622) have on new entrants and incumbents? Would such exclusion likely delay or deter infrastructure investment by new competitors? Would it affect incumbent cable operators’ ability to invest in new facilities and services, including improving broadband services? We also seek comment on the costs and benefits to consumers of our proposed treatment of cable-related, in-kind contributions.

24. We propose to define “cable-related, in-kind contributions” to include “any non-monetary contributions related to the provision of

cable services provided by cable operators as a condition or requirement of a local franchise agreement, including but not limited to free or discounted cable services and the use of cable facilities or equipment. It does not include the cost of build-out requirements.” Under this proposed definition, cable-related, in-kind contributions would not have to be provided directly to the LFA to be subject to the statutory five percent cap; rather, any cable-related, in-kind contributions provided to the LFA or any other entity designated by the LFA as a condition or requirement of a franchise agreement would be subject to the cap, if not expressly exempt under section 622(g)(2). We seek comment on this proposed definition. We request commenters to provide examples of the types of cable-related, “in-kind” contributions that have been or are being required by LFAs. We further propose that cable-related, in-kind contributions be valued for purposes of the franchise fee cap at their fair market value. We seek comment on this proposal, and how such a market valuation should be performed. Alternatively, we seek comment on whether cable-related, in-kind contributions should be valued at the cost to the cable operator.

B. Mixed-Use Networks

25. We tentatively conclude that the mixed-use network ruling should be applied to incumbent cable operators to the extent that they offer or begin offering non-cable services. Thus, we propose to prohibit LFAs from using their video franchising authority to regulate most non-cable services offered over cable systems by incumbent cable operators. Non-cable services offered by incumbent cable operators include telecommunications services and non-telecommunications services. Telecommunications services offered by incumbent cable operators may include, for example, some business data services. Non-telecommunications services offered by incumbent cable operators may include information services, such as broadband internet access services, and private carrier services, such as certain types of business data services. Incumbent cable operators may also offer facilities-based interconnected Voice over internet Protocol (VoIP) service, which has not been classified by the Commission as either a telecommunications service or an information service but is clearly not a cable service. We seek comment on whether there are other services offered by incumbent cable operators that are

not listed above that are relevant to our analysis.

26. As an initial matter, we note that the court in *Montgomery County* vacated the mixed-use rule only as applied to incumbent cable operators that are not common carriers. The court, however, appears to have left undisturbed application of the mixed-use ruling to incumbent cable operators that are also common carriers. As explained above, some incumbent cable operators provide telecommunications services over their facilities. Under section 3(51) of the Act, a “provider of telecommunications services” is a “telecommunications carrier,” which the statute directs “shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services.” Thus, an incumbent cable operator, to the extent it offers telecommunications service, would be treated as a common carrier subject to Title II of the Act. Section 602(7)(C) of the Act, in turn, excludes from the term “cable system” “a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of this Act, except that such facility shall be considered a cable system . . . to the extent such facility is used in the transmission of [cable service].” Accordingly, to the extent that any incumbent cable operators offer any telecommunications services, we tentatively conclude that they are covered under the common carrier exception in section 602(7)(C), and thus can be regulated by LFAs only to the extent they provide cable service. Although we recognize that there are distinctions between the obstacles faced by new entrants and incumbent cable operators, we see no basis in the statute to treat differently incumbent cable operators that are common carriers and new entrants that are common carriers for purposes of application of the common carrier exception. We thus tentatively conclude that the mixed-use network ruling prohibits LFAs from regulating the provision of any services other than cable services offered over the cable systems of incumbent cable operators that are common carriers, or from regulating any facilities and equipment used in the provision of any services other than cable services offered over the cable systems of incumbent cable operators that are common carriers (with the exception of I-Nets, as noted above). We seek comment on this analysis and the tentative conclusions.

27. In addition, we seek comment on LFAs’ authority to regulate the provision of non-cable services by incumbent cable operators that are not

also common carriers. We also seek comment on LFAs’ authority to regulate a non-common carrier new entrant’s provision of information services. We request information on the extent to which incumbent cable operators are not also common carriers. Are the incumbent cable operators that are also common carriers mostly the largest incumbent cable operators? Regarding non-cable services provided by incumbent cable operators that are not common carriers, we tentatively conclude that section 624(b) of the Act prohibits LFAs from using their franchising authority to regulate the provision of information services, including broadband internet access service. Under section 624(b), LFAs “may not . . . establish requirements for video programming or other information services.” Section 624 does not define the term “information services,” but the “definitions” section of the legislative history distinguishes “information service” from “cable service.” The House Report states that “[a]ll services offered by a cable system that go beyond providing generally-available video programming or other programming are not cable services” and “a cable service may not include ‘active information services’ such as at-home shopping and banking that allow transactions between subscribers and cable operators or third parties.” We also find significant that the description of “information services” contained in the 1984 Cable Act’s legislative history—*i.e.*, “services providing subscribers with the capacity to engage in transactions or to store, transfer, forward, manipulate, or otherwise process information or data [which] would not be cable services”—corresponds closely to the 1996 Telecommunications Act’s definition of “information service” contained in section 3(24) of the Act—*i.e.*, “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications.” For all the reasons stated above, we believe that for purposes of section 624(b), interpreting “information services” to have the meaning set forth in section 3(24) of the Act would best reflect Congressional intent. We further note that the Commission recently reinstated the “information service” classification of broadband internet access service. We seek comment on this analysis.

28. Based on the above analysis, we tentatively conclude that the statute also bars LFAs from regulating the provision of broadband internet access and other

information services by incumbent cable operators that are not common carriers. Although section 624(b)(2)(B) allows franchising authorities to enforce requirements for “broad categories of video programming or other services,” when read in light of Section 624(b)(1) and the legislative history, we believe that Congress intended to bar LFAs from regulating information services. We further note that under section 624(b), “the franchising authority, to the extent related to the establishment or operation of a cable system . . . may establish requirements for facilities and equipment.” In light of our tentative finding that section 624(b)(1) bars LFAs from regulating information services, we do not believe this provision authorizes LFAs to regulate facilities or equipment to the extent they are used to provide such services, including broadband internet access service. We seek comment on this interpretation and our tentative conclusion. Would such an interpretation best effectuate the statutory purpose? We also seek comment on the extent to which LFAs currently attempt to regulate the provision of information services by incumbent cable operators or the facilities and equipment used in the provision of such services. Do LFAs require incumbent cable operators to obtain a separate franchise or pay franchise fees in connection with their provision of broadband internet access or other information services, and if so, what are the circumstances and rationale for such requirements? What other franchise requirements do LFAs impose on information services provided by incumbent cable operators? What effect, if any, do such franchise requirements have on the deployment of new information services, including broadband internet access service?

29. In any event, we believe that LFA regulation of such services would be inconsistent with longstanding federal policy. The Commission has previously concluded that broadband internet access service is “a jurisdictionally interstate service because ‘a substantial portion of internet traffic involves accessing interstate or foreign websites.’” Therefore, we tentatively conclude that LFAs may not regulate such interstate services and that doing so would frustrate the light-touch information service framework established by Congress that the Commission has previously found necessary to promote investment and innovation. In the *Restoring Internet Freedom Order*, the Commission concluded that “regulation of broadband internet access service

should be governed principally by a uniform set of federal regulations, rather than by a patchwork that includes separate state and local requirements.” The Commission found that allowing state and local governments to regulate broadband internet access service could disrupt the procompetitive, deregulatory goals of the federal regulatory regime and impair the provision of broadband internet access service by requiring each provider to comply with a patchwork of separate and potentially conflicting requirements across all of the different jurisdictions in which it operates. The Commission therefore preempted any state or local measures that would impose rules or requirements that it had repealed or decided to refrain from imposing in that order or that would impose more stringent requirements for any aspect of broadband service addressed in that order. Among other things, the Commission expressly preempted any “economic” or “public utility-type” regulations, including entry and exit restrictions. For similar reasons, we tentatively conclude that entry and exit restrictions include a requirement that an incumbent cable operator obtain a franchise to provide broadband internet access service and that LFAs therefore are expressly preempted from requiring incumbent cable operators to obtain franchises to provide broadband internet access service. We seek comment on this tentative conclusion. We also seek comment on whether there are other regulations imposed by LFAs on incumbent cable operators’ provision of broadband internet access service that should be considered entry and exit restrictions, or other types of economic or public utility-type regulations, preempted by the Commission.

30. Moreover, we tentatively conclude that it would be contrary to the goals of the Communications Act to permit LFAs to treat incumbent cable operators that are not also common carriers differently than incumbent cable operators and new entrants that are also common carriers in their provision of information services, including broadband internet access services. Incumbent cable operators and new entrants (whether they are common carriers or non-common carriers) often compete against each other in the same markets, and often provide nearly identical services to consumers. Thus, to regulate incumbent cable operators that are not also common carriers more strictly, by permitting LFAs to place franchise requirements on their non-cable services and assess fees on these services, could put these incumbents at a competitive

disadvantage that section 621 was intended to avoid. This competitive disadvantage could impact not only the incumbents’ provision of broadband internet access and other information services, but also their provision of cable services. Such a result could ultimately have a negative impact on consumers, thereby undermining the goal of the Telecommunications Act of 1996 Act to “promote competition” across communications providers and “to secure lower prices and higher quality services for American telecommunications consumers” by reducing regulation. We seek comment on this analysis. We believe these same concerns would apply to new entrants that are not common carriers and seek comment on this analysis with respect to such entities.

31. Finally, we seek comment on whether there are any other statutory provisions that relate to the authority of LFAs to regulate the provision of non-cable services offered over a cable system by an incumbent cable operator or the facilities and equipment used in the provision of such services. For example, NCTA cites several additional provisions in support of its assertion that the Commission should apply the mixed-use network ruling to incumbent cable operators: Section 621(a)(2) of the Act; Section 622 of the Act; Section 624(e) of the Act; Section 230(b) of the Act; and Section 253 of the Act. We seek comment on the extent to which these and any other relevant statutory provisions relate to the authority of LFAs to regulate the provision of non-cable services offered over a cable system by an incumbent cable operator.

C. State Franchising Regulations

32. We seek comment on whether to apply the proposals and tentative conclusions set forth herein, as well as the Commission’s decisions in the *First Report and Order* and *Second Report and Order*, as clarified in the *Order on Reconsideration*, to franchising actions taken at the state level and state regulations that impose requirements on local franchising. In the *First Report and Order*, the Commission adopted time limits for LFAs to render a final decision on a new entrant’s franchise application and established a remedy for applicants that do not receive a decision within the applicable time frame; concluded that it was unlawful for LFAs to refuse to grant a franchise to a new entrant on the basis of unreasonable build-out mandates; clarified which revenue-generating services should be included in a new entrant’s franchise fee revenue base and which franchise-related costs should

and should not be included within the statutory five percent franchise fee cap; concluded that LFAs may not make unreasonable demands of new entrants relating to PEG channels and I-Nets; adopted the mixed-use network ruling for new entrants; and preempted local franchising laws, regulations, and agreements to the extent they conflict with the rules adopted in that order. In the *Second Report and Order*, the Commission extended to incumbent cable operators the rulings in the *First Report and Order* relating to franchise fees and mixed-use networks and the PEG and I-Net rulings that were deemed applicable to incumbent cable operators, *i.e.*, the findings that the non-capital costs of PEG requirements must be offset from the cable operator’s franchise fee payments, that it is not necessary to adopt standard terms for PEG channels, and that it is not per se unreasonable for LFAs to require the payment of ongoing costs to support PEG, so long as such support costs as applicable are subject to the franchise fee cap. As explained above, the Commission limited its decisions in the *First Report and Order* and *Second Report and Order* to actions or inactions at the local level where a state has not specifically circumscribed the LFA’s authority, finding that many of the state franchising laws had been in effect for only a short period of time and that it did not have a sufficient record to apply these decisions to franchising decisions where a state is involved. The Commission, however, indicated that it would revisit this issue in the future if it received evidence that the findings in the *First Report and Order* and/or the *Second Report and Order* were of practical relevance to the franchising process at the state level. More than ten years has passed since the Commission first considered whether to apply its decisions interpreting section 621(a)(1) to state-level franchising actions and state regulations that impose requirements on local franchising. Accordingly, we invite comment on whether we should apply the proposals and tentative conclusions discussed above, as well as any or all aspects of the Commission’s decisions in the *First Report and Order* and *Second Report and Order*, to state level franchising actions and state regulations that impose requirements on local franchising. Is there any statutory basis to maintain the distinction between state-level franchising actions and local franchising actions? Do state level franchising actions or state regulations governing the local franchise process today impede competition or discourage investment in infrastructure that can be

used to provide services, including video, voice, and broadband internet access service, to consumers?

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Second Further Notice of Proposed Rulemaking (Second FNPRM)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *Second FNPRM*. The Commission will send a copy of the *Second FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Second FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

B. Need for, and Objectives of, the Proposed Rules

2. Section 621(a)(1) of the Communications Act of 1934, as amended, (Act) prohibits local franchising authorities (LFAs) from unreasonably refusing to award competitive franchises for the provision of cable television services. The Commission has adopted rules implementing section 621(a)(1), including rules governing the treatment of certain costs and fees charged to cable operators by LFAs and LFAs' regulation of cable operators' "mixed-use" networks (*i.e.*, facilities used to provide both cable services and non-cable services). In *Montgomery County, Md. et al. v. FCC*, the United States Court of Appeals for the Sixth Circuit addressed challenges to these rules. The court directed the Commission on remand to provide an explanation for its decision to treat cable-related, in-kind contributions charged to cable operators by LFAs as "franchise fees" subject to the statutory five percent cap on franchise fees set forth in section 622(g) of the Act. The court also directed the Commission to provide a statutory basis for its decision to extend its "mixed-use" ruling—which prohibits LFAs from regulating the provision of services other than cable services offered over cable systems used to provide both cable services and non-cable services—to incumbent cable operators that are not common carriers.

3. The *Second FNPRM* tentatively concludes that cable-related, in-kind contributions required by LFAs from cable operators as a condition or requirement of a franchise agreement should be treated as "franchise fees" subject to the statutory five percent franchise fee cap set forth in section 622 of the Act, with limited exceptions. For any franchise granted prior to 1984, section 622(g)(2)(B) contains an exclusion for PEG support payments. For any franchise granted after 1984, section 622(g)(2)(C) contains a narrow exclusion covering in-kind, cable related payments for "capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental [PEG] access facilities." Accordingly, the *Second FNPRM* tentatively concludes that PEG support payments required by franchises granted prior to 1984 and PEG capital costs required by franchises granted after 1984 are cable-related, in-kind contributions excluded from the five percent cap. The *Second FNPRM* also tentatively concludes that this treatment of cable-related, in-kind contributions should be applied to both new entrants and incumbent cable operators. The *Second FNPRM* tentatively concludes that doing so would ensure a more level playing field and that the FCC should not place its thumb on the scale to give a regulatory advantage to any competitor.

4. The *Second FNPRM* proposes to define "cable-related, in-kind contributions" to include "any non-monetary contributions related to the provision of cable services provided by cable operators as a condition or requirement of a local franchise agreement, such as free or discounted cable services, and the use of cable facilities or equipment. It does not include the cost of franchise obligations that do not directly benefit the LFA, including, but not limited to, build-out requirements." The *Second FNPRM* further proposes that cable-related, in-kind contributions be valued for purposes of the franchise fee cap at their fair market value.

5. Additionally, the *Second FNPRM* tentatively concludes that the mixed-use network ruling should be applied to incumbent cable operators to the extent that they offer or begin offering non-cable services, prohibiting LFAs from using their video franchising authority to regulate certain non-cable services offered over cable systems by incumbent cable operators. The *Second FNPRM* tentatively concludes that the mixed-use network ruling prohibits LFAs from regulating the provision of any services other than cable services offered over

the cable systems of incumbent cable operators that are common carriers. Further, the *Second FNPRM* tentatively concludes that LFAs may not use their franchising authority to regulate incumbent cable operators' provision of information services, including broadband internet access service. The *Second FNPRM* also tentatively concludes that consistent with the Commission's decision in the *Restoring internet Freedom Order*, which preempted any state or local measures that would impose rules or requirements that the Commission repealed or decided to refrain from imposing in that order or that would impose more stringent requirements for any aspect of broadband service addressed in that order, LFAs are expressly preempted from requiring incumbent cable operators to obtain franchises to provide broadband internet access service.

6. The *Second FNPRM* also seeks comment on whether to apply the proposals and tentative conclusions discussed in the instant proceeding, as well as the Commission's decisions in the *First Report and Order* and *Second Report and Order*, as clarified in the *Order on Reconsideration*, to franchising actions taken at the state level and state regulations imposing requirements on local franchising.

C. Legal Basis

7. The proposed action is authorized pursuant to sections 1, 4(i), 303, 602, 621, 622, and 624 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 522, 541, 542, and 544.

D. Description and Estimates of the Number of Small Entities to Which the Proposed Rules Will Apply

8. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

9. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

10. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

11. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of "small governmental jurisdictions."

12. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on

a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

13. *Cable Companies and Systems (Rate Regulation Standard).* The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 4,600 cable operators nationwide, all but 9 are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 4,600 systems nationwide, 3,900 have fewer than 15,000 subscribers, based on the same records. Thus, under this second size standard, the Commission believes that most cable systems are small.

14. *Cable System Operators.* The Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." There are approximately 52,403,705 cable subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on the available data, we find that all but nine independent cable operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are

affiliated with entities whose gross annual revenues exceed \$250 million, we note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under the definition in the Communications Act.

15. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The open video system framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is "Wired Telecommunications Carriers." The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data currently available from the U.S. Census for the year 2012. According to that source, there were 3,117 firms that in 2012 were Wired Telecommunications Carriers. Of these, 3,083 operated with less than 1,000 employees. Based on this data, the majority of these firms can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities. The Commission further notes that it has certified approximately 45 OVS operators to serve 116 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not

yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. The rules proposed in the *Second FNPRM* would not impose any additional reporting or recordkeeping requirements and any compliance requirements imposed by the proposed rules are expected to have only a de minimis effect on small governmental jurisdictions. LFAs would continue to perform their role of reviewing and making decisions on applications for cable franchises and any modifications to the local franchising process resulting from the proposed rules would further streamline that process. The proposed rules would streamline the local franchising process by providing guidance as to the appropriate treatment of cable-related, in-kind contributions demanded by LFAs for purposes of the statutory five percent franchise fee cap, what constitutes “cable-related, in-kind contributions,” and how such contributions are to be valued. In addition, the proposed rules would streamline the local franchising process by making clear that LFAs may not use their video franchising authority to regulate the provision of certain non-cable services offered over cable systems by incumbent cable operators.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

1. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

2. To the extent that the proposed rules are matters of statutory interpretation, we tentatively find that the proposed rules are statutorily mandated and therefore no meaningful

alternatives exist. Moreover, as noted above, the proposed rules are expected to have only a de minimis effect on small governmental jurisdictions. The proposed rules would streamline the local franchising process by providing additional guidance to LFAs.

3. In addition, the proposal to treat cable-related, in-kind contributions as “franchise fees” subject the statutory five percent franchise fee cap, with one limited exception, would benefit small cable operators by ensuring that LFAs do not circumvent the statutory five percent cap by demanding, for example, unlimited free or discounted services. This in turn would help to ensure that local franchising requirements do not deter small cable operators from investing in new services and facilities.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

4. None.

H. Initial Paperwork Reduction Act of 1995 Analysis

5. This document does not contain any proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

I. Ex Parte Rules

6. *Permit-But-Disclose*. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying

the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

J. Filing Procedures

7. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).

- **Electronic Filers:** Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW, TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050

Junction Drive, Annapolis Junction, MD 20701.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

8. *Availability of Documents.*

Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, CY-A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

9. *People with Disabilities.* To request materials in accessible formats for

people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

10. *Additional Information.* For additional information on this proceeding, contact Kathy Berthot, Kathy.Berthot@fcc.gov, of the Media Bureau, Policy Division, (202) 418-7454.

V. Ordering Clauses

11. Accordingly, *It is ordered* that, pursuant to the authority found in Sections 1, 4(i), 303, 602, 621, 622, and 624 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 522, 541, 542, and 544, this *Second*

Further Notice of Proposed Rulemaking is adopted.

12. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018-22356 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 83, No. 199

Monday, October 15, 2018

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

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Zoetis, LLC of Kalamazoo, Michigan, an exclusive license to U.S. Patent No. 9,528,094, "ATTENUATED AFRICAN SWINE FEVER VIRUS VACCINE BASED IN THE DELETION OF MGF GENES", issued on December 27, 2016 and U.S. Patent No. 9,808,520, "RATIONALLY DEVELOPED AFRICAN SWINE FEVER ATTENUATED VIRUS STRAIN PROTECTS AGAINST CHALLENGE WITH PARENTAL VIRUS GEORGIA 2007 ISOLATE", issued on November 7, 2017.

DATES: Comments must be received on or before November 14, 2018.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

FOR FURTHER INFORMATION CONTACT: Brian T. Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Zoetis, LLC of Kalamazoo, Michigan has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless,

within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2018-22283 Filed 10-12-18; 8:45 am]

BILLING CODE 3410-03-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Ohio Advisory Committee (Committee) will hold a meeting via teleconference on Monday November 5, 2018, from 12-1 p.m. EDT for the purpose of reviewing received testimony and gathering future testimony on education funding in the state.

DATES: The meeting will be held on Monday November 5, 2018, at 12 p.m. EDT.

Public Call Information: Dial: 866-575-6539, Conference ID: 6328919.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or 312-353-8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their

wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at callen@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Ohio Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Education Funding in Ohio
Public Comment
Adjournment

Dated: October 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018-22330 Filed 10-12-18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kansas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold a meeting on Tuesday October 30, 2018 from 12:00 p.m.–1:00 p.m. Central time. The Committee will discuss themes and findings from testimony heard as part of their current study on civil rights and school funding in Kansas, in preparation to issue a report to the Commission on the topic.

DATES: The meeting will take place on Tuesday October 30, 2018 from 12:00 p.m.–1:00 p.m. Central time.

Public Call Information: Dial: 1–877–260–1479, Conference ID: 6173345.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S. Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they

become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Kansas Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Introduction
Review of Testimony: Civil Rights and School Funding in Kansas
Public Comment
Adjournment

Dated: October 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–22328 Filed 10–12–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a meeting on Tuesday November 6, 2018 at 12 p.m. Central time. The Committee will discuss civil rights concerns in the state as they work to identify their next topic of study.

DATES: The meeting will take place on Tuesday November 6, 2018 at 12 p.m. Central.

Public Call Information: Dial: 1–877–260–1479, Conference ID: 8153626.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular

charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Nebraska Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Nebraska: Project topics
Future Plans and Actions
Public Comment
Adjournment

Dated: October 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–22329 Filed 10–12–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Technology and Standards (NIST).

Title: SURF (Summer Undergraduate Research Fellowship) Program Student Information Application.

OMB Control Number: 0693-0042.

Form Number(s): None.

Type of Request: Regular Submission (renewal with changes of currently approved information collection instrument).

Number of Respondents: 650.

Average Hours per Response: 30 minutes.

Burden Hours: 325.

Needs and Uses: The SURF Program provides an opportunity for the NIST laboratories to encourage outstanding undergraduate students to pursue careers in science and engineering. The program also provides research opportunities for students to work with internationally known NIST scientists, to expose them to cutting-edge research, and promote the pursuit of graduate degrees in science and engineering.

The purpose of this collection is to gather information requested on behalf of the NIST SURF Program for both Gaithersburg and Boulder campuses. The information is submitted by the university on behalf of the student applicants. The student information is utilized by laboratory program coordinators and technical evaluators to determine student eligibility, select students to appropriate research projects, which match their needs, interests, and academic preparation, and ultimately, make offers to participate in the program. The information includes: Student name, host institution, email address/contact information, permanent address, choice of SURF-specific location (Boulder and/or Gaithersburg), class standing, research preference for NIST laboratories/projects they wish to apply to (for Boulder, 6 project choices and for Gaithersburg, 2 laboratory choices), previous SURF participation/mentor identification, academic major/minor, current overall GPA, need for housing and gender (for housing purposes only), special skills (laboratory, computer programming etc.), availability dates, resume, personal statement of commitment and research interests, two letters of recommendation, academic transcripts, ability to verify U.S. citizenship or permanent legal residency, acknowledgement of housing request, background check, and requirements for REAL ID Act.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395-5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018-22346 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2062]

Approval of Expansion of Subzone 116A, Motiva Enterprises LLC, Jefferson and Hardin Counties, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for “. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Foreign-Trade Zone of Southeast Texas, Inc., grantee of Foreign-Trade Zone 116, has made application to the Board to expand Subzone 116A on behalf of Motiva Enterprises LLC to include an additional site in Port Arthur, Texas (FTZ Docket B-44-2018, docketed July 2, 2018);

Whereas, notice inviting public comment has been given in the **Federal Register** (83 FR 31724, July 9, 2018) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone

116A on behalf of Motiva Enterprises LLC, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: October 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance Alternate Chairman Foreign-Trade Zones Board.

[FR Doc. 2018-22369 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2063]

Reorganization of Foreign-Trade Zone 74; (Expansion of Service Area) Under Alternative Site Framework; Baltimore, Maryland

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for “. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Baltimore Development Corporation on behalf of the City of Baltimore, grantee of Foreign-Trade Zone 74, submitted an application to the Board (FTZ Docket B-21-2017, docketed April 5, 2017) for authority to expand the service area of the zone to include Howard and Queen Anne's Counties, Maryland, as described in the application, adjacent to the Baltimore Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (82 FR 17186-17187, April 10, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the

examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, Therefore, the Board hereby orders:

The application to reorganize FTZ 74 to expand the service area under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Dated: October 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2018-22368 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-160-2018]

Foreign-Trade Zone 114—Peoria, Illinois; Application for Subzone; Winpak Heat Seal Corporation; Pekin, Illinois

An application has been submitted to the Foreign-Trade Zones Board (the Board) by EDC, Inc., The Economic Development Council for the Peoria Area, grantee of FTZ 114, requesting subzone status for the facility of Winpak Heat Seal Corporation, located in Pekin, Illinois. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on October 9, 2018.

The proposed subzone (24.6 acres) is located at 1821 Riverway Drive, Pekin. The application states that a notification of proposed production activity will be submitted. Any such request will be published separately for public comment. The proposed subzone would be subject to the existing activation limit of FTZ 114.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 26, 2018. Rebuttal comments in response to material submitted

during the foregoing period may be submitted during the subsequent 15-day period to December 10, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230-0002, and in the "Reading Room" section of the Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Elizabeth Whiteman at Elizabeth.Whiteman@trade.gov or (202) 482-0473.

Dated: October 9, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018-22370 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-091]

Certain Steel Wheels 12 to 16.5 Inches in Diameter From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Emily Halle at (202) 482-0176, or Keith Haynes at (202) 482-5139, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2018, the Department of Commerce (Commerce) initiated the countervailing duty (CVD) investigation of certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China.¹ The preliminary determination is currently due no later than November 1, 2018.

Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue a preliminary

¹ See *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 45104 (September 5, 2018).

determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1)(A) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if the petitioner makes a timely request for a postponement. 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 reason for the request. Commerce will grant the request unless it finds compelling reasons to deny it.²

On September 25, 2018, Dexstar Wheel, a division of Americana Development, Inc. (the petitioner) submitted a timely request pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e) to postpone fully the preliminary determination. The petitioner stated that the purpose of its request was to provide Commerce with adequate time to solicit information from the respondents and to allow Commerce sufficient time to analyze respondents' questionnaire responses.³

For the reasons stated above, and because there are compelling reasons to deny the petitioner's request, Commerce, in accordance with section 703(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 65 days (*i.e.*, 130 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than January 7, 2019.⁴ Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination 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 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

² See 19 CFR 351.205(e).

³ See Letter from the petitioner, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from China (C-570-091) Petitioner's Request to Postpone the Deadline for the Preliminary Determination," dated September 25, 2018.

⁴ The actual deadline is January 5, 2019, which is a Saturday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

Dated: October 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–22365 Filed 10–12–18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–086, A–549–839]

Steel Propane Cylinders From the People’s Republic of China and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Applicable October 15, 2018.

FOR FURTHER INFORMATION CONTACT:

Jonathan Cornfield or Laura Griffith at (202) 482–3855, or (202) 482–6430, respectively (People’s Republic of China (China)) and Cindy Robinson or Stephanie Moore at (202) 482–3797, or (202) 482–3692, respectively (Thailand), 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 June 11, 2018, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of steel propane cylinders from China, Taiwan, and Thailand.¹ On June 20, 2018, Commerce terminated its antidumping duty investigation of imports of steel propane cylinders from Taiwan, following the petitioners’² withdrawal of the petition and request that the investigation be terminated.³ Because Commerce has terminated its investigation of steel propane cylinders from Taiwan, the U.S. International Trade Commission (ITC)’s investigation is also terminated.⁴ The preliminary

¹ See *Steel Propane Cylinders from the People’s Republic of China, Taiwan, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 28196 (June 18, 2018).

² The petitioners are Worthington Industries and Manchester Tank & Equipment Co.

³ See *Steel Propane Cylinders from Taiwan: Termination of Less-Than-Fair-Value Investigation*, 83 FR 29748 (June 26, 2018).

⁴ See ITC Investigation No. 731–TA–1418 (Preliminary). See also *Steel Propane Cylinders from Taiwan, Termination of Investigation*, 83 FR 31174 (July 3, 2018).

determinations for China and Thailand are currently due no later than October 29, 2018.

Postponement of Preliminary Determinations

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.⁵

On October 1, 2018, the petitioners submitted timely requests to postpone the preliminary determinations in these LTFV investigations.⁶ The petitioners stated that they requested postponement because Commerce is still gathering data and questionnaire responses from the foreign producers in these investigations, and additional time is necessary for interested parties to respond to additional requests from Commerce before Commerce makes its preliminary determinations.

For the reasons stated above and because there are no compelling reasons to deny the petitioners’ request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.*, 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than December 18, 2018. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary

⁵ See 19 CFR 351.205(e).

⁶ See letter from the petitioners, “Steel Propane Cylinders from the People’s Republic of China and Thailand—Petitioners’ Request to Extend the Preliminary Antidumping Duty Determination” dated October 1, 2018.

determinations, 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 9, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–22367 Filed 10–12–18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that circular welded carbon steel pipes and tubes (pipes and tubes) from Thailand are being, or are likely to be sold, at less than normal value during the period of review (POR), March 1, 2016, through February 28, 2017.

DATES: *Applicable:* October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Toni Page or Kathryn Wallace, 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) 482–1398 or (202) 482–6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2018, Commerce published the *Preliminary Results* of the 2016–2017 administrative review of the antidumping duty order on pipes and tubes from Thailand.¹ For a discussion of the events subsequent to the *Preliminary Results*, see the Issues and Decision Memorandum dated concurrently with and hereby adopted by this notice.²

¹ See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 15127 (April 9, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Circular Welded Carbon Steel Pipes and Tubes from Thailand: Decision

Scope of the Order

The products covered by this review are certain circular welded carbon steel pipes and tubes from Thailand. For a full description of the scope, see the Issues and Decision Memorandum.³

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum.⁴ A list of issues raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties, we have made certain changes to Pacific Pipe Public Company Limited's (Pacific Pipe); Saha Thai Steel Pipe (Public) Company, Ltd.'s (Saha Thai); and Thai Premium Pipe Co., Ltd.'s (Thai Premium) weighted-average dumping margins. For further discussion, see the Issues and Decision Memorandum.

Final Results of Review

We determine that, for the period March 1, 2016, through February 28, 2017, the following weighted-average dumping margins exist:

Producer or exporter	Weighted-average dumping margin (percent)
Pacific Pipe Company Limited	30.61
Saha Thai Steel Pipe (Public) Company, Ltd	28.00

Memorandum for the Final Results of Antidumping Duty Administrative Review; 2016–2017," dated concurrently with this notice (Issues and Decision Memorandum).

³ *Id.*
⁴ *Id.*

Producer or exporter	Weighted-average dumping margin (percent)
Thai Premium Pipe Company Ltd	30.98

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b)(1), Commerce determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, in accordance with the final results of this review. If a respondent's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), we will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of the final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously reviewed or investigated companies not listed above in the Final Results of Review, including those for which Commerce may determine had no shipments during the POR, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) if neither the exporter nor the producer is a firm

covered in this or a previously completed segment of this proceeding, then the cash deposit rate will be the "all-others" rate of 15.67 percent established in the less-than-fair-value investigation.⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the 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 this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: October 4, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

- I. Summary
- II. List of Comments
- III. Background
- IV. Scope of the Order
- V. Discussion of the Comments
 - Comment 1: Whether to Accept Certain New Factual Information Regarding Particular Market Situation (PMS) Allegation
 - Comment 2: Whether Commerce Improperly Made PMS Adjustments to the Respondents' Cost of Production.

⁵ See *Antidumping Duty Order; Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 51 FR 8341 (March 11, 1986).

Comment 3: PMS Adjustments to Pacific Pipe's and Saha Thai's Calculations
 Comment 4: Sales Date Parameters of Pacific Pipe's Home Market and U.S. Sales Programs
 Comment 5: Pacific Pipe's Fixed Overhead Costs
 Comment 6: Assignment of Surrogate Costs to Certain Pacific Pipe Home Market Sales
 Comment 7: Pacific Pipe's Home Market Discounts and Rebates
 Comment 8: Sales Date Parameters of Saha Thai's Home Market and U.S. Sales Programs
 Comment 9: Saha Thai's Duty Drawback Adjustment
 Comment 10: Differential Pricing Analysis of Saha Thai's U.S. Sales
 Comment 11: Sales Date Parameters of Thai Premium's Home Market Sales Program
 Comment 12: Assignment of Surrogate Costs to Certain Thai Premium Home Market Sales
 Comment 13: Revision of Variable Names in Thai Premium's Home Market Program

VI. Recommendation

[FR Doc. 2018-22237 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Findings Regarding Non-U.S. Commercial Availability of Satellite Imagery With Respect to Israel

ACTION: Notice.

SUMMARY: Consistent with the requirement that commercial remote sensing licensees operate their systems in a manner that protects national security concerns, foreign policy and international obligations, Section 1064, Public Law 104-201, (the 1997 Defense Authorization Act), referred to as the Kyl-Bingaman Amendment, requires that “[a] department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.” Pursuant to this law, the Department of Commerce will make findings as to the level of detail or precision of satellite imagery of Israel available from commercial sources. The Department has found that imagery over Israel is not readily and consistently available in sufficient quantities from non-U.S. sources at under the 2 m Ground Sample Distance (GSD) resolution limit currently set by the Department; therefore, the Department is not changing this resolution limit.

SUPPLEMENTARY INFORMATION: This Notice informs U.S. satellite operators collecting imagery over Israel or with plans to collect imagery over Israel that current restrictions regarding data collection/dissemination of imagery over Israel remain in place with the resolution limit at 2 m GSD. This Notice is consistent with the requirement that the Department of Commerce review non-U.S. commercial availability of imagery over Israel and any input from licensees or from the general public and publish findings of this review in the **Federal Register**.

To determine what imagery is “available from commercial sources,” the Department looks to what “level of imagery resolution [is] readily and consistently available in sufficient quantities from non-U.S. sources.” Licensing of Private Land Remote-Sensing Space Systems, 71 FR 24474, 24479 (Apr. 25, 2006). After a recent investigation and analysis, the Department determined that imagery over Israel is not readily and consistently available in sufficient quantities from non-U.S. sources at under 2 m GSD to consider sub-2 m imagery “commercially available.”

There are non-U.S. commercial sources that are capturing imagery at lower than the 2 m resolution limit, but very little of this imagery is available for sale. Further, the imagery is not easily accessible enough to be readily available. A customer must apply to acquire the imagery. Even if their application is granted and the customer is able to buy imagery at under 2 m, the license terms of the sale often restrict the customer from further disseminating the imagery. Therefore, the Department has determined that commercial imagery is not readily or consistently available from non-U.S. sources in sufficient quantities to be considered commercially available.

The Department of Commerce may re-evaluate this finding in the future as additional information is made available.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, Commercial Remote Sensing Regulatory Affairs Office, NOAA Satellite and Information Services, 1335 East-West Highway, Suite G-101, Silver Spring, Maryland 20910; telephone (301) 713-3385, email tahara.dawkins@noaa.gov.

Tahara Dawkins,
 Director, Commercial Remote Sensing Regulatory Affairs.

[FR Doc. 2018-22366 Filed 10-12-18; 8:45 am]

BILLING CODE 3510-HR-P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent to Grant Exclusive Patent License to Dilatant, LLC; Kansas City, MO

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army hereby gives notice of its intent to grant to Dilatant, LLC; a company having its principle place of business at 1111 West 46th Street #45, Kansas City, MO 64112, an exclusive license.

DATES: Written objections must be filed not later than 15 days following publication of this announcement.

ADDRESSES: Send written objections to U.S. Army Research Laboratory Technology Transfer and Outreach Office, RDRL-DPT/Annmarie Martin, Building 321 Room 113, 6375 Johnson Rd., Aberdeen Proving Ground, MD 21005-5425.

FOR FURTHER INFORMATION CONTACT: Annmarie Martin, (410) 278-9106, email: ORTA@arl.army.mil.

SUPPLEMENTARY INFORMATION: The Department of the Army plans to grant an exclusive license to Dilatant, LLC in the field of use related to head and body resistant systems incorporating rate-actuated tethers for use in automotive racing applications relative to the following—

- “Rate-Responsive, Stretchable Devices”, US Patent No. 9,303,717, Filing Date June 26, 2013, Issue Date April 5, 2016.
- “Rate-Responsive, Stretchable Devices (Further Improvements)”, US Patent No. 9,958,023, Filing Date March 1, 2016, Issue Date May 1, 2018.
- “Head Restraint System Having a Rate Sensitive Device”, US Patent Application No. 15/366,578, Filed December 1, 2016.

The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Research Laboratory receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). Competing applications completed and received by the U.S. Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the

extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018-22362 Filed 10-12-18; 8:45 am]

BILLING CODE 3710-08-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: Chief Management Officer, Department of Defense.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board will take place.

DATES: Open to the public Wednesday, November 7, 2018 from 1:30 p.m. to 3:00 p.m.

ADDRESSES: The address for the meeting is Room 3E928 in the Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roma Laster, (703) 695-7563 (Voice), (703) 614-4365 (Facsimile), roma.k.laster.civ@mail.mil (Email). Mailing address is Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301-1155. Website: <http://dbb.defense.gov/>. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.140 and 102-3.150.

For meeting information please contact Mr. Steve Cruddas, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301-1155, email: steven.m.cruddas.civ@mail.mil, telephone (703) 697-2168. A copy of the public agenda and other documentation may be obtained from the Board's website at <http://dbb.defense.gov/meetings>.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent advice which reflects an outside private sector perspective on proven and effective best

business practices that can be applied to the DoD. The Board will receive an update from its subcommittee on the 2019 NDAA-directed study on industry-government exchange.

Agenda: 1:30 p.m.-2:45 p.m.—Update on 2019 NDAA-directed study on Industry-Government Exchange 2:45 p.m.-3:00 p.m.—Public comments (if time permits) 3:00 p.m.—Public session adjourned.

Meeting Accessibility: Pursuant to FACA and 41 CFR 102-3.140, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Mr. Steve Cruddas at the email or telephone number listed in the **SUPPLEMENTARY INFORMATION** section no later 2:00 p.m. on Thursday, November 1, 2018 to register and make arrangements for a Pentagon escort, if necessary. Individuals requiring special accommodations to access the public meeting should contact Mr. Steve Cruddas at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Written comments should be received by the Designated Federal Officer (DFO) at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to mailbox address: osd.pentagon.odam.mbx.defense-business-board@mail.mil in either Adobe Acrobat or Microsoft Word format. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: October 9, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018-22297 Filed 10-12-18; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Military Family Readiness Council; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting; cancellation.

SUMMARY: On September 24, 2018, the Department of Defense (DoD) published a notice that announced the next meeting of the Department of Defense Military Family Readiness Council, which was to take place on Thursday, October 18, 2018 from 1:00 p.m. to 3:00 p.m. DoD is publishing this notice to announce that this federal advisory committee meeting has been cancelled and will be re-scheduled at a later date.

FOR FURTHER INFORMATION CONTACT: William Story, (571) 372-5345 (Voice), (571) 372-0884 (Facsimile), OSD Pentagon OUSD P-R Mailbox Family Readiness Council, osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil (Email). Mailing address is Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), Office of Family Readiness Policy, 4800 Mark Center Drive, Alexandria, VA 22350-2300, Room 3G15. Website: <https://www.militaryonesource.mil/web/mos/military-family-readiness-council>.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense (DoD) and the Designated Federal Officer, the Department of Defense Military Family Readiness Council was unable to provide public notification required by 41 CFR 102-3.150(a) concerning the cancellation of the October 18, 2018 meeting of the Department of Defense Military Family Readiness Council. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

On September 24, 2018 (83 FR 48296-48297), the DoD published a notice that announced an October 18, 2018 meeting of the Department of Defense Military Family Readiness Council. DoD is publishing this notice to announce that this federal advisory committee meeting has been cancelled and will be re-scheduled at a later date. The re-scheduled meeting will be announced in the **Federal Register**.

Dated: October 10, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018-22371 Filed 10-12-18; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF ENERGY**Energy Efficiency and Renewable Energy**

[Case Number 2018–001]

Energy Conservation Program: Notice of Application From Aero-Tech Light Bulb Co. for a Small Business Exemption From the Department of Energy's Rough Service Lamps Energy Conservation Standards**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.**ACTION:** Notice of application for a small business exemption and request for public comment.

SUMMARY: This notice announces the receipt of and publishes an application for a small business exemption submitted by Aero-Tech Light Bulb Co. (Aero-Tech) requesting an exemption from the U.S. Department of Energy (DOE) rough service lamp energy conservation standards. Specifically, the application requests a two-year exemption from compliance with the standards beginning on January 25, 2018, the compliance date for the standards. DOE is publishing the non-confidential portion of Aero-Tech's application and soliciting comments, data, and information concerning the application.

DATES: Written comments and information are requested and will be accepted on or before December 14, 2018.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, interested persons may submit comments, identified by Case Number "2018–001," by any of the following methods:

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

- *Email:* AeroTech2018PET0016@ee.doe.gov Include Case No. 2018–001 in the subject line of the message.

- *Postal Mail:* Dr. Stephanie Johnson, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Small Business Exemption Case No. 2018–001, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza

SW, 6th Floor, Washington, DC 20024. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at <https://www.regulations.gov>. All documents in the docket are listed in the <https://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at <http://www.regulations.gov/docket?D=EERE-2018-BT-PET-0016>. The docket web page contains simple instruction on how to access all documents, including public comments, in the docket. See section IV for information on how to submit comments through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: AeroTech2018PET0016@ee.doe.gov.

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 287–6122. Email: Celia.Sher@hq.doe.gov.

SUPPLEMENTARY INFORMATION:**I. Background and Authority**

The Energy Policy and Conservation Act of 1975 (EPCA),¹ Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes the U.S. Department of Energy (DOE) to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain

¹ All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

types of consumer products. These products include rough service lamps, the focus of this document (42 U.S.C. 6295(l)(4)(A)).

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Pursuant to 42 U.S.C. 6295(l)(4), DOE is required to collect unit sales data for calendar years 2010 through 2025, in consultation with the National Electrical Manufacturers Association (NEMA), for rough service, shatter-resistant, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and vibration service lamps. For each of these five lamp types, DOE, in consultation with NEMA, must also construct a model based on coincident economic indicators that closely match the historical annual growth rates of each lamp type to provide a neutral comparison benchmark estimate of future unit sales (42 U.S.C. 6295(l)(4)(B)). Section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (EISA 2007) in part amends paragraph 325(l) of EPCA by adding paragraphs (4)(D) through (H), which direct DOE to initiate an accelerated rulemaking to establish an energy conservation standard for these lamps if the actual annual unit sales of any of the lamp types in any year between 2010 and 2025 exceed the benchmark estimate of unit sales by at least 100 percent (*i.e.*, are greater than 200 percent of the anticipated sales) (42 U.S.C. 6295(l)(4)(D)–(H)). If the Secretary of Energy (Secretary) does not complete the accelerated rulemakings within one year from the end of the previous calendar year during which predicted sales were exceeded, there is a "backstop requirement" for each lamp type, which would establish, by statute, energy conservation standard levels and related requirements. *Id.*

DOE published a notice of data availability in April 2016, which indicated that the shipments of vibration service lamps were over 7 million units in 2015. 81 FR 20261, 20263 (April 7, 2016; April 2016 NODA). This equates to 272.5 percent of the benchmark estimate, which was 2,594,000 units. *Id.* Therefore, vibration service lamps exceeded the statutory

threshold for the first time, thus triggering an accelerated rulemaking to be completed no later than December 31, 2016. *Id.*

Furthermore, NEMA submitted revised data for rough service lamps following the publication of the April 2016 NODA. The revised data showed sales of 10,914,000 rough service lamps in 2015, which exceeded 100% of the benchmark estimate of 4,967,000 units for 2015. This resulted in a requirement for DOE to initiate an accelerated rulemaking for rough service lamps. In an October 2016 notice of proposed definition and data availability, DOE indicated it must conduct an energy conservation standards rulemaking for rough service lamps to be completed no later than the end of the 2016 calendar year. 81 FR 71794, 71800 (Oct. 18, 2016).

Since unit sales for vibration service lamps and rough service lamps exceeded 200 percent of the benchmark estimates in 2015, and DOE did not complete an energy conservation standards rulemaking for these lamps by the end of calendar year 2016, the backstop requirements were triggered.

For rough service lamps, the backstop requires the lamps to: (1) Have a shatter-proof coating or equivalent technology that complies with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp; (2) have a maximum 40-watt limitation; and (3) be sold at retail only in a package containing one lamp (42 U.S.C. 6295(l)(4)(D)(ii)). DOE codified this statutory backstop requirement at 10 CFR 430.32(bb), which became effective January 25, 2018. 82 FR 60845 (Dec. 26, 2017).

II. Aero-Tech Application for a Small Business Exemption

Aero-Tech submitted an application, pursuant to Subpart E of 10 CFR part 430, requesting a two-year small business exemption from the DOE rough service lamps energy conservation standards found in 10 CFR 430.32(bb). Aero-Tech is asking for an exemption from the standards on the basis of its status as a small business. According to Aero-tech, failure to receive a small business exemption would likely result in a lessening of competition in the market for lighting companies.

Under 42 U.S.C. 6295(t), DOE may grant a temporary exemption from an applicable energy conservation standard to a manufacturer if DOE finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed

\$8,000,000 for the 12-month period preceding the date of the application. In making this finding, DOE must account for the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer (42 U.S.C. 6295(t)(1)). The Secretary may not grant an exemption with respect to any type (or class) of covered product subject to an energy conservation standard unless the Secretary finds, after obtaining the written views of the Attorney General, that a failure to allow an exemption would likely result in a lessening of competition. (42 U.S.C. 6295(t)(2)) *See also*, subpart E of 10 CFR part 430.

III. Consultations With Other Agencies

The notice of Aero-Tech's application for exemption will be transmitted to the Attorney General by the Secretary along with: (a) A statement of the facts and of the reasons for the exemption, and (b) copies of all documents submitted. 10 CFR 430.54.

IV. Request for Comments

Through this notice, DOE announces receipt of Aero-Tech's application for a small business exemption from the rough service lamps energy conservation standards found in 10 CFR 430.32(bb), pursuant to Subpart E of 10 CFR part 430. DOE is publishing the non-confidential portion of Aero-Tech's application in this notice. DOE invites all interested parties to submit in writing by December 14, 2018, comments and information on all aspects of the application.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only

first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on October 9, 2018.

Kathleen B. Hogan,
Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

May 23, 2018
Ashley Armstrong
U.S. Department of Energy
Small Business Exemptions, Appliance Standards Program
Mailstop EE-5B
1000 Independence Avenue, SW
Washington, DC 20585

RE: Application for Small Business Exemption for Rough Service Bulbs
10 CFR430.32 (bb)
1) Applicant name is Aero-Tech Light Bulb Co., 534 Pratt Avenue, Schaumburg, IL 60193
2) We are applying for exemption of 10 CFR430.32 (bb)

3) Ray and Kathy Schlosser started Aero-Tech Light Bulb Co. in 1987 as a specialty 20,000 hour Rough Service Bulb Co. . After Osram Sylvania sold their Co to the Chinese in 2016, the Chinese did not wish to supply raw materials to my small factory in South Carolina; therefore I had to start importing Rough Service Light Bulbs from China. As of today my rough service light bulbs come from Everlite (H.K.) Ltd. In China, they are my Supplier.

4) Due to the ban on rough service light bulbs until January of 2020 that the Department of Energy was enforcing, I put together a business plan to implement my new LED bulb line with the time frame of getting my LED bulbs off and running by January of 2020 where it could replace the incandescent sales. Therefore we are asking for an exemption until January 25, 2020

because without it we won't be in business and we will have to close our doors. If we don't continue to sell it will reduce the competition and eliminate ourselves as a player as we are a competitor of a number of Lighting Companies.

5) Our 2016 and 2017 tax return is attached for your review

6) Failure to grant this exemption would mean that our sales would decrease further. We need our Incandescent line to continue to maintain our Revenues in addition to the LED line of products. Without these bulbs we will lose a good portion of our customer base. We would lose 70% of our business.

If you require any additional information, please feel free to contact me at the below email address or call me direct at 847-352-4900, press 0 to Page Ray. We urgently await your reply we are out of stock on a number of key items that we need to reorder.

Sincerely,
Ray M. Schlosser,
President.

[FR Doc. 2018-22373 Filed 10-12-18; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2332-111, 2601-056, 2603-049, and 2619-036]

Duke Energy Carolinas, LLC, Northbrook Carolina Hydro II, LLC; Notice of Application for Transfer of Licenses and Soliciting Comments and Motions To Intervene

On August 9, 2018, Duke Energy Carolinas, LLC (transferor) and Northbrook Carolina Hydro II, LLC filed an application for transfer of licenses for the following projects.

Project No.	Project names	Locations
P-2332-111	Gaston Shoals	Broad River, Cherokee County, SC and Cleveland County, NC.
P-2601-056	Bryson	Oconaluftee River, Swain County, NC.
P-2603-049	Franklin	Little Tennessee River, Macon County, NC.
P-2619-036	Mission	Hiwassee River, Clay and Cherokee counties, NC.

The transferor and transferee seek Commission approval to transfer the licenses for the above mentioned projects from the transferor to the transferee.

Applicant Contacts: For Transferor: Mr. Jeffrey G. Lineberger, PE, Director, Water Strategy & Hydro Licensing, Duke Energy Carolinas, LLC, 526 S. Church Street, Mail Code EC12Y, Charlotte, NC 28202, Phone: 704-382-5942, Email: jeff.lineberger@duke-energy.com.

For Transferee: Mr. Kyle Kroeger, Co-President, Northbrook Carolina Hydro

II, LLC, c/o North Sky Capital, 33 South 6th Street, Suite 4646, Minneapolis, MN 55402, Phone: 612-435-7150, kkroeger@northskycapital.com.

FERC Contact: Patricia W. Gillis, (202) 502-8735 or patricia.gillis@ferc.gov.

Deadline for filing comments and motions to intervene: 30 Days from the issuance date of this notice, by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/>

efiling.asp. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888

First Street NE, Washington, DC 20426. The first page of any filing should include docket number(s) P-2332-111, P-2601-056, P-2603-049, and P-2619-036.

Dated: October 9, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018-22385 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19-59-000]

Blue Cloud Wind Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Blue Cloud Wind Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 29, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018-22353 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18-156-000.

Applicants: American Transmission Systems, Incorporated.

Description: Supplement to September 14, 2018 Application for Authorization of Transaction under Section 203 of the Federal Power Act, et al. of American Transmission Systems, Incorporated.

Filed Date: 10/5/18.

Accession Number: 20181005-5222.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: EC19-5-000.

Applicants: Mid-Atlantic Interstate Transmission, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Mid-Atlantic Interstate Transmission, LLC.

Filed Date: 10/5/18.

Accession Number: 20181005-5234.

Comments Due: 5 p.m. ET 10/26/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19-3-000.

Applicants: R-WS Antelope Valley Gen-Tie, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of R-WS Antelope Valley Gen-Tie, LLC.

Filed Date: 10/9/18.

Accession Number: 20181009-5116.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: EG19-4-000.

Applicants: Phoebe Energy Project, LLC.

Description: Self-Certification of EWG Status of Phoebe Energy Project, LLC.

Filed Date: 10/9/18.

Accession Number: 20181009-5223.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: EG19-5-000.

Applicants: Terna Energy USA Holding Corporation.

Description: Self-Certification of EG or FC of Terna Energy USA Holding Corporation.

Filed Date: 10/9/18.

Accession Number: 20181009-5230.

Comments Due: 5 p.m. ET 10/30/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14-1348-005;

ER14-1349-005; ER10-3057-003;

ER10-1810-002; ER10-2950-012.

Applicants: The Dow Chemical Company, Union Carbide Corporation, Dow Pipeline Company, E. I. du Pont de Nemours and Company, Spruance Genco, LLC.

Description: Supplement to June 29, 2018 Triennial Market Power Analysis for the Central Region of The Dow Chemical Company, et al.

Filed Date: 10/4/18.

Accession Number: 20181004-5054.

Comments Due: 5 p.m. ET 10/25/18.

Docket Numbers: ER16-2522-002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3243 City of Piggott, AR Municipal Light, Water and Sewer to be effective 8/1/2016.

Filed Date: 10/9/18.

Accession Number: 20181009-5142.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER16-2523-002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3244 City of Malden ? Board of Public Works to be effective 8/1/2016.

Filed Date: 10/9/18.

Accession Number: 20181009-5165.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER18-86-002.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing re Discontinuing Netting Internal Bilateral Trans for Uplift to be effective 11/1/2018.

Filed Date: 10/9/18.

Accession Number: 20181009-5205.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER18-1970-001.

Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

Description: Compliance filing: 2018–10–09 SA 3080 Compliance OTP-East River Sub 1st Revised T–T (Blair) to be effective 9/17/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5207.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER18–2264–001.

Applicants: Macquarie Energy Trading LLC.

Description: Tariff Amendment: Supplement to Petition for Market-Based Rate Authorization to be effective 10/21/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5204.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER18–2325–001.

Applicants: Sunbury Generation LP.

Description: Tariff Amendment: Resubmission of Addendum to Market-Based Rate Notice of Change in Status to be effective 10/9/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5009.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER18–2448–002.

Applicants: Robindale Retail Power Services, LLC.

Description: Tariff Amendment: Request to Amend Filing to Withdraw and Administratively Reject Addendum to be effective 9/29/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5006.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER19–62–000.

Applicants: OneEnergy Baker Point Solar, LLC.

Description: Baseline eTariff Filing: Initial Rate Schedule to be effective 12/1/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5201.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: ER19–64–000.

Applicants: ISO New England Inc., Emera Maine.

Description: § 205(d) Rate Filing: Changes to ISO New England OATT Schedule 21–EM to be effective 12/9/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5144.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER19–65–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA SA No. 4451; Queue No. AA1–063A to be effective 4/5/2016.

Filed Date: 10/9/18.

Accession Number: 20181009–5206.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER19–66–000.

Applicants: Conemaugh Power Pass-Through Holders LLC.

Description: Baseline eTariff Filing: Market-Based Rate Tariff Application to be effective 10/9/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5211.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER19–67–000.

Applicants: NRG REMA LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedule Filing and Request for Waiver & Expedited Action to be effective 12/31/9998.

Filed Date: 10/9/18.

Accession Number: 20181009–5217.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER19–68–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–10–09 SA 3169 Crittenden Wind—EAI GIA (J662) to be effective 9/24/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5218.

Comments Due: 5 p.m. ET 10/30/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22350 Filed 10–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–136–000.

Applicants: JERA Power Compass, LLC, Dighton Power, LLC, Marco DM Holdings, L.L.C., Marcus Hook Energy,

L.P., Marcus Hook 50, L.P., Milford Power, LLC.

Description: Supplement to August 9, 2018 Joint Application for Authorization under Section 203 of the Federal Power Act, et al. of JERA Power Compass, LLC, et al.

Filed Date: 10/1/18.

Accession Number: 20181001–5190.

Comments Due: 5 p.m. ET 10/11/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–2–000.

Applicants: SR Millington, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of SR Millington, LLC.

Filed Date: 10/4/18.

Accession Number: 20181004–5162.

Comments Due: 5 p.m. ET 10/25/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–53–000.

Applicants: SR Millington, LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 11/18/2018.

Filed Date: 10/4/18.

Accession Number: 20181004–5158.

Comments Due: 5 p.m. ET 10/25/18.

Docket Numbers: ER19–54–000.

Applicants: Northeastern Power Company.

Description: Request for Waiver, et al. of Northeastern Power Company.

Filed Date: 10/4/18.

Accession Number: 20181004–5176.

Comments Due: 5 p.m. ET 10/11/18.

Docket Numbers: ER19–55–000.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: § 205(d) Rate Filing: 2018–10–05 SA 3174 MP–GRE Switch Change Out Agreement (Lakeland) to be effective 10/6/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5035.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: ER19–56–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP–NCEMPA NITSA (SA No. 268) Amendment to be effective 10/1/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5041.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: ER19–57–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Raymond Wind Farm Interconnection Agreement to be effective 9/18/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5074.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: ER19–58–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 367, ANPP Hassayampa with Sun Streams to be effective 9/7/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5140.

Comments Due: 5 p.m. ET 10/26/18.

Docket Numbers: ER19–59–000.

Applicants: Blue Cloud Wind Energy, LLC.

Description: Baseline eTariff Filing: Blue Cloud Wind Energy, LLC MBR Tariff to be effective 10/28/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5169.

Comments Due: 5 p.m. ET 10/26/18.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH19–1–000.

Applicants: Northwest Natural Holding Company.

Description: Northwest Natural Holding Company submits FERC 65–A Exemption Notification.

Filed Date: 10/5/18.

Accession Number: 20181005–5166.

Comments Due: 5 p.m. ET 10/26/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 5, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22326 Filed 10–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–38–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Amended Negotiated Rates—STEP–CFE 911544, 911545 to be effective 10/4/2018.

Filed Date: 10/4/18.

Accession Number: 20181004–5074.

Comments Due: 5 p.m. ET 10/16/18.

Docket Numbers: RP19–39–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreement Amendment (SWG Nov 2018) to be effective 11/1/2018.

Filed Date: 10/4/18.

Accession Number: 20181004–5185.

Comments Due: 5 p.m. ET 10/16/18.

Docket Numbers: RP19–41–000.

Applicants: Rager Mountain Storage Company LLC.

Description: § 4(d) Rate Filing: URL Changes to be effective 11/5/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5165.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: RP19–43–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: URL Changes to be effective 11/5/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5170.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: RP19–44–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rate—Sempra—911550 eff 10–6–18 to be effective 10/6/2018.

Filed Date: 10/5/18.

Accession Number: 20181005–5171.

Comments Due: 5 p.m. ET 10/17/18.

Docket Numbers: RP19–45–000.

Applicants: Hardy Storage Company, LLC.

Description: eTariff filing per 1430: Hardy Storage 501–G Request for Waiver to be effective N/A.

Filed Date: 10/9/18.

Accession Number: 20181009–5003.

Comments Due: NOON p.m. ET–10/10/18.

Docket Numbers: RP19–46–000.

Applicants: Dominion Energy Overthrust Pipeline, LLC.

Description: § 4(d) Rate Filing: Statement of Negotiated Rates Version 8.0.0—Highpoint Operating Corporation to be effective 10/8/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5010.

Comments Due: 5 p.m. ET 10/22/18.

Docket Numbers: RP19–47–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Broad Run Expansion Project—Amendment to GTA to be effective 10/9/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5011.

Comments Due: 5 p.m. ET 10/22/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22351 Filed 10–12–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–191–000]

Wolverine Power Supply Cooperative, Inc.; Notice of Petition for Declaratory Order

Take notice that on October 4, 2018, pursuant to section 292.402 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 292.402, Wolverine Power Supply Cooperative, Inc. (Wolverine or Petitioner) on behalf of itself and its distribution cooperative members (Distribution Members), filed a petition for declaratory order requesting a partial waiver of certain obligations imposed on Wolverine and its

Distribution Members under the Commission's regulations¹ implementing Section 210 of the Public Utility Regulatory Policies Act of 1978, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern time on October 19, 2018.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-22355 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19-53-000]

SR Millington, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Millington, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: October 5, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-22327 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18-534-000]

Northern Natural Gas Company; Notice of Schedule for Environmental Review of the Northern Lights 2019 Expansion and Rochester Projects

On July 27, 2018, Northern Natural Gas Company (Northern) filed an application in Docket No. CP18-534-000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposal has two major components, known as the Northern Lights 2019 Expansion Project and the Rochester Project, which together would provide approximately 138,504 dekatherms per day of upstream firm natural gas transportation service to serve increased markets for industrial, commercial, and residential uses.

On August 10, 2018, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the projects. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the projects.

Schedule for Environmental Review

Issuance of EA November 21, 2018
90-day Federal Authorization Decision
Deadline February 19, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The projects consist of new pipeline and compression facilities, all in the state of Minnesota. The Rochester Project component includes 12.6 miles

¹ 18 CFR 292.303(a)-(b).

of new 16-inch-diameter pipeline in Olmsted County (Rochester Greenfield Lateral); increase of maximum allowable operating pressure on an 8-mile-long segment of 16-inch-diameter pipeline in Freeborn and Mower Counties; a new town border station in Olmsted County, including a pig receiver; relocation of a regulator from Freeborn to Mower County; and appurtenant facilities, including two valves and a pig launcher at milepost (MP) 0.0 of the Rochester Greenfield Lateral.

The Northern Lights Expansion Project component includes 10.0 miles of new 24-inch-diameter pipeline in Hennepin and Wright Counties; 4.3 miles of new 8-inch-diameter pipeline loop extension in Morrison County; 1.6 miles of new 6-inch-diameter pipeline loop in Le Sueur County; 3.1 miles of new 24-inch-diameter pipeline extension in Carver County; a new 11,153-horsepower (hp) compressor station in Carver County; an additional 15,900 hp of compression at the existing Faribault Compressor Station in Rice County; an additional 15,900 hp of compression at the existing Owatonna Compressor Station in Steele County; and appurtenant facilities, including valves, pig launchers, and pig receivers in Hennepin, Wright, Morrison, Le Sueur, and Carver Counties.

Background

On February 6, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Northern Lights 2019 Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI addressed both the Northern Lights 2019 Expansion and the Rochester Project components, and was issued during the pre-filing review of the projects in Docket No. PF18-1-000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers.

In response to the NOI, the Commission received comments from the U.S. Fish and Wildlife Service, U.S. Department of Agriculture, U.S. Environmental Protection Agency, Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, Minnesota State Historic Preservation Office; one Native American tribe; ten landowners; and one public interest group. The primary issues raised by the commentators were karst terrain, groundwater, surface waterbodies, special status species, property values, local economy, land

use, and air quality and noise impacts from construction and operation of pipeline facilities. All substantive comments will be addressed in the EA.

The Minnesota Pollution Control Agency is a cooperating agency in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Additional information about the projects are available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (*i.e.*, CP18-534), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 9, 2018

Kimberly D. Bose,
Secretary.

[FR Doc. 2018-22383 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17-178-000]

Alaska Gasline Development Corporation; Notice of Technical Conference

Take notice that a technical conference will be held on Thursday, October 18, 2018 at 8:30 a.m., in Room 3M-2A and B at the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The technical conference will provide an opportunity for Commission staff and representatives from Alaska Gasline Development Corporation to discuss clarifications on the Commission staff's

October 2, 2018 environmental data request for the Alaska LNG Project. While all interested persons and Commission staff are permitted to attend, no comments or statements during the conference will be permitted. Further, there will be no discussion of Critical Energy Infrastructure Information or privileged material. For further information please contact James Martin at (202) 502-8045 or email james.martin@ferc.gov.

Federal Energy Regulatory Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to accessibility@ferc.gov or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-22354 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18-549-000]

Equitrans, LP; Notice of Application

Take notice that on September 21, 2018, Equitrans, LP (Equitrans), 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania 15222-33311, filed an application pursuant to section 7(b) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking authorization to abandon series of 18 Injection/Withdrawal (I/W) wells in Equitrans' Swarts Complex by sale, abandoning the associated well lines in place, and abandoning any associated appurtenant facilities. These wells in the Swarts Complex that are within the area that an incumbent coal mining company has designated for expansion of its mining operations over an approximate ten and a half year period commencing in December 2018. These Swarts Complex facilities are located in Greene County, Pennsylvania, as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at

FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this application should be directed to Paul W. Diehl, Counsel, Midstream, Equitrans, LP, 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania, 15222, or call (412) 395-5540, or by email: PDiehl@eqt.com.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will

consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on October 26, 2018.

Dated: October 5, 2018.

Kimberly D. Bose,
Secretary.

[FR Doc. 2018-22384 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19-11-000]

Peetz Logan Interconnect, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Peetz Logan Interconnect, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 29, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: October 9, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-22352 Filed 10-12-18; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-OECA-2014-0054; FRL-9985-02-OEI]

Proposed Information Collection Request; Comment Request; NESHAP for Pulp and Paper Production (Renewal)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), NESHAP for Pulp and Paper Production (EPA ICR Number 1657.08, OMB Control Number 2060-0387), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR. 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.

DATES: Comments must be submitted on or before December 14, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-OECA-2014-0054, online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Office of Enforcement and Compliance Assistance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202-564-2970; fax number: 202-564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov

or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Respondents are owners or operators of facilities that produce pulp, paper, or paperboard by employing kraft, soda, sulfite, semi-chemical, or mechanical pulping processes using wood; or any process using secondary or non-wood fiber and that emits 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Affected sources are all the hazardous air pollutant emission points or the HAP emission points in the pulping and bleaching system for mechanical pulping processes using wood and any process using secondary or non-wood fiber.

Form Numbers: None.

Respondents/affected entities: Owners or operators of pulp and paper production facilities. **Respondent's obligation to respond:** Mandatory (40 CFR part 63, subpart S).

Estimated number of respondents: 114 (total).

Frequency of response: Initially, occasionally, quarterly, and semiannually.

Total estimated burden: 44,438 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$5,191,626 (per year), includes \$841,000 in annualized capital or operations and maintenance costs.

Changes in Estimates: There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The currently approved burden estimates contain requirements from the previous regulation as well as duplicate burden activities. In preparing this ICR renewal, EPA has removed duplicate items and updated the ICR so that it only reflects current requirements. This results in an apparent decrease in burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2018-22404 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2018-0097; FRL-9984-68]

Certain New Chemicals or Significant New Uses; Statements of Findings for August 2018**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: Section 5(g) of the Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of TSCA section 5(a) notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA section 5. This document presents statements of findings made by EPA on TSCA section 5(a) notices during the period from August 1, 2018 to August 31, 2018.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Greg Schweer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: 202-564-8469; email address: schweer.greg@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2018-0097, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the period from August 1, 2018 to August 31, 2018.

III. What is the Agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and

environmental effects of the chemical substance or significant new use;

- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;

- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or

- The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term "conditions of use" is defined in TSCA section 3 to mean "the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of."

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of "not likely to present an unreasonable risk of injury to health or the environment" may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

- EPA case number assigned to the TSCA section 5(a) notice.
- Chemical identity (generic name, if the specific name is claimed as CBI).
- Website link to EPA's decision document describing the basis of the "not likely to present an unreasonable risk" finding made by EPA under TSCA section 5(a)(3)(C).

EPA case number: J-18-0001;
Chemical identity: Modified *Corynebacterium glutamicum* (generic name); *website link:* <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-93>.

EPA case number: J-18-0012;
Chemical identity: Genetically modified yeast (generic name); *website link:* <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-94>.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 4, 2018.

Greg Schweer,

Chief, New Chemicals Management Branch, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2018-22394 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2018-0578; FRL-9984-18]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before November 14, 2018.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that

you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Active Ingredients

1. *File Symbol:* 67690-IE. *Docket ID number:* EPA-HQ-OPP-2018-0096. *Applicant:* SePRO Corporation, 11550 North Meridian St., Suite 600, Carmel, IN 46032. *Product name:* SP2700 2%. *Active ingredient:* Plant activator and fungicide—Ningnanmycin at 2.0%. *Proposed use:* For control of fungal and viral diseases on cherries, cucurbits, grapes, lettuce, ornamentals, peppers, pome fruits, snap beans, strawberries, tobacco, tomatoes, rice, seed treatment, soybean, wheat, and turf.

2. *File Symbol:* 67690-IG. *Docket ID number:* EPA-HQ-OPP-2018-0096. *Applicant:* SePRO Corporation, 11550 North Meridian St., Suite 600, Carmel, IN 46032. *Product name:* SP2700 Technical. *Active ingredient:* Plant activator and fungicide—Ningnanmycin at 2%. *Proposed use:* Manufacturing use.

3. *File Symbol:* 87978-A. *Docket ID number:* EPA-HQ-OPP-2018-0570. *Applicant:* AgBiTech Pty Ltd, 8 Rocla Ct., Glenvale, Queensland 4350, Australia (c/o MacIntosh & Associates, Inc., 1203 Hartford Ave., St. Paul, MN 55116-1622). *Product name:* Surtivo Soy. *Active ingredients:* Insecticides—*Chrysodeixis includens* Nucleopolyhedrovirus isolate #460 at 17.1% and *Helicoverpa armigera*

Nucleopolyhedrovirus ABA-NPV-U at 17.1%. *Proposed use:* Field and greenhouse.

4. *File Symbol:* 87978-L. *Docket ID number:* EPA-HQ-OPP-2018-0570. *Applicant:* AgBiTech Pty Ltd, 8 Rocla Ct., Glenvale, Queensland 4350, Australia (c/o MacIntosh & Associates, Inc., 1203 Hartford Ave., St. Paul, MN 55116-1622). *Product name:* ChinNPV Liquid Formulation. *Active ingredient:* Insecticide—*Chrysodeixis includens* Nucleopolyhedrovirus isolate #460 at 32.0%. *Proposed use:* Field and greenhouse.

5. *File Symbol:* 91873-R. *Docket ID number:* EPA-HQ-OPP-2018-0122. *Applicant:* Evolva, Duggingerstrasse 23, 4153 Reinach, Switzerland (c/o SciReg Inc., 12733 Director's Loop, Woodbridge, VA 22192). *Product name:* Nootkatone. *Active ingredient:* Insecticide and arachnicide—Nootkatone at 99.4%. *Proposed use:* Manufacturing use.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 1, 2018.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018-22392 Filed 10-12-18; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards 56, Classified Activities

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standards 56, *Classified Activities*.

The Statement is available on the FASAB website at <http://www.fasab.gov/accounting-standards/>. Copies can be obtained by contacting FASAB at (202) 512-7350.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512-7350.

Authority: Federal Advisory Committee Act, Pub. L. 92-463.

Dated: October 4, 2018.

Wendy M. Payne,

Executive Director.

[FR Doc. 2018-22375 Filed 10-12-18; 8:45 am]

BILLING CODE 1610-02-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0508]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission 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 comments should be submitted on or before November 14, 2018. 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 contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email Nicholas_A_Fraser@omb.eop.gov; and to Cathy Williams, FCC, via email [\[fcc.gov\]\(mailto:fcc.gov\) and to \[Cathy.Williams@fcc.gov\]\(mailto:Cathy.Williams@fcc.gov\). Include in the comments the OMB control number as shown in the SUPPLEMENTARY INFORMATION below.](mailto:PRA@</p>
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FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0508.

Title: Parts 1 and 22 Reporting and Recordkeeping Requirements.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, and State, Local or Tribal Governments.

Number of Respondents and Responses: 15,465 respondents; 16,183 responses.

Estimated Time per Response: 0.13 hours-10 hours.

Frequency of Response: Recordkeeping requirement; On occasion, quarterly, and semi-annual reporting requirements; 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. 154, 222, 303, 309 and 332.

Total Annual Burden: 2,606 hours.

Annual Cost Burden: \$19,138,350.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information. The information to be collected will be made available for public inspection. Applicants may request materials or information submitted to the Commission be given confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Part 22 contains the technical and legal requirements for radio stations operating in the Public Mobile Services. The information collected is used to determine on a case-by-case basis, whether or not to grant licenses authorizing construction and operation of wireless telecommunications facilities to common carriers. Further, this information is used to develop statistics about the demand for various wireless licenses and/or the licensing process itself, and occasionally for rule enforcement purposes.

This revised information collection reflects deletion of a rule applicable to all licensees and applicants governed by Part 22 of the Commission's rules, as adopted by the Commission in a Third Report and Order in WT Docket Nos. 12-40 (Cellular Third R&O) (FCC 18-92). The Cellular Third R&O deleted certain Part 22 rules that either imposed administrative and recordkeeping burdens that are outdated and no longer serve the public interest, or that are largely duplicative of later-adopted rules and are thus no longer necessary. Among the rule deletions and of relevance to this information collection, the Commission deleted rule section 22.303, resulting in discontinued information collection for that rule section.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018-22391 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS
COMMISSION**
[OMB 3060–0149, OMB 3060–0741]
**Information Collections Being
Submitted for Review and Approval to
the Office of Management and Budget**
AGENCY: Federal Communications
Commission.

ACTION: Notice and request for
comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission 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 comments should be submitted on or before November 14, 2018. 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 contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email Nicholas_A_Fraser@omb.eop.gov; and to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole

Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the webpage <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the webpage called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0149.

Title: Part 63, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17–84, FCC 18–74.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 80 respondents; 88 responses.

Estimated Time per Response: 6–62 hours per response.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory

authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,086 hours.

Total Annual Cost: \$27,900.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information filed in section 214 applications has generally been non-confidential. Requests from parties seeking confidential treatment are considered by Commission staff pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for a revision of a currently approved collection to OMB. The Commission will submit this information collection to OMB after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. Part 63 of Title 47 of the Code of Federal Regulations (CFR) implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under section 214(a) of the Act. In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. The Commission concluded that an applicant for a

technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors (the “adequate replacement test”).

In June 2018, the Commission further modified the rules applicable to section 214(a) discontinuance applications. First, all carriers, whether dominant or non-dominant, that seek approval to grandfather data services below speeds of 25 Mbps download speed and 3 Mbps upload speed are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Second, all carriers, whether dominant or non-dominant, seeking authorization to discontinue data services below speeds of 25 Mbps download speed and 3 Mbps upload speed that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 31 days, provided they submit a statement as part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This statement must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue. Third, carriers are no longer required to file an application to discontinue, reduce, or impair any service for which it has had no customers and no request for service for at least a 30-day period immediately preceding the discontinuance. Fourth, all carriers, whether dominant or non-dominant, that seek approval to discontinue legacy voice service can obtain further streamlined processing with a public comment period of 15 days and an automatic grant period of 31 days, provided (1) they offer a stand-alone interconnected VoIP service throughout the service area, and (2) at least one alternative stand-alone, facilities-based voice service is available from an unaffiliated provider

throughout the affected service area (the “alternative options test”). Finally, all carriers, whether dominant or non-dominant, that seek approval to grandfather legacy voice service are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. The Commission estimates that it will receive three fewer section 214(a) discontinuance applications annually in light of the Commission’s forbearance from applying its section 214(a) discontinuance requirements to services for which the carrier has had no customers and no reasonable requests for service during the preceding 30-day period. The Commission also anticipates that the number of respondents and responses under the adequate replacement test will likely decrease from 5 and 25, respectively, to 2 and 10, respectively. The remaining 15 responses previously attributable to the adequate replacement test will likely proceed pursuant to the less rigorous alternative options test. The Commission estimates that the total annual burden of the entire collection, as revised, is reduced from 1,923 hours to 1,086 hours.

OMB Control Number: 3060-0741.

Title: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, GN Docket No. 17-84.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and

Responses: 5,357 respondents; 573,928 responses.

Estimated Time per Response: 0.5–4.5 hours.

Frequency of Response: On occasion reporting requirements; recordkeeping and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 222 and 251.

Total Annual Burden: 575,448 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality:

The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission’s rules.

Needs and Uses: Section 251 of the Communications Act of 1934, as amended, 47 U.S.C. 251, is designed to accelerate private sector development

and deployment of telecommunications technologies and services by spurring competition. Section 222(e) is also designed to spur competition by prescribing requirements for the sharing of subscriber list information. These information collection requirements are designed to help implement certain provisions of sections 222(e) and 251, and to eliminate operational barriers to competition in the telecommunications services market. Specifically, these information collection requirements will be used to implement (1) local exchange carriers’ (“LECs”) obligations to provide their competitors with dialing parity and non-discriminatory access to certain services and functionalities; (2) incumbent local exchange carriers’ (“ILECs”) duty to make network information disclosures; and (3) numbering administration. The revisions to this collection relate to changes in one of many components of the currently approved collection—specifically, certain reporting, recordkeeping and/or third-party disclosure requirements under section 251(c)(5). In November 2017, the Commission adopted new rules concerning certain information collection requirements implemented under section 251(c)(5) of the Act, pertaining to network change disclosures. Most of the changes to those rules applied specifically to a certain subset of network change disclosures, namely notices of planned copper retirements. In addition, the changes removed a rule that prohibits incumbent LECs from engaging in useful advanced coordination with entities affected by network changes. In June 2018, the Commission revised its network change disclosure rules to (1) revise the types of network changes that trigger an incumbent LEC’s public notice obligation, and (2) extend the *force majeure* provisions applicable to copper retirements to all types of network changes. The changes are aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks. The Commission estimates that these revisions do not result in any change to the total annual burden hours or any additional outlays of funds for hiring outside contractors or procuring equipment as the changes eliminate notices that are subsumed by notice obligations that remain in force or simply codify procedures available to a small number of incumbent LECs by waiver orders.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–22387 Filed 10–12–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the *Privacy Act of 1974*, as amended (“Privacy Act”), this notice announces the establishment of a computer matching program the Federal Communications Commission (“FCC” or “Commission” or “Agency”) and the Universal Service Administrative Company (USAC) will conduct with four non-Federal agencies. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Universal Service Fund (USF) Lifeline program, which is administered by USAC under the direction of the FCC. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before November 14, 2018. This computer matching program will commence on November 14, 2018, unless comments are received that require a contrary determination, and will conclude on April 15, 2020.

ADDRESSES: Send comments to Mr. Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1–C216, FCC, 445 12th Street SW, Washington, DC 20554, or to Leslie.Smith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie F. Smith, (202) 418–0217, or Leslie.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), or Veterans and Survivors Pension Benefit. In a Report and Order adopted on March

31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (“National Verifier”), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

Participating Agencies

- Missouri Department of Social Services;
- North Carolina Department of Health and Human Services;
- Pennsylvania Department of Human Services; and
- Tennessee Department of Human Services.

Authority for Conducting the Matching Program

47 U.S.C. 254; 47 CFR 54.400 *et seq.*; *Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

In the *2016 Lifeline Modernization Order*, the FCC required USAC to develop and operate a National Lifeline Eligibility Verifier (National Verifier) to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is “to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.” 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that a USAC-operated Lifeline Eligibility Database (LED) will communicate with information systems and databases operated by other Federal and State agencies. *Id.* at 4011–2, paras. 135–7.

Categories of Individuals

The categories of individuals whose information is involved in this matching program include, but are not limited to, those individuals (residing in a single household) who have applied for Lifeline benefits; are currently receiving Lifeline benefits; are individuals who

enable another individual in their household to qualify for Lifeline benefits; are minors whose status qualifies a parent or guardian for Lifeline benefits; are individuals who have received Lifeline benefits; or are individuals acting on behalf of an eligible telecommunications carrier (ETC) who have enrolled individuals in the Lifeline program.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, a Lifeline applicant or subscriber’s full name; physical and mailing addresses; partial Social Security number or Tribal ID number; date of birth; qualifying person’s full name (if qualifying person is different from subscriber); qualifying person’s physical and mailing addresses; qualifying person’s partial Social Security number or Tribal ID number, and qualifying person’s date of birth. The National Verifier will transfer these data elements to the source agencies, which will respond either “yes” or “no” that the individual is enrolled in a Lifeline-qualifying assistance program.

System(s) of Records

The USAC records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline Program, a notice of which the FCC published at 82 FR 38686 (Aug. 15, 2017) and became effective on September 14, 2017.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–22380 Filed 10–12–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0625]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or 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 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 14, 2018. 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 No.: 3060-0625.

Title: Section 24.103, Construction requirements.

Form No.: N/A.

Type of Review: Extension of a currently-approved collection.

Respondents: Business or other for-profit, individuals or household, not-for-profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 9 respondents and 20 responses.

Estimated Time per Response: 3 hours.

Frequency of Response:

Recordkeeping requirement, On occasion reporting requirement, 5 and 10 year reporting requirements.

Obligation to Respond: To ensure that licensees timely construct systems that either provide coverage to minimum geographic portions of their licensed areas, that provide service to minimum percentages of the population of those

areas, or that, in the alternative, provide service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.

Total Annual Burden: 23 hours.

Annual Cost Burden: \$12,375.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality:

There are no requests of a sensitive nature considered, or those considered a private matter, being sought from the applicants on this collection.

Needs and Uses: The information collection requirements contained in Section 24.103 require that certain narrowband PCS licensees notify Commission at specific benchmarks that they are in compliance with applicable construction requirements in order to ensure that these licensees quickly construct their systems and that, with those systems, they provide, within their respective licensed areas: coverage to minimum geographic areas, service to minimum percentages of the population, or "substantial service" within ten years after license grant. The Commission is not currently collecting information from narrowband PCS licensees under Section 24.103 and does not expect to do so during the three year period for which it seeks extension of its current collection authority under that section. However, following the future auction of new narrowband PCS licenses, the reporting and recordkeeping requirements under this section will be used to satisfy the Commission's rule that such licensees demonstrate compliance with these construction requirements by the 5 and 10-year benchmarks established upon the grant date of each license. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018-22390 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0386, OMB 3060-0920, OMB 3060-1178]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or 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 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 14, 2018. 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 No.: 3060-0386.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; Sections 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; Section 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; Section 73.3700(b)(5), Post Auction Licensing; Section 73.3700(f), Service Rule Waiver; FCC Form 337.

Form No.: FCC Form 337.

Type of Review: Extension of a currently information collection.

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

Number of Respondents and Responses: 6,609 respondents and 6,609 responses.

Estimated Time per Response: .50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting 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 Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,475 hours.

Annual Cost Burden: \$2,156,510.

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: The data contained in this collection is used by FCC staff to determine whether to grant and/or accept the requested special temporary authority (or other request for FCC action), waiver request, required notification, informal filing, application filings or other non-form submission. FCC staff will review for compliance with legal and technical regulations, including but not limited to ensuring that impermissible interference will not be caused to other stations.

OMB Control Number: 3060–0920.

Title: Application for Construction Permit for a Low Power FM Broadcast Station; Report and Order in MM Docket No. 99–25 Creation of Low Power Radio Service; §§ 73.807, 73.809, 73.810, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1230, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii), FCC Form 318.

Form No.: FCC Form 318.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions; State, local or Tribal governments.

Number of Respondents and Responses: 21,019 respondents with multiple responses; 27,737 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: 35,371 hours.

Total Annual Costs: \$39,750.

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 is being made as an extension to an existing information collection pursuant to 44 U.S.C. 3507. This submission covers FCC Form 318 and its accompanying instructions and worksheets. FCC Form 318 is required: (1) To apply for a construction permit for a new Low Power FM (LPFM) station; (2) to make changes in the existing facilities of such a station; (3) to amend a pending FCC Form 318 application; or (4) to propose mandatory time-sharing.

OMB Control No.: 3060–1178.

Title: TV Broadcaster Relocation Fund Reimbursement Form, FCC Form 2100, Schedule 399; Section 73.3700(e), Reimbursement Rules.

Form No.: FCC Form 2100, Schedule 399.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 1,900 respondents and 22,800 responses.

Estimated Time per Response: 1–4 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Recordkeeping 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; and 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).

Total Annual Burden: 31,100 hours.

Annual Cost Burden: \$5,625,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is some need for confidentiality with this collection of information. Invoices, receipts, contracts and other cost documentation submitted along with the form will be kept confidential in order to protect the identification of vendors and the terms of private contracts between parties. Vendor name and Employer Identification Numbers (EIN) or Taxpayer Identification Number (TIN) will not be disclosed to the public.

Needs and Uses: The following is a summary of each rule section which contains information collection requirements for which the Commission seeks continued approval from the Office of Management and Budget (OMB):

(a) Section 73.3700(e)(2) requires all broadcast television station licensees and multichannel video programming distributors (MVPDs) that are eligible to receive payment of relocation costs to file an estimated cost form providing an estimate of their reasonably incurred relocation costs no later than three months following the release of the Channel Reassignment Public Notice. If a broadcast television station licensee or MVPD seeks reimbursement for new equipment, it must provide a justification as to why it is reasonable under the circumstances to purchase new equipment rather than modify its corresponding current equipment in order to change channels or to continue to carry the signal of a broadcast television station that changes channels. Entities that submit their own cost estimates, as opposed to the predetermined cost estimates provided in the estimated cost form, must submit supporting evidence and certify that the estimate is made in good faith. Entities must also update the form if circumstances change significantly.

(b) Section 73.3700(e)(3) requires all broadcast television station licensees and MVPDs that received an initial allocation from the TV Broadcaster Relocation Fund, upon completing construction or other reimbursable changes, or by a specific deadline prior to the end of the Reimbursement Period to be established by the Media Bureau, whichever is earlier, to provide the Commission with information and documentation, including invoices and receipts, regarding their actual expenses incurred as of a date to be determined by the Media Bureau. If a broadcast television station licensee or MVPD has not yet completed construction or other reimbursable changes by the Final Allocation Deadline, it must provide the Commission with information and documentation regarding any remaining

eligible expenses that it expects to reasonably incur.

(c) Section 73.3700(e)(4) requires broadcast television station licensees and MVPDs that have received money from the TV Broadcaster Relocation Fund, after completing all construction or reimbursable changes, to submit final expense documentation containing a list of estimated expenses and actual expenses as of a date to be determined by the Media Bureau. Entities that have finished construction and have submitted all actual expense documentation by the Final Allocation Deadline will not be required to file at the final accounting stage.

(d) Section 73.3700(e)(6) requires broadcast television station licensees and MVPDs that receive payment from the TV Broadcaster Relocation Fund to retain all relevant documents pertaining to construction or other reimbursable changes for a period ending not less than 10 years after the date on which it receives final payment from the TV Broadcaster Relocation Fund and to make available all relevant documentation upon request from the Commission or its contractor.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018-22388 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to rename and modify an existing system of records, FCC/ OMD-13, Information Quality Comments (formerly: FCC/OMD-13, Data Quality Comments), subject to the *Privacy Act of 1974*, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The FCC's Performance Evaluation and Records Management (PERM) division in the Office of Managing Director uses this system to store the public comments (submitted since FY 2003) on information disseminated by the FCC, as required under the *Data Quality Act of 2001* and OMB regulations.

DATES: This system of records will become effective on October 15, 2018. Written comments on the system's routine uses are due by November 14, 2018. The routine uses will become effective on November 14, 2018, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1-C216, Federal Communications Commission (FCC), 445 12th Street SW, Washington, DC 20554, or to Leslie.Smith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, (202) 418-0217, or Leslie.Smith@fcc.gov (and to obtain a copy of the Narrative Statement and the Supplementary Documentation, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/OMD-13 as a result of the various necessary changes and updates, including an increased use of electronic information technology and format changes required by OMB Circular A-108. The substantive changes and modifications to the previously published version of the FCC/OMD-13 system of records include:

1. Renaming this SORN as FCC/OMD-13, Information Quality Comments.

2. Updating the language in the Security Classification to follow OMB guidance.

3. Minor changes to the language in the Categories of Individuals and Categories of Records to be consistent with the language and phrasing now used in the FCC's SORNs.

4. *Updating and/or revising language in five routine uses:* (1) Public Access; (2) Adjudication and Litigation; (3) Law Enforcement and Investigation; (4) Congressional Inquiries; and (5) Government-wide Program Management and Oversight.

5. *Adding three new routine uses:* (6) For Non-Federal Personnel to allow contractors performing or working on a contract for the Federal Government access to information; (7) Breach Notification to address real or suspected data breach situations at the FCC; and (8) Assistance to Federal Agencies and Entities for assistance with other Federal agencies' data breach situations. Routine Uses (7) and (8) are required by OMB Memorandum M-17-12.

6. A new section covering Reporting to a Consumer Reporting Agency to address valid and overdue debts owed by individuals to the FCC under the *Debt Collection Act*, as recommended by OMB.

7. A new records retention and disposal schedule approved by the National Archives and Records Administration (NARA).

8. A new History section referencing the previous publication of this SORN in the **Federal Register**.

The system of records is also being updated to reflect various administrative changes related to the system managers and system addresses; policy and practices for storage and retrieval of the information; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER

FCC/OMD-13, Information Quality Comments.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW, Washington, DC 20554.

SYSTEM MANAGER(S):

Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW, Washington, DC 20554; or Leslie F. Smith, Privacy Manager, Information Technology (IT), Federal Communications Commission (FCC), 445 12th Street SW, Washington, DC 20554, or email Leslie.Smith@fcc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 515 of the *Treasury and General Government Appropriations Act for Fiscal Year 2001*, Public Law 106-554 sec. 515, Appendix C, 114 Stat. 2763A-153 (2000).

PURPOSE(S) OF THE SYSTEM:

The *Data Quality Act of 2001* and OMB's implementing regulations mandate that agencies develop and make public guidelines for commenting on information disseminated by that Federal agency. Further, OMB requires that Federal agencies publicly post on their websites the information quality comments deemed to meet the agency standards and the resolution of those comments. This system of records maintains the comments received from the public since the inception of this requirement in FY2003.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals in this system include, but are not limited to members of the public who have submitted comments or questions through the Information Quality Comments process.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes, but is not limited to comments received through the FCC's Information Quality Comment process and, where appropriate, materials that are associated with the resolution of those comments. The system retains information about commenters, but will not make personally identifiable information (PII) about a commenter public on the FCC's website.

RECORD SOURCE CATEGORIES:

The sources for the information in the Information Quality Comments system include, but are not limited to comments submitted by members of the public; correspondence involved in resolving comments; and annual reports to OMB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. Public Access—In accordance with OMB's requirements (OMB Memorandum from John Graham, August 30, 2004, "Posting of Information Quality Correction Requests and Responses" found at: <https://www.whitehouse.gov/omb/information-regulatory-affairs/> the complete set of correspondence with a qualifying Information Quality commenter is available on the FCC's Information Quality web page at: <https://www.fcc.gov/general/information-quality-guidelines-fcc>.

2. Adjudication and Litigation—To disclose information to the Department of Justice (DOJ), or in a proceeding before a court or other administrative body before which the FCC is authorized to appear, when: (a) The FCC or any component thereof; or (b) any

employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.

3. Law enforcement and Investigation—To disclose pertinent information to the appropriate Federal, State, and/or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

4. Congressional Inquiries—To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual.

5. Government-wide Program Management and Oversight—To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the U.S. Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

6. For Non-Federal Personnel—To disclose information to contractors performing or working on a contract for the Federal Government who may require access to this system of records.

7. Breach Notification—To disclose information to appropriate agencies, entities, and persons when (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8. Assistance to Federal Agencies and Entities—To another Federal agency or

Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

REPORTING TO A CONSUMER REPORTING AGENCY:

In addition to the routine uses cited above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the *Debt Collection Act*, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Any paper copies of comments received are made electronic, and once verified, posted on the FCC's website. Any electronic versions of actual comments are also posted on the FCC website.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The Commission saves each record submitted by the name of the person filing it, as well as the date of submittal. The information is subsequently posed to www.fcc.gov by the fiscal year.

Records are retrievable primarily by date of submittal. Under this hierarchy, records are retrievable by name of individual requester.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The National Archives and Records Administration's (NARA) Records Disposition Authority Number: DAA-GRS-2017-0008-0005, requires that information in this system in all media types (including, but not limited to electronic data, records, and files, and paper documents), is to be destroyed six (6) years after the submission of the "Year-End Information Quality Report" to OMB or the oversight entity notice of approval, as appropriate, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are posted on the FCC website, including any complaints and responses, and thus, are publicly available. The electronic records, files, and data are stored within FCC

accreditation boundaries. Access to the electronic files is restricted to IT staff, contractors, and vendors who maintain the networks and services. Other FCC employees, contractors, vendors, and users may be granted access on a “need-to-know” basis. The FCC’s data is protected by the FCC and third party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the *Federal Information Security Modernization Act of 2014* (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

Any paper copies of comments received are made electronic and destroyed by shredding after the electronic version is verified as allowed by NARA. Only authorized PERM staff and contractors may have access to these documents. Other FCC employees and contractors may be granted access as required, for specific purposes.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about them should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to Leslie F. Smith, Privacy Manager, Information Technology (IT), Federal Communications Commission (FCC), 445 12th Street SW, Washington, DC 20554, or email Leslie.Smith@fcc.gov.

Individuals must furnish reasonable identification by showing any two of the following: Social security card; driver’s license; employee identification card; Medicare card; birth certificate; bank credit card; or other positive means of identification, or by signing an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

Individuals requesting access must also comply with the FCC’s Privacy Act regulations regarding verification of identity and access to records (47 CFR part 0, subpart E).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The FCC last gave full notice of this system of records, FCC/OMD–13, Information Quality Comments (formerly: FCC/OMD–13, Data Quality Comments), by publication in the **Federal Register** on April 5, 2006 (71 FR 17234, 17256).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–22361 Filed 10–12–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1209]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or 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 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 14, 2018. 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: 3060–1209.

Title: Section 73.1216, Licensee-Conducted Contests.

Form Number: None. (Complaints alleging violations of the Contest Rule generally are filed on via the Commission’s Consumer Complaint Portal entitled General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, Requests for Dispute Assistance and Communications Accessibility Complaints which is approved under OMB control number 3060–0874).

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 21,736 respondents; 21,736 responses.

Estimated Time per Response: 0.1–9 hours.

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

Total Annual Burden: 128,788 hours.

Total Annual Costs: \$6,520,800.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4 and 303 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 Impact Assessment(s): No impact(s).

Needs and Uses: The Commission adopted the Contest Rule in 1976 to address concerns about the manner in which broadcast stations were conducting contests over the air. The Contest Rule generally requires stations to broadcast material contest terms fully and accurately the first time the audience is told how to participate in a contest, and periodically thereafter. In addition, stations must conduct contests substantially as announced. These information collection requirements are necessary to ensure that broadcast

licensees conduct contests with due regard for the public interest.

The Contest Rule permit broadcasters to meet their obligation to disclose contest material terms on an internet website in lieu of making broadcast announcements. Under the amended Contest Rule, broadcasters are required to (i) announce the relevant internet website address on air the first time the audience is told about the contest and periodically thereafter; (ii) disclose the material contest terms fully and accurately on a publicly accessible internet website, establishing a link or tab to such terms through a link or tab on the announced website's home page, and ensure that any material terms disclosed on such a website conform in all substantive respects to those mentioned over the air; (iii) maintain contest material terms online for at least thirty days after the contest has ended; and (v) announce on air that the material terms of a contest have changed (where that is the case) within 24 hours of the change in terms on a website, and periodically thereafter, and to direct consumers to the website to review the changes.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018-22389 Filed 10-12-18; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 30, 2018.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521. Comments can also be sent

electronically to

Comments.applications@phil.frb.org:

1. *Patriot Financial Partners, GP II, L.P., Patriot Financial Partners II, L.P., Patriot Financial Partners Parallel II, L.P., Patriot Financial Partners, GP II, LLC., Patriot Financial Manager, L.P., Patriot Financial Manager, LLC. and Messrs. W. Kirk Wycoff, James J. Lynch and Ira M. Lubert*, Philadelphia, Pennsylvania; to acquire voting shares of Howard Bancorp, Inc., and thereby indirectly acquire Howard Bank, both of Baltimore, Maryland.

Board of Governors of the Federal Reserve System, October 9, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018-22280 Filed 10-12-18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). 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 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 2018.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *WCF Bancorp, Inc.*, Webster City, Iowa; to become a bank holding company because of the conversion of WCF Financial Bank from a federal savings association to a State-Chartered bank.

Board of Governors of the Federal Reserve System, October 9, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018-22281 Filed 10-12-18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 31, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *The Beaver Creek Trust—2nd Generation, Clinton, Oklahoma, and Shawn Grubb, Weatherford, Oklahoma, individually, and as Trustee;* to acquire voting shares of Falcon Bancorporation, and thereby indirectly acquire First Bank and Trust of Memphis, both of Memphis, Texas.

2. *The Beaver Creek Trust—2nd Generation, Clinton, Oklahoma, and Shawn Grubb, Weatherford, Oklahoma, individually, and as Trustee;* to acquire voting shares of Hydro Bancshares, Inc., and thereby indirectly acquire Bank of Hydro, both of Hydro, Oklahoma.

3. *The Beaver Creek Trust—2nd Generation, Clinton, Oklahoma, and Shawn Grubb, Weatherford, Oklahoma, individually, and as Trustee;* to acquire voting shares of Rocky Financial Corporation, and thereby indirectly acquire Bank of Cordell, both of Cordell, Oklahoma.

Board of Governors of the Federal Reserve System, October 10, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018-22403 Filed 10-12-18; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0059; Docket No. 2018-0003; Sequence No. 23]

Information Collection; North Carolina Sales Tax Certification

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal concerning North Carolina sales tax certification.

DATES: Submit comments on or before December 14, 2018.

ADDRESSES: The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to <http://www.regulations.gov> and follow the instructions on the site.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000-0059, North Carolina Sales Tax Certification.

Instructions: All items submitted must cite Information Collection 9000-0059, North Carolina Sales Tax Certification. Comments received in response to this docket generally will be made available for public inspection and posted without change, including any personal and/or business confidential information provided, at <http://www.regulations.gov>.

To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to

verify posting (except allow 30 days for posting of comments submitted by mail). This information collection is pending at the FAR Council. The Council will submit it to OMB within 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or email zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Overview of Information Collection

Description of the Information Collection

1. *Type of Information Collection:* Revision/Renewal of a currently approved collection.

2. *Title of the Collection*—North Carolina Sales Tax Certification.

3. *Agency form number, if any:*—None.

Solicitation of Public Comment

Written comments and suggestions from the public should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

B. Purpose

The Federal Acquisition Regulation (FAR) clause at 52.229-2, North Carolina State and Local Sales and Use Tax, requires contractors for construction or vessel repair to be performed in North Carolina to provide certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid.

The North Carolina Sales and Use Tax Act authorizes counties and towns, to obtain each year from the Commissioner of Revenue of the State of North Carolina, a refund of sales and use taxes indirectly paid on building materials,

supplies, fixtures, and equipment that become a part of or are annexed to any building or structure in North Carolina. However, to substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must secure from the contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid. Similar certified statements by subcontractors must be obtained by the general contractor and furnished to the Government.

C. Annual Reporting Burden

The Federal Procurement Data System (FPDS) for 2017 was used to develop the estimated burden hours as shown below:

Respondents: 377.

Responses per Respondent: 1.

Total Annual Responses: 377.

Hours per Response: 1.25.

Total Burden Hours: 471.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 9000-0059, North Carolina Sales Tax Certification, in all correspondence.

Dated: October 9, 2018.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2018-22341 Filed 10-12-18; 8:45 am]

BILLING CODE 6820-EP-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0287; Docket No. 2018-0001; Sequence No. 10]

Submission for OMB Review; Background Investigations for Child Care Workers

AGENCY: Office of Mission Assurance, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding the collection of personal data

for background investigations for child care workers accessing GSA owned and leased controlled facilities.

DATES: Submit comments on or before: November 14, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally, submit a copy to GSA by any of the following methods:

- *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 3090-0287, Background Investigations for Child Care Workers". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0287, Background Investigations for Child Care Workers" on your attached document.

- *Mail*: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. Attn: Ms. Mandell/IC 3090-0287, Background Investigations for Child Care Workers.

Instructions: Please submit comments only and cite Information Collection 3090-0287, Background Investigations for Child Care Workers, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Phil Ahn, Security Officer, Office of Mission Assurance, GSA, at 202-501-2447, or by email at phillip.ahn@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

Homeland Security Presidential Directive (HSPD) 12 "Policy for a Common Identification Standard for Federal Employees and Contractors" requires the implementation of a governmentwide standard for secure and reliable forms of identification for Federal employees and contractors.

OMB's implementing instructions requires all contract employees requiring routine access to federally controlled facilities for greater than six (6) months to receive a background investigation. The minimum background investigation is Tier 1 and the Office of Personnel Management offers a Tier 1C for child care.

However, there is no requirement in the law or HSPD-12 that requires child care employees to be subject to the Tier 1C since employees of child care providers are neither government employees nor government contractors. The child care providers are required to complete the criminal history background checks mandated in the Crime Control Act of 1990, Public Law 101-647, dated November 29, 1990, as amended by Public Law 102-190, dated December 5, 1991. These statutes require that each employee of a child care center located in a Federal building or in leased space must undergo a background check.

According to GSA policy, child care workers (as described above) will need to submit the following:

1. An original signed copy of a *Basic National Agency Check Criminal History*, GSA Form 176; and
2. Two sets of fingerprints on FBI Fingerprint Cards, for SF-87 and/or electronic prints from an enrollment center.
3. Electronically submit the e-qip (SF85) application for completion of the Tier 1C.

This is not a request to collect new information; this is a request to change the form that is currently being used to collect this information.

B. Annual Reporting Burden

Respondents: 1200.
Responses per Respondent: 1.
Hours per Response: 1.
Total Burden Hours: 1200.

C. Public Comments

A 60-day notice was published in the **Federal Register** at 83 FR 32996 on July 12, 2018. No comments were received. Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB),

1800 F Street NW, Washington, DC 20405, telephone 202-501-4755. Please cite Background Investigations for Child Care Workers, in all correspondence.

Dated: October 4, 2018.

David A. Shive,

Chief Information Officer.

[FR Doc. 2018-22411 Filed 10-12-18; 8:45 am]

BILLING CODE 6820-23-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-XXXX; Docket No. 2018-0001; Sequence No. 17]

Submission for OMB Review; CDP Supply Chain Climate Change Information Request

AGENCY: Office of Government-Wide Policy (OGP), General Services Administration.

ACTION: Notice of request for comments regarding a new request for an Office of Management and Budget (OMB) clearance.

SUMMARY: The Office of Government-Wide Policy, General Services Administration (GSA) will submit a request to the Office of Management and Budget (OMB) for review and clearance for the CDP Supply Chain Climate Change Information Request. As required by the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before November 14, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Mr. Jed Ela, Sustainability Advisor, Office of Government-Wide Policy, GSA, at jed.ela@gsa.gov. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "Information Collection 3090-XXXX; CDP Supply Chain Climate Change Information Request." Select the link "Submit a Comment" that corresponds with "Information Collection 3090-XXXX; CDP Supply Chain Climate Change Information Request." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-XXXX; CDP Supply Chain Climate Change Information Request" on your attached document.

- *Mail*: General Services Administration, Regulatory Secretariat

Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090-XXXX; CDP Supply Chain Climate Change Information Request.

Instructions: Please submit comments only and cite Information Collection 3090-XXXX; CDP Supply Chain Climate Change Information Request, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Jed Ela, Sustainability Advisor, Office of Government-Wide Policy, at jed.ela@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The CDP Supply Chain Climate Change Information Request is an electronic questionnaire designed to collect information pertinent to organizations' exposure to energy market and environmental risks. The questionnaire is administered by GDP North America, Inc., a 501(c)(3) nonprofit organization ("CDP"). CDP administers the questionnaire annually to companies on behalf of over 650 institutional investors and over 100 major purchasing corporations and governmental purchasing organizations. In accordance with 31 U.S. Code 3512(c)(1)(b), GSA will use the information collected via this questionnaire to inform and develop purchasing policies and contract requirements necessary to safeguard Federal assets against waste, loss, and misappropriation resulting from unmitigated exposure to energy market and environmental risks.

B. Annual Burden Hours

Frequency: Annual.

Affected Public: Federal contractors.

Number of Respondents: 250.

Responses per Respondent: 1.

Total Annual Responses: 250.

Estimated Time per Respondent: 4.8 hrs.

Total Burden Hours: 1210.

C. Discussion and Analysis

A notice was published in the **Federal Register** at 83 FR 32298 on July 12, 2018. One comment was received. The American Fuel and Petrochemical

Manufacturers (AFPM) submitted the only comment to that notice.

Comment: AFPM stated that it "supports the use of data obtained from thorough and objective analysis of industry sector risks, opportunities, and overall performance." AFPM also requested that GSA "abandon its plan to use CDP data in contract decisions" because, in AFPM's view, CDP's proprietary scoring methods are unreliable, and using CDP data for contract selection would contradict the intent of E.O. 13783 and constitute a *de facto* requirement to disclose information to CDP. AFPM recommended that GSA rely instead upon information from a variety of other sources.

Response: GSA has no plan to use CDP data for purposes of contract selection or eligibility. GSA plans to use voluntarily provided CDP data, alongside other data sources as recommended by AFPM, as general market research to better inform its business needs, including its needs for products and services which minimize waste and business risks, and to learn more about available products and services that meet these needs. GSA is required by 31 U.S. Code 3512(c)(1)(b) to safeguard Federal assets against waste, loss, and misappropriation. GSA is also required by E.O. 13834 (signed May 17, 2018) to meet statutory requirements "in a manner that increases efficiency, optimizes performance, eliminates unnecessary use of resources, and protects the environment" and to "reduce waste, cut costs, [and] enhance the resilience of Federal infrastructure and operations." E.O. 13834, *Efficient Federal Operations*, 83 FR 23771. This collection will provide GSA with a variety of information needed to implement these mandates to reduce waste and minimize risks of disruption to critical operations. Given these considerations, GSA does not believe changes to the Information Collection Request (ICR) are appropriate.

Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection

techniques or other forms of information technology.

Dated: October 4, 2018.

David A. Shive,

Chief Information Officer.

[FR Doc. 2018-22408 Filed 10-12-18; 8:45 am]

BILLING CODE 6820-61-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0290; Docket No. 2018-0001; Sequence No. 16]

Submission for OMB Review; System for Award Management Registration Requirements for Prime Grant Recipients

AGENCY: Office of the Integrated Award Environment, General Services Administration (GSA).

ACTION: Notice of request for comments regarding revisions to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve revisions to the currently approved information collection requirement regarding the pre-award registration requirements for federal Prime Grant Recipients. These revisions will enable non-Federal entities to complete governmentwide certifications and representations for Federal financial assistance at the time of registration in the System for Award Management (SAM).

DATES: Submit comments on or before November 14, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090-0290. Select the link "Comment Now" that corresponds with "Information Collection 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients". Follow the instructions provided on the screen. Please include your name, company name (if any), and "Information Collection 3090-0290, System for

Award Management Registration Requirements for Prime Grant Recipients” on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0290.

Instructions: Please submit comments only and cite Information Collection 3090–0290, System for Award Management Registration Requirements for Prime Grant Recipients, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [regulations.gov](http://www.regulations.gov) approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Goode, Program Manager, IAE Outreach and Stakeholder Management Division, at telephone number 703–605–2175; or via email at nancy.goode@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection requires information necessary for prime applicants and recipients, excepting individuals, of Federal grants to register in the System for Award Management (SAM) and maintain an active SAM registration with current information at all times during which they have an active Federal award or an application or plan under consideration by an agency pursuant to 2 CFR Subtitle A, Chapter I, and Part 25 (75 FR 55673 as amended at 79 FR 75879). 2 CFR Subtitle A, Chapter I, and Part 25 designates SAM as the governmentwide repository for standard information about applicants and recipients. 2 CFR Subtitle A, Chapter II, and Part 200 (80 FR 43308) also designates SAM as the system recipients are required to report certain civil, criminal, or administrative proceedings if they meet certain conditions. Further, Federal awarding agencies are required to check SAM for pre-award purposes in accordance with 2 CFR part 180. This information collection requires that all prime grant awardees, subject to the requirements in 2 CFR Subtitle A, Chapter I, and Part 25 register and maintain their registration in SAM.

Pursuant to 2 CFR Subtitle A, Chapter II, Part 200, Subpart C, Section 200.208 Certifications and representations,

Federal agencies are authorized to require non-Federal entities to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Currently, most Federal agencies require non-Federal entities to submit certifications with each Federal assistance application by use of the Assurances for Non-Construction Programs (SF–424B) and on an annual basis thereafter.

To streamline this data collection and to reduce burden, OMB, in conjunction with the Federal assistance community, developed standard governmentwide certifications and representations to be certified by the non-Federal entity when registering in SAM. In Fiscal Year 2019, OMB will reemphasize that SAM is the repository for standard information about applicants and recipients and that the standard governmentwide certifications and representations are to be certified within SAM at the time of registration and/or registration renewal should meet the need of governmentwide certifications and representations. This will reduce the unnecessary, duplicative practice of agencies requesting certifications and representations with the submission of each application and lead to phasing out the use of the SF–424B, thereby decreasing the burden level of Federal grant recipients and Federal agencies.

B. Discussion and Analysis

A 60-day notice published in the **Federal Register** at 83 FR 24311 on May 25, 2018. Five respondent’s comments were received. The following are summaries of those comments and GSA’s responses:

Comment: The respondent stated support for this proposal, citing that hard copies of assurance forms are signed multiple times throughout the year. By incorporating the assurances into the SAM registration, the processing of grants and cooperative agreements would be streamlined, thereby reducing the paperwork burden for both their agency and their subrecipients.

Response: GSA agrees that incorporating grants certifications and representation into the SAM registration process will result in a burden reduction for grantees, subrecipients and federal awarding agencies.

Comment: The respondent stated their support for incorporating governmentwide certifications and representations in SAM to reduce the duplicative collection of such documents by multiple Federal agencies.

Response: GSA agrees that incorporating grants certifications and representations into the SAM registration process will reduce the duplicative collection of such documents.

Comment: One respondent questioned whether non-Federal entities self-identify if they are (or anticipate being) a prime or subrecipient.

Response: Non-Federal entities registering in SAM do not self-identify whether they are a prime or sub-recipient. Many registered entities may be both a prime recipient and subrecipient for different awards.

Comment: One respondent commented that in order to continue collecting the SF424B Assurances from entities exempt from SAM (*i.e.* individuals), a corresponding form would still need to be maintained outside of SAM.gov.

Response: GSA has informed OMB of this requirement.

Comment: One respondent asked whether the system update to add the grant certifications and representations will trigger an unscheduled registration update requirement for all registered entities.

Response: The implementation of the grants certifications and representations in SAM will not trigger an unscheduled registration update for registered entities. Once the grant certifications and representations become active in SAM, per OMB guidance, all registered entities will complete their initial certifications in SAM during their annual re-registration. Federal agencies will continue to use their current processes for the submission of assurances (SF–424B) until such time that all their active grant recipients have completed their registrations in SAM.

Comment: One respondent asked if entities will be required to complete all certifications at each annual re-registration and suggested that a new collection may only be needed if the individual responsible for the submission at the registered entity changes in the future.

Response: The initial implementation will require entities to provide the certification during their initial registration and each subsequent annual re-registration. GSA is continually looking at ways to improve the SAM customer experience and will take the recommendation under advisement.

Comment: One respondent proposed the elimination of SF–424D—Assurances for Construction Programs and the incorporation of the form into the certifications and representations in SAM.

Response: GSA will implement additional certifications and representations into SAM, as directed by OMB. At this time, only the assurances in the SF-424B are being incorporated.

Comment: One respondent stated that the SAM registration process is time-consuming and frustrating for their foreign-based recipients and they object to adding another layer to the process. They further stated that their grants are usually under \$10,000.

Response: Although 2 CFR 25—Universal Identifier and System for Award Management, requires that all entities applying for or receiving federal awards, including subrecipients of federal awards, must register in SAM, there are conditions under which a federal agency may exempt a foreign entity from this requirement. 2 CFR 25.110 (d)(2)(ii) allows agencies to determine the practicality of whether a “foreign entity applying for or receiving an award or subaward for a project or program outside the United States valued at less than \$25,000” must comply with the SAM registration requirement.

Comment: One respondent stated that eliminating an agency’s ability to require certifications and assurances on their own application is impractical.

Response: Although the standard governmentwide certifications and representations will be certified in SAM, Federal agencies will still be able to require the submission of agency or program specific certifications and representations with applications.

Comment: One respondent stated that the cost and implementation timeline considerations for agencies with online project and grant application systems. The respondent further stated that they could not implement system changes by October 1.

Response: GSA has informed OMB of this consideration. The implementation date for entities to begin providing certifications during their initial registration and their subsequent annual re-registration will be no earlier than January 1, 2019. The full transition to grant certifications in SAM will not be completed for a year, since existing registrants will complete the certifications in their annual re-certification process. Once a recipient has registered or re-registered, the Federal agency will be able to download or print a copy of the entity’s certification to be entered into the entity’s grant award file.

C. Annual Reporting Burden

Respondents: 143,334.

Responses per Respondent: 1.

Total annual responses: 143,334.

Hours per Response: 2.5.

Total Burden Hours: 358,335.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the System for Award Management Registration Requirements for Prime Grant Recipients, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents in hard-copy or electronic format. Hard copy: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0290, System for Award Management Registration Requirements for Prime Grant Recipients, in all correspondence.

Dated: October 4, 2018.

David A. Shive,

Chief Information Officer.

[FR Doc. 2018-22407 Filed 10-12-18; 8:45 am]

BILLING CODE 6820-WY-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC-2018-0099]

Draft Guideline: Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), in the Department of Health and Human Services (DHHS), announces the opening of a docket to obtain comment on the *Draft Guideline: Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control*

Services (Draft Guideline). The *Draft Guideline* is an update of two sections of the *Guideline for Infection Control in Healthcare Personnel, 1998: C. Infection Control Objectives for a Personnel Health Service* and *D. Elements of a Personnel Health Service for Infection Control.* The updated recommendations in the *Draft Guideline* are intended to facilitate the provision of occupational infection prevention and control services to healthcare personnel and to prevent transmission of infections between healthcare personnel and others.

DATES: Written comments must be received on or before December 14, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2018-0099, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Division of Healthcare Quality Promotion, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, Attn: Docket No. CDC-2018-0099, HICPAC Secretariat, 1600 Clifton Road NE, Mailstop A07, Atlanta, Georgia 30329.

Instructions: Submissions via <http://www.regulations.gov> are preferred. All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Kendra Cox, Division of Healthcare Quality Promotion, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop A-07, Atlanta, Georgia 30329; Telephone: (404) 639-4000.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comments or supporting materials that you consider confidential or

inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose (but is not required) to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near-duplicate examples of a mass-mail campaign. CDC will carefully consider all comments timely submitted in preparation of the final guideline *Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services* and may revise the final document as appropriate.

Background

The *Draft Guideline*, located in the “Supporting & Related Material” tab of the docket, updates two sections from the *1998 Guideline: C. Infection Control Objectives for a Personnel Health Service* and *D. Elements of a Personnel Health Service for Infection Control*. Those sections described the infrastructure and routine practices of Occupational Health Services for providing occupational infection prevention and control services to healthcare personnel.

Once finalized, the *Draft Guideline* is intended for use by the leaders and staff of Occupational Health Services and the administrators and leaders of healthcare organizations in order to facilitate the provision of occupational infection prevention and control services to healthcare personnel.

Since 2015, the Healthcare Infection Control Practices Advisory Committee (HICPAC) has worked with national partners, academicians, public health professionals, healthcare providers, and other partners to develop this *Draft Guideline* as a recommendation for CDC to update sections of the *1998 Guideline*. HICPAC includes representatives from public health, infectious diseases, regulatory and other federal agencies, professional societies, and other stakeholders.

The draft recommendations in this *Draft Guideline* are informed by a systematic literature review of articles published in peer-reviewed journals or repositories of systematic reviews; and a review of occupational infection prevention and control guidelines, regulations, and standards. This *Draft Guideline* is not, and once finalized will not be, a federal rule or regulation; instead its purpose, as discussed above,

will be to facilitate the provision of occupational prevention and control services to healthcare personnel.

Dated: October 10, 2018.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2018–22377 Filed 10–12–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–19–1105; Docket No. CDC–2018–0098]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled One Health Harmful Algal Bloom System (OHHABS). The OHHABS is a voluntary reporting system available to state and territorial public health departments and their designated environmental health or animal health partners. It collects data on individual human and animal cases of illnesses from harmful algal bloom (HAB)-associated exposures, as well as environmental data about HABs.

DATES: CDC must receive written comments on or before December 14, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0098 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without

change, all relevant comments to [Regulations.gov](http://www.Regulations.gov).

Please note: Submit all comments through the Federal eRulemaking portal ([regulations.gov](http://www.regulations.gov)) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

One Health Harmful Algal Bloom System (OHHABS)—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID),

Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases requests a three-year extension for the One Health Harmful Algal Bloom System (OHHABS) for harmful algal bloom (HAB) and HAB-associated illness surveillance.

Algal toxins from Harmful Algal Blooms (HABs) include some of the most potent natural chemicals; these toxins can contaminate surface water used for recreation and drinking, as well as food sources. HABs pose a threat to both humans and animals. Human and animal illnesses from environmental exposures to HABs in fresh and marine waters have been documented in the United States. Animal illness may be an indicator of bloom toxicity; thus, it is necessary to provide a One Health approach for reporting HAB-associated illnesses and events. One Health is a collaborative, multisectoral, and trans-disciplinary approach with the goal of achieving optimal health outcomes recognizing the interconnection between people, animals, plants, and their shared environment.

HABs are an emerging public health concern. Several outbreaks related to HABs in freshwater settings have occurred in the United States. In 2009–2010, 11 HAB-associated outbreaks in fresh water settings were reported to the CDC Waterborne Disease and Outbreak Surveillance System (WBDOSS). These 11 outbreaks represent 46% of the outbreaks associated with untreated recreational water reported in 2009–2010 and 79% of HAB-associated outbreaks reported to WBDOSS since 1978. At least 61 persons experienced

health effects such as dermatologic, gastrointestinal, respiratory, or neurologic symptoms. In August 2014, detectable levels of microcystin, a potent HAB toxin, were detected in the drinking water supply in Toledo, Ohio, resulting in a “do not drink” water advisory and an extensive emergency response.

Known adverse health effects from HABs in marine waters include respiratory illness and seafood poisoning. In 2007, 15 persons were affected with respiratory illness from exposures to brevetoxins, an algal toxin, during a Florida red tide. From 2007–2011, HAB-associated foodborne exposures were identified for 273 case reports of human illness through a separate five year data collection effort with a subset of states. Of these reports, 248 reported ciguatera fish poisoning or poisoning by other toxins in seafood, including saxitoxin and brevetoxin. A review of national outbreak data reported to CDC for the time period 1998–2015 identified outbreaks of ciguatera fish poisoning as the second most common cause of fish-associated foodborne disease outbreaks in the United States.

The purpose of OHHABS is (1) to provide a database for routine data collection at the state/territorial and national level to identify and characterize HAB events, HAB-associated illnesses, and HAB exposures in the United States, and (2) to better inform and improve our understanding of HAB-associated illnesses and exposures through routine surveillance to inform public health policy and illness prevention efforts. OHHABS (electronic, year-round collection) includes questions about HAB events and HAB-associated-illness for human and animal cases. OHHABS, a web-

based reporting system, is nationally available for state and territorial health departments to voluntarily report information about HAB-associated human and animal cases and HAB events.

States and territories lacking a database to collect information on HAB events and HAB-associated illnesses may use OHHABS as a repository to track and review HAB events and HAB-associated illnesses within their state or territory. OHHABS data may help states and territories characterize the baseline frequency of HAB events and HAB-associated illnesses. Data from states and territories will be assessed by CDC to determine and characterize HAB events and HAB-associated illnesses nationally.

As with all routine public health surveillance conducted by CDC, participation by states and territorial health departments with OHHABS is voluntary. Participating states and territories will remain responsible for the collection and interpretation of these data elements at the state level and will voluntarily submit them to CDC. HAB event and HAB-associated human and animal case definitions, which were created for OHHABS with input from state and federal partners, are available online to assist states and territories. States and territories that lack state-specific case and event definitions may use the HAB-associated human and animal case and HAB event definitions to identify suspect, probable, and confirmed HAB-associated cases and HAB events, respectively, to report to OHHABS.

There is no cost to respondents other than the time to participate. Authorizing legislation comes from Section 301 of the Public Health Service Act (42 U.S.C. 241).

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State/territorial epidemiologists	One Health Harmful Algal Bloom System (OHHABS).	57	3	20/60	57
Total .....	.....	.....	.....	.....	57

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018-22358 Filed 10-12-18; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Matching Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is providing notice of a re-established matching program between CMS and each State Based Administering Entity (AE), titled “Determining Eligibility for Enrollment in Applicable State Health Subsidy Programs Under the Patient Protection and Affordable Care Act.”

DATES: The deadline for comments on this notice is November 14, 2018. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (from approximately October 2018 to April 2020) and within 3 months of expiration may be renewed for one additional year if the parties make no changes to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Written comments can be sent to: CMS Privacy Act Officer, Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Information Technology, CMS, 7500 Security Blvd., Baltimore, MD 21244-1870, Mailstop: N3-15-25, or by email to: walter.stone@cms.hhs.gov. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching program, you may contact Jack Lavelle, Senior Advisor, Marketplace Eligibility

and Enrollment Group, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Ave. Bethesda, MD 20814, (410) 786-0639, or by email at Jack.Lavelle1@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a) provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other federal or non-federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o)(2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Walter Stone,

CMS Privacy Act Officer, Information Security and Privacy Group, and Office of Information Technology, Centers for Medicare & Medicaid Service.

Participating Agencies

Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and the AE in each state. Each is both a source and a recipient agency as explained in the Purpose(s) section below.

AEs administer insurance affordability programs, and include Medicaid/Children's Health Insurance Program (CHIP) agencies, state-based exchanges (SBEs), and basic health

programs (BHPs). In states that operate a SBE, the AE would include the Medicaid/CHIP agency. Additionally, there are two states—Minnesota and New York—where the AE operates both a SBE and BHP. In states that have elected to utilize the federally-facilitated exchange (FFE), the AE would include only the Medicaid/CHIP agency.

Authority for Conducting the Matching Program

The statutory authority for the matching program is 42 U.S.C. 18001, *et seq.*

Purpose(s)

The matching program will enable CMS to provide information (including information CMS receives from other federal agencies under related matching agreements) to AEs, to assist AEs in verifying applicant information as required by the Affordable Care Act to determine applicants' eligibility for enrollment in applicable state health subsidy programs, including exemption from the requirement to maintain minimum essential coverage (MEC) or from the individual responsibility payment. In addition, to avoid dual enrollment, information will be shared between CMS and AEs, and among AEs, for the purpose of verifying whether applicants and enrollees are currently eligible for or enrolled in a Medicaid/CHIP program. All information will be shared through a data services hub (Hub) established by CMS to support the federally-facilitated health insurance exchange (which CMS operates) and state-based exchanges.

Categories of Individuals

The individuals whose information will be used in the matching program are consumers who apply for eligibility to enroll in applicable state health subsidy programs through an exchange established under ACA and other relevant individuals (such as, applicants' household members).

Categories of Records

The categories of records that will be used in the matching program are identifying records; minimum essential coverage period records; return information (household income and family size information); citizenship status records; birth and death information; disability coverage and income information; and imprisonment status records.

The data elements CMS will receive from AEs may include:

1. Social security number (if applicable).
2. last name.

3. first name.
4. date of birth.

The data elements the AEs will receive from CMS may include:

1. Validation of SSN.
2. verification of citizenship or immigration status.
3. incarceration status.
4. eligibility and/or enrollment in certain types of minimum essential coverage.
5. income, based on federal tax information (FTI), Title II benefits, and current income sources.
6. quarters of coverage.
7. death indicator.

System(s) of Records

The records that CMS will disclose to AEs will be disclosed from the following systems of records, as authorized by routine use 3 published in the System of Records Notices (SORNs) cited below:

- CMS Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, last published in full at 78 FR 63211 (Oct. 23, 2013), as amended at 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2018–22405 Filed 10–12–18; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0001]

Pathogen Reduction Technologies for Blood Safety; Public Workshop; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; correction.

SUMMARY: The Food and Drug Administration is correcting a document that appeared in the **Federal Register** of September 17, 2018. The document announced a public workshop entitled “Pathogen Reduction Technologies for Blood Safety; Public Workshop.” The document was published with an error in the website address to register for the workshop. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Loni Warren Henderson or Sherri Revell, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 240–

402–8010, email: CBERPpublicEvents@fda.hhs.gov (subject line: Pathogen Reduction Technology and Blood Safety).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Monday, September 17, 2018 (83 FR 46959), in FR Doc. 2018–20090, on page 46960, the following correction is made:

On page 46960, in the second column, in section III, in the “Registration” and “Streaming Webcast of the Public Workshop” portions, “<https://www.eventbrite.com/e/pathogen-reduction-technologies-for-blood-safety-public-workshop-tickets-4464956605>” is corrected to read “<https://www.eventbrite.com/e/pathogen-reduction-technologies-for-blood-safety-public-workshop-tickets-44649566054>.”

Dated: October 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22364 Filed 10–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–04040–0011]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 14, 2018.

ADDRESSES: Submit your comments to ed.calimag@hhs.gov or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0011 New–60D and project title for reference, to Sherrette.funn@hhs.gov, or call 202–795–7714, the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the

following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: SF–271 Outlay Report and Request for Reimbursement for Construction Programs.

Abstract: The SF–271 Outlay Report and Request for Reimbursement for Construction Programs form is by used grant awardees to request financial assistance funds for the purpose of reimbursement of construction-related expenditures.

Need and Proposed Use of the Information: The SF–271 Outlay Report and Request for Reimbursement for Construction Programs form is used by grant awardees in post-award financial activities related to Federal financial assistance.

Likely Respondents: Federal financial assistance awardees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for the ICs are summarized in the table below.

HHS estimates that the form will take 1 hour to complete each form.

Once OMB approves the use of the SF–271 Outlay Report and Request for Reimbursement for Construction Programs form as a common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF-271 Outlay Report and Request for Reimbursement for Construction Programs	100,000	1	1	100,000
Total	100,000	.....	.....	100,000

Terry Clark,
Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.
 [FR Doc. 2018-22342 Filed 10-12-18; 8:45 am]
BILLING CODE 4151-AE-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS-0990-new]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.
ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 14, 2018.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795-7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-New-60D and project title for reference, to *Sherrette.funn@hhs.gov*, or call 202-795-7714, the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any

other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: National Survey of Health Information Exchange Organizations (HIO).

Abstract: Electronic health information exchange (HIE) is one of three goals specified by Congress in the 2009 Health Information Technology for Economic and Clinical Health (HITECH) Act to ensure that the \$30 billion federal investment in electronic health records (EHRs) results in higher-quality, lower-cost care. The ability of providers to share data electronically is a core goal of HITECH and a central feature of a high-performing healthcare delivery system. Greater EHR adoption without data flowing between systems substantially limits quality and efficiency gains as well as reduces the value of the health IT investment.

There is growing consensus that achieving broad-based HIE is one of the most difficult components of HITECH. This is because successful HIE at scale involves coordination between many stakeholders, including but not limited to federal and state policymakers, healthcare delivery organizations, EHR and HIE vendors, and specific

organizations supporting HIE, such as health information organizations (HIOs) and health information service providers (HISPs). Further, the issues requiring coordination are diverse, spanning technical standards, consent regulations, business models and incentives, workflow integration, trust and governance, and information privacy and security.

Three HIE issues have proven particularly challenging: Implementation of and use of standards, information blocking, and sustainability. The ultimate goal of our project is to administer a survey instrument to HIOs in order to generate the most current national statistics and associated actionable insights on electronic health information exchange to inform policy efforts.

Need and Proposed Use of the Information: Collecting timely, national data from HIOs in the three domains of standards, information blocking, and sustainability is valuable to inform both HIE-specific policy efforts as well as broader health system reform efforts. By developing a survey instrument addressing these topics, collecting national data from a census of HIOs (and related HIE efforts), and analyzing the data to identify important new insights, the proposed project fills a critical gap in current knowledge and will provide policymakers with actionable results to inform progress towards greater interoperability and exchange of clinical data.

Likely Respondents: Given the relatively small number of HIOs in the U.S.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
HIO Survey	200	1	20/60	67
Total .....	.....	.....	.....	67

Terry Clark,
Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.
 [FR Doc. 2018-22344 Filed 10-12-18; 8:45 am]
BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS-4040-0012]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.
ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 14, 2018.

ADDRESSES: Submit your comments to *ed.calimag@hhs.gov* or (202) 690-7569.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-New-60D and project title for reference, to

Sherrette.funn@hhs.gov, or call 202-795-7714, the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: SF-270 Request for Advance or Reimbursement.

Abstract: The SF-270 Request for Advance or Reimbursement form is used by grant awardees to request financial assistance funds for the purpose of reimbursement or for advance of funds.

Need and Proposed Use of the Information: The SF-270 Request for Advance or Reimbursement form is used by grant awardees in post-award financial activities related to Federal financial assistance.

Likely Respondents: Federal financial assistance awardees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for the ICs are summarized in the table below.

HHS estimates that the form will take 1 hour to complete each form.

Once OMB approves the use of the SF-270 Request for Advance or Reimbursement form as a common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
The SF-270 Request for Advance or Reimbursement	100,000	1	1	100,000
Total	100,000	.....	.....	100,000

Terry Clark,
Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.
 [FR Doc. 2018-22343 Filed 10-12-18; 8:45 am]
BILLING CODE 4151-AE-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice to Close 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 Nursing Research Special Emphasis Panel Training Grants.

Date: October 26, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Boulevard, 6701 Democracy Boulevard, Suite 703, Bethesda, MD 20892.

Contact Person: Weiqun Li, MD, Scientific Review Officer, National Institute of Nursing

Research, National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892, (301) 594-5966, *wli@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: October 9, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22308 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Epidemiology and Population Sciences.

Date: November 1, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd St NW, Washington, DC 20037.

Contact Person: Gianina Ramona Dumitrescu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193-C, Bethesda, MD 28092, 301-827-0696, dumitrescurg@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: International Research Ethics Education and Curriculum Development.

Date: November 6, 2018.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301-254-9975, helmersk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Musculoskeletal and Oral Sciences, Imaging, Surgery and Informatics.

Date: November 6-7, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124,

MSC 7802, Bethesda, MD 20892, (301) 435-1210, chaudhaa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Bioengineering, Surgery, Anesthesiology and Trauma.

Date: November 6, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301-435-0484, mohsenim@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences.

Date: November 7, 2018.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Martha Garcia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, MSC 7818, Bethesda, MD 20892, 301-435-1243, garciamc@nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: November 7-8, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling and Biodata Management.

Date: November 8, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301-379-9351, allen.richon@nih.hhs.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psycho/Neuropathology Lifespan Development, STEM Education.

Date: November 8-9, 2018.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Elia E. Femia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, 301-827-7189, femiaee@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Biotherapeutics and Development.

Date: November 8-9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance New Orleans Pere Marquette, 817 Commons Street, New Orleans, LA 70112.

Contact Person: Nicholas J. Donato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040, Bethesda, MD 20892, 301-827-4810, nick.donato@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory, Vision and Low Vision Technologies.

Date: November 8-9, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613-2064, leepg@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery for Aging, Neuropsychiatric and Neurologic Disorders.

Date: November 8-9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW, Washington, DC 20001.

Contact Person: Aurea D. De Sousa, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, 301-827-6829, aurea.desousa@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: November 8-9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4152, Bethesda, MD 20892, 301-827-6009, lin.reigh-yi@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

Date: November 8–9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, margaret.chandler@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis/Chronic Fatigue Syndrome.

Date: November 8, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–827–2549, jdrgonova@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Prevention.

Date: November 8, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Syed M. Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, quadris@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 9, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22318 Filed 10–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Intramural Continuing Umbrella of Research Experiences (iCURE) Application—National Cancer Institute

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, OIRA_submission@omb.eop.gov or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Alison Lin, 9609 Medical Center Drive, Rockville, MD 20850 or call non-toll-free number (240) 276–6177 or Email your request, including your address to: linaj@mail.nih.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on July 27, 2018, page 35665 (83 FR 35665) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been

extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Intramural Continuing Umbrella of Research Experiences (iCURE) Application, 0925–XXXX, Exp., Date XX/XXXX, EXISTING COLLECTION IN USE WITHOUT OMB NUMBER, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The new Intramural Continuing Umbrella of Research Experiences (iCURE) program supports mentored research experiences for qualified post-baccalaureate (including post masters) individuals, graduate students, and postdoctoral fellows in the multidisciplinary National Cancer Institute (NCI) intramural research environment. This information collection request are applications and a reference letter to help evaluate the merits of the candidates and their potential match for the iCURE program. iCURE is an extension of the highly successful NCI Center to Reduce Cancer Health Disparities' (CRCHD) Continuing Umbrella of Research Experiences (CURE) program which helps support the career progress of its scholars toward research independence, as well as fosters and sustains diversity in the biomedical research pipeline. Like the CURE program, iCURE strongly encourages the participation of individuals from underrepresented populations and is aligned with NCI's interest in diversity. The benefit of collecting this information is to enable the selection of the best matching candidates for the iCURE program. The iCURE program aims to, 1. Enhance the diversity of the NCI Intramural Research Program (IRP), and 2. Promote the career progress of the iCURE scholars in cancer research.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated burden hours are 305.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Post-Baccalaureate Supplemental Application.	Post-Baccalaureate (Including Post-Master's) Individuals.	50	1	30/60	25
Graduate Student Application	Graduate Students	30	1	2	60
Postdoctoral Fellowship Application	Postdoctoral Candidates	50	1	2	100
Reference Letter	PIs, professors, supervisors	240	1	30/60	120
Totals		370	370		305

Dated: October 2, 2018.
Patricia M. Busche,
Project Clearance Liaison, National Cancer Institute, National Institutes of Health.
 [FR Doc. 2018-22319 Filed 10-12-18; 8:45 am]
BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Genomic Centers for Infectious Diseases (U19 Clinical Trial Not Allowed).

Date: November 8-9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G62A, National Institute of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20899823, (240) 669-5081, *ecohen@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 5, 2018.
Natasha M. Copeland,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22311 Filed 10-12-18; 8:45 am]
BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: November 5, 2018.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Lee G. Klinkenberg, Ph.D., Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC-9823, Bethesda, MD 20892-9834, 301-761-7749, *lee.klinkenberg@nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Sexually Transmitted Infections CRC; Vaccine Development (U19).

Date: November 8-9, 2018.

Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Scientific Review Program, AID/NIH/DHHS, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20852, 240-627-3390, *aabbey@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 5, 2018.
Natasha M. Copeland,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22312 Filed 10-12-18; 8:45 am]
BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Pathway to Independence Award (K99/R00).

Date: October 17, 2018.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827-5817, m McGuire@mail.nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Device-Based Treatments for Substance Use Disorders (UG3/UH3) (Clinical Trial Optional).

Date: October 22, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301-827-5840, julia.berzhanskaya@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA) (R21-Clinical Trial Optional).

Date: October 24, 2018.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827-5817, m McGuire@mail.nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Development of Medications to Prevent and Treat Opioid Use Disorders and Overdose (UG3/UH3) (Clinical Trials Optional).

Date: November 15, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4242, MSC 9550, Bethesda, MD 20892, 301-827-5833, ivan.navarro@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 5, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22309 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892-2479; telephone: 301-402-5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: Technology description follows.

High Density Lipoprotein (HDL) Targeting Protease Inhibitor

Available for licensing and commercial development is intellectual property covering a class of lipoproteins targeting protease inhibitors and methods of their use for treating a protease-mediated disease. Alpha-1-antitrypsin (A1AT) deficiency occurs in about 1 in 2500 individuals in the United States and Europe. Persons with this condition develop severe liver disease and emphysema/chronic obstructive pulmonary disease (COPD). The current treatment for A1AT deficiency includes intravenous infusion of purified human A1AT protein. This treatment strategy is expensive and only moderately effective. A recent study demonstrated improvement in the treatment of A1AT deficiency in a mouse model of emphysema by pre-incubating A1AT with high density lipoprotein (HDL) particles prior to infusion. This resulted in improvements in lung morphology and inflammatory markers in the lung

compared to A1AT treatment alone. The mechanism for this improvement in function of A1AT when bound to HDL is believed to be increased trafficking of A1AT to the lung. The lipoprotein targeting protease inhibitory peptide of the present invention represents provides advances upon these existing methods. First, it replaces the need for full length A1AT protein with a known small peptide inhibitor of elastase (the natural target protease of A1AT; a small tetra-peptide with the sequence Ala-Ala-Pro-Val-chloromethylketone). Second, the peptide can be conjugated by amine reactive chemistry to a lipoprotein targeting motif. The inventors have data linking the peptide to a Vitamin E with a polyethylene glycol spacer arm to distance the functional AAPV peptide from the targeting moiety and to provide improved solubility. Third, the approach promises improved efficacy over the current standard of care (A1AT infusion) because the overall molecule is small molecule, 2.5 kDa versus 52 kDa for the full length A1AT protein. An HDL particle can generally accommodate only one molecule of A1AT, whereas many copies of our VitE-PEG-AAPV peptide can reside on an HDL particle providing a significant increase in potency.

Potential Commercial Applications

- Alpha-1-antitrypsin deficiency
- severe liver disease
- emphysema/chronic obstructive pulmonary disease

Development Stage

- Early stage

Inventors: Alan Remaley and Scott Maxwell Gordon (both of NHLBI)

Relevant Publications: Gordon, *et al.* Molecular & Cellular Proteomics 14: 10.1074/mcp.M115.054031, 3247-3257, 2015.

Intellectual Property: HHS Reference No. E-155-2016; U.S Patent Application 15/297,054 filed October 18, 2016.

Licensing Contact: Michael Shmilovich, Esq. CLP; 301-435-5019; shmilovm@mail.nih.gov.

Dated: September 24, 2018.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2018-22316 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Human Genome Research Institute Special Emphasis Panel.

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 Human Genome Research Institute Special Emphasis Panel; Charles Lee Application 2 U24 HG007479-05.

Date: November 9, 2018.

Time: 5:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7355 Wisconsin Avenue, Room Calvert II, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301-594-4280, mckenneyk@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 5, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22314 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing to achieve expeditious

commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892-2479; telephone: 301-402-5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION:

Technology description follows.

TSLP for treatment of pulmonary methicillin-resistant *S. aureus* (MRSA) infection. Available for licensing and commercial development is a patent estate covering methods of promoting the host defense of a patient suffering from or at risk of a bacterial infection (Methicillin-resistant Staphylococcus aureus (MRSA) infection in particular) by administering a thymic stromal lymphopoietin (TSLP) protein or polypeptide. TSLP induces neutrophil mediated killing of MRSA bacteria mediated by reactive oxygen species and complement. Community-acquired Staphylococcus aureus infections often present as serious skin infections in otherwise healthy individuals and have become a worldwide epidemic fueled by the emergence of strains with antibiotic resistance. The cytokine TSLP is highly expressed in the skin and in other barrier surfaces and plays a deleterious role by promoting T helper cell type 2 (TH2) responses during allergic diseases. The present methodology is based on a finding of non-TH2's role for TSLP in enhancing neutrophil killing of MRSA during an in vivo skin infection. TSLP also enhances killing of Streptococcus pyogenes, another clinically important cause of human skin infections. Unexpectedly, TSLP mechanistically mediates antibacterial effects by directly engaging the complement C5 system to modulate production of reactive oxygen species by neutrophils.

Potential Commercial Applications:

- MRSA infection.

Inventors: Warren Leonard, Erin West, Rosanne Spolski (all of NHLBI) and Christopher Garcia (Stanford).

Relevant Publications:

- J Immunol May 1, 2016, 196 (1 Supplement) 60.5;
 - Sci Immunol. 2016 Nov 18;1(5).
- Intellectual Property:* HHS Reference No. E-034-2016,

Licensing Contact: Michael Shmilovich, Esq, CLP; 301-435-5019; shmilovm@mail.nih.gov.

Dated: September 25, 2018.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2018-22317 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Global Infectious Disease Research Administration Development Award for Low- and Middle-Income Country Institutions (G11).

Date: November 6, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3G41B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892-9834, (240) 669-5068, zhuqing.li@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 5, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22313 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of 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: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group, Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: November 8–9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton Washington, DC, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, linh1@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 9, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22310 Filed 10–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing to achieve expeditious

commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION:

Technology description follows.

Antibody Targeting Cell Surface Deposited Complement Protein C3d

Available for licensing and commercial development is a patent estate covering anti-C3d antibodies, antibody fragments, and their methods of use for killing cancer cells expressing C3d complement protein on their surface, and more particularly for the treatment of patients with Chronic Lymphocytic Leukemia (CLL); a malignancy of mature B-cells and the most common leukemia in the US. The most commonly used monoclonal antibodies (mAbs) are of mouse origin that have been chimerized or humanized to carry human constant regions (typically the human IgG1 isotype), required for the recruitment of human effector mechanisms. The complement system consists of soluble plasma proteins and is activated upon binding of a mAb to target cells resulting in the deposition of complement components on the cell surface and formation of the membrane attack complex (MAC), which can kill cells inducing lysis. The invention originated from an observation during CLL patient treatment with chemotherapy in combination with an anti CD20 mAb (e.g., rituximab or ofatumumab). Upon infusion complement is deposited on the cell surface of CLL cells, a subset of cells is killed, and other cells escape having lost CD20 expression due to a process called trogocytosis by which antibody-CD20 complexes are pulled of the CLL cell surface by immune cells that bind the Fc-portion of the mAb. It has been noted that C3d is stably attached to the CLL cells that escape from further rituximab or ofatumumab targeting and remains detectable for weeks on these cells. C3d, thus, could serve as a neoantigen that could be targeted with anti C3d specific mAbs to kill off escaped tumor cells.

Potential Commercial Applications: Development Stage:

- Mouse data available.

Inventors: Adrian Wiestner, Martin Skarzynski, Christoph Rader (all of NHLBI), and Margaret A. Lindorfer, Ronald P. Taylor, and Berengere Vire (all of the University of Virginia School of Medicine).

Relevant Publications:

- Robinson, et al. Blood. 2018 Aug 2;132(5):521–532. doi: 10.1182/blood-2018-02-830992.

Intellectual Property: HHS Reference No. E–758–2013–0 and –1; U.S. Provisional Patent Application 61/924,967 filed January 8, 2014 (converted), International Patent Application PCT/US2015/010620 filed January 8, 2015 (nationalized), U.S. Patent Application 15/110, 557 filed January 8, 2015, Canadian Patent Application 2936346 filed January 8, 2015, European Patent Application 15701442.4 filed January 8, 2015, and U.S. Divisional Patent Application 16/047,929 filed January 8, 2015.

Licensing Contact: Michael Shmilovich, Esq. CLP; 301–435–5019; shmilovm@mail.nih.gov.

Dated: October 4, 2018.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2018–22359 Filed 10–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Center for Inherited Disease Research Access Committee.

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: Center for Inherited Disease Research Access Committee.

Date: November 9, 2018.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, Room 3185, MSC 6908, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Barbara J Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Ste. 4076, MSC 9306, Bethesda, MD 20892-9306, 301-402-0838, barbara.thomas@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 5, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-22315 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892-2479; telephone: 301-402-5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION:

Technology description follows.

Lentiviral Protein Delivery System for RNA-Guided Genome Editing

Available for licensing and commercial development is an HIV-1-based lentiviral vector system for gene correction strategies involving a homologous recombination with a variation of the CRISPR/Cas9 system. Other such lentivirus-based vectors encode a guide RNA, which contains a specific sequence that recognizes a target gene, and a Cas9 endonuclease, which cuts at the specific site. Such systems are being explored as potential

therapies for certain hereditary diseases (e.g., sickle-cell disease). However, such systems present some problems due to constitutive expression of Cas9 endonuclease in lentiviral vector-transduced cells and the large size of the Cas9 gene. The variation of this invention delivers the Cas9 endonuclease directly, instead of the gene encoding the protein. This system comprises (a) a lentivirus vector particle comprising a lentiviral genome which encodes at least one guide RNA sequence that is complementary to a first DNA sequence in a host cell genome, (b) a Cas9 protein, and optionally (c) a donor nucleic acid molecule comprising a second DNA sequence. In addition, the invention provides a host cell comprising the foregoing system, as well as a method of altering a DNA sequence in a host cell comprising contacting a host cell with the foregoing system. Alternatively, the invention also provides a fusion protein comprising a Cas9 protein and a cyclophilin A (CypA) protein, wherein the fusion protein binds to the lentivirus vector particle, as well as a lentiviral vector particle comprising such a fusion protein. Gene correction using the disclosed lentiviral vector systems are being tested with respect to the beta-globin gene and the BCL11A gene (to treat sickle-cell disease) and will be used for induced pluripotent stem cell (iPS) generation.

Potential Commercial Applications:

- Sickle cell disease
- gene therapy

Development Stage:

- Early stage

Inventors: Naoya Uchida, Juan J. Haro Mora, John F. Tisdale (all of NHLBI)

Relevant Publications: Demirci et al., *Cytotherapy*. 2018 Jul;20(7):899-910. doi: 10.1016/j.jcyt.2018.04.003. Epub 2018 May 30.

Intellectual Property: HHS Reference No. E-165-2015; U.S Provisional Patent Application 62/236,223 filed October 2, 2015; International Patent Application PCT/US2016/054759 filed September 30, 2016, U.S. Continuation-in-Part Application 15/942,673 filed April 2, 2018 and European Patent Application 16782163.6 having an international filing date of September 30, 2016.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301-435-5019; shmilovm@mail.nih.gov.

Dated: October 4, 2018.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2018-22360 Filed 10-12-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Technology Transfer Centers (TTC) Network Program Monitoring—NEW

The Substance Abuse and Mental Health Administration's (SAMHSA) will monitor program performance of its Technology Transfer Centers (TTCs). The TTCs disseminate current behavioral health and HIV services research from the National Institute on Drug Abuse, National Institute on Alcohol Abuse and Alcoholism, National Institute of Mental Health, Agency for Healthcare Research and Quality National Institute of Justice, and other sources, as well as other SAMHSA programs. To accomplish this, the TTCs develop and update state-of-the-art,

research-based curricula and professional development training.

The TTCs hold a variety of events: Technical assistance events, meetings, trainings, and learning collaboratives. A TTC technical assistance event is defined as a jointly planned consultation generally involving a series of contacts between the TTC and an outside organization/institution during which the TTC provides expertise and gives direction toward resolving a problem or improving conditions. Technical assistance events can be categorized into universal, targeted and intensive. Other TTC events such as meetings, training, strategic planning and learning collaboratives are utilized to support technical assistance. These events are TTC-sponsored or co-sponsored events in which a group of people representing one or more agencies other than the TTC work cooperatively on a project, problem, and/or policy.

SAMHSA intends to use five (5) instruments for program monitoring of TTC events as well as ongoing quality improvement, which are described below.

1. *Event Description Form (EDF)*: The EDF collects event information. This instrument asks approximately 10 questions of TTC faculty/staff relating to the event focus and format. It allows the TTCs and SAMHSA to track the number of events held (See Attachment 1).

2. *TTC Post Event Form—Domestic*: The Post Event Form—Domestic will be administered immediately following the event. It asks approximately 11 questions of each individual that participated in the event (Attachment 2). The instrument asks the participants to report on general demographic information (gender, race, level of education, primary profession), principal employment setting, employment zip code, satisfaction with the event, if they expect the event to benefit them professionally, if they expect the event to change their practice and if they would recommend the event to a colleague.

3. *TTC Post Event Form—International*: The Post Event Form—International will be administered

immediately following the event. It asks 9 questions of each individual that participated in the event (Attachment 3). The instrument is very similar to the Post Event Form—Domestic and asks the participants to report gender, highest degree received, principal employment setting, employment postal code, satisfaction with the event, if they expect the event to benefit them professionally, if they expect the event to change their practice and if they would recommend the event to a colleague. The main difference between the international and domestic versions of the post event forms is the modification of the demographic questions to make the forms appropriate for distribution outside the U.S. context and relevant to existing PEPFAR indicators. For example, the race/ethnicity questions from the domestic form are not included in the international form. Also, the personal code offers more spaces for characters to provide flexibility in how the personal code is constructed in different countries. Making these change assists SAMHSA in being culturally appropriate (e.g., participants of events of the South Africa HIV ATTC could be offended by being asked if they are “African American”; the concept of “mother’s maiden name” does not exist in Vietnam). The change also makes the information better match the needs of PEPFAR, which provides the funding for these centers.

4. *TTC Follow-up Form—Domestic*: The Follow-up Form—Domestic will be administered 30-days after all events that last a minimum of three (3) hours. The form will be administered to a minimum of 25% of participants who consent to participate in the follow-up process. The form asks about 10 questions (Attachment 3). The instrument asks the participants to report if the information provided in at the event benefited their professional development, will change their practice, if they will use the information in their future work, if information will be shared with colleagues, how the event supported their work responsibilities, how the TTC can improve the events,

what other topics would participants like to see TTCs address and in what format.

5. *TTC Follow-up Form—International*: The Follow-up Form—International will be administered 30-days after all events that last a minimum of three (3) hours. The form will be administered to a minimum of 25% of participants who consent to participate in the follow-up process. The form asks about 10 questions (Attachment 5). The instrument asks the participants to report if the information provided at the event benefited their professional development, will change their practice, if they will use the information in their future work, if information will be shared with colleagues, how the event supported their work responsibilities, how the TTC can improve the events, what other topics would participants like to see TTCs address and in what format. The only difference between the domestic and international follow-up forms is that the international form offers more spaces for characters for the personal code to provide flexibility in how the personal code is constructed in different countries. While the instruments administered immediately at the end of each event are given to all participants, the instruments administered 30 days after each event are sent to a random sample of 25% of those participants who consented to follow-up. This sampling rule applies to all events that last a minimum of three (3) hours.

The information collected on the TTC forms will assist SAMHSA in documenting the numbers and types of participants in TTC events, describing the extent to which participants report improvement in their professional development, and which method is most effective in disseminating knowledge to various audiences. This type of information is crucial to support SAMHSA in complying with GPRA reporting requirements and will inform future development of knowledge dissemination activities.

The chart below summarizes the annualized burden for this project.

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours
ATTC Faculty/Staff:					
Event Description Form	250	1	250	.25	62.50
Meeting and Technical Assistance Participants:					
Post-Event Form	5,000	1	5,000	.12	600
Follow-up Form	Covered under CSAT Government Performance and Results Act (GPRA) Customer Satisfaction form (OMB #0930-0197).				

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours
Training Participants:					
Post-Event Form	30,000	1	30,000	.16	4,800
Follow-up Form	7,500	1	7,500	.16	1,200
Total	42,750	.....	42,750	.....	6,662.50

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours
MHTTC Faculty/Staff:					
Event Description Form	250	1	250	.25	62.50
Meeting and Technical Assistance Participants:					
Post-Event Form	5,000	1	5,000	.12	600
Follow-up Form	Covered under CSAT Government Performance and Results Act (GPRA) Customer Satisfaction form (OMB #0930-0197).				
Training Participants:					
Post-Event Form	30,000	1	30,000	.16	4,800
Follow-up Form	7,500	1	7,500	.16	1,200
Total	42,750	.....	42,750	.....	6,662.50

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours
PTTC Faculty/Staff:					
Event Description Form	250	1	250	.25	62.50
Meeting and Technical Assistance Participants:					
Post-Event Form	5,000	1	5,000	.12	600
Follow-up Form	Covered under CSAT Government Performance and Results Act (GPRA) Customer Satisfaction form (OMB #0930-0197)				
Training Participants:					
Post-Event Form	30,000	1	30,000	.16	4,800
Follow-up Form	7,500	1	7,500	.16	1,200
Total	42,750	.....	42,750	.....	6,662.50

SUMMARY TABLE

Instruments	Number respondents	Responses per respondents	Burden hours
TTC Event Description Form	750	1	187.50
TTC Post Event Form—Domestic and International	105,000	1	16,200
TTC Follow up Form—Domestic and International	22,500	1	3,600
Total	128,250	1	19,987.50

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 15E57-B, 5600 Fishers Lane, Rockville, MD 20852 or email a copy at summer.king@samhsa.hhs.gov. Written comments should be received by December 14, 2018.

Summer King,
Statistician.

[FR Doc. 2018-22409 Filed 10-12-18; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2018-0002; Internal Agency Docket No. FEMA-B-1853]

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 14, 2019.

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-1853, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and

Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov; or visit the FEMA Map Information eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be

considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

David I. Maurstad,
Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Livingston County, Missouri and Incorporated Areas Project: 17-07-0149S Preliminary Date: June 12, 2018	
City of Chillicothe	City Hall, 715 Washington Street, Chillicothe, MO 64601.
City of Chula	Livingston County Courthouse, 700 Webster Street, Chillicothe, MO 64601.
City of Wheeling	City Hall, 210 North Grant Street, Wheeling, MO 64688.
Unincorporated Areas of Livingston County	Livingston County Courthouse, 700 Webster Street, Chillicothe, MO 64601.
Village of Utica	Livingston County Courthouse, 700 Webster Street, Chillicothe, MO 64601.
Scotland County, Missouri and Incorporated Areas Project: 17-07-0193S Preliminary Date: June 14, 2018	
City of Memphis	City Hall, 125 West Jefferson Street, Memphis, MO 63555.
City of South Gorin	Scotland County Courthouse, 117 South Market Street, Memphis, MO 63555.
Unincorporated Areas of Scotland County	Scotland County Courthouse, 117 South Market Street, Memphis, MO 63555.

Community	Community map repository address
Village of Arbela	Scotland County Courthouse, 117 South Market Street, Memphis, MO 63555.

Vernon County, Missouri and Incorporated Areas
Project: 17-07-0170S Preliminary Date: May 25, 2018

City of Bronaugh	City Hall, 178 East 4th Street, Bronaugh, MO 64728.
City of Nevada	City Hall, 110 South Ash Street, Nevada, MO 64772.
City of Schell City	City Hall, 134 South Main Street, Schell City, MO 64783.
Village of Metz	Vernon County Courthouse, 100 West Cherry Street, Nevada, MO 64772.
Village of Richards	Vernon County Courthouse, 100 West Cherry Street, Nevada, MO 64772.
Village of Stotesbury	Vernon County Courthouse, 100 West Cherry Street, Nevada, MO 64772.

Wright County, Missouri and Incorporated Areas
Project: 17-07-0198S Preliminary Date: June 29, 2018

City of Hartville	City Hall, 200 South Main Street, Hartville, MO, 65667.
City of Mansfield	City Hall, 122 North Business 60, Mansfield, MO, 65704.
City of Mountain Grove	City Hall, 100 East State Street, Mountain Grove, MO 65711.
Unincorporated Areas of Wright County	Wright County Courthouse, 125 Court Square, Hartville, MO, 65667.

Kittitas County, Washington and Incorporated Areas
Project: 16-10-0626S Preliminary Dates: March 26, 2018 and June 22, 2018

City of Cle Elum	City Hall, 119 West First Street, Cle Elum, WA 98922.
City of Ellensburg	City Hall, 501 North Anderson Street, Ellensburg, WA 98926.
City of Kittitas	City Hall, 207 North Main Street, Kittitas, WA 98934.
City of Roslyn	City Hall, 201 South 1st Street, Roslyn, WA 98941.
Town of South Cle Elum	Town Hall, 523 Lincoln Avenue, South Cle Elum, WA 98943.
Unincorporated Areas of Kittitas County	Kittitas County Department of Public Works, 411 North Ruby Street, Suite 1, Ellensburg, WA 98926.

[FR Doc. 2018-22302 Filed 10-12-18; 8:45 am]
 BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4366-DR; Docket ID FEMA-2018-0001]

Hawaii; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Hawaii (FEMA-4366-DR), dated May 11, 2018, and related determinations.

DATES: This amendment was issued September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for

this disaster is closed effective August 17, 2018.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,
Administrator, Federal Emergency Management Agency.

[FR Doc. 2018-22320 Filed 10-12-18; 8:45 am]

BILLING CODE 9111-11-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4394-DR; Docket ID FEMA-2018-0001]

South Carolina; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA-4394-DR), dated September 16, 2018, and related determinations.

DATES: This amendment was issued October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the

President in his declaration of September 16, 2018.

Darlington and Florence Counties for Individual Assistance (already designated for emergency protective measures (Category B), including direct federal assistance under the Public Assistance program).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–22322 Filed 10–12–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4394–DR; Docket ID FEMA–2018–0001]

South Carolina; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4394–DR), dated September 16, 2018, and related determinations.

DATES: This amendment was issued September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 16, 2018.

Georgetown County for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–22303 Filed 10–12–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4393–DR; Docket ID FEMA–2018–0001]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–4393–DR), dated September 14, 2018, and related determinations.

DATES: The declaration was issued September 14, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 14, 2018, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of North Carolina resulting from Hurricane Florence beginning on September 7, 2018, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Albert Lewis, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of North Carolina have been designated as adversely affected by this major disaster:

Beaufort, Brunswick, Carteret, Craven, New Hanover, Onslow, Pamlico, and Pender Counties for Individual Assistance.

Beaufort, Brunswick, Carteret, Craven, New Hanover, Onslow, Pamlico, and Pender Counties for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the State of North Carolina are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–22304 Filed 10–12–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3404–EM; Docket ID FEMA–2018–0001]

Hawaii; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Hawaii (FEMA–3404–EM), dated September 12, 2018, and related determinations.

DATES: This amendment was issued September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective September 13, 2018.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–22321 Filed 10–12–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0016; OMB No. 1660–0139]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Ready Public Service Advertising (PSA) Campaign Creative Testing Research

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before November 14, 2018.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to dhsdeskofficer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Aretha Carter, External Affairs Specialist, Federal Emergency Management Agency, (202) 288–6783, Aretha.Carter@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on March 14, 2018 at 83 FR 11222 with a 60-day public comment period. FEMA received 10 comments. Only one comment is related to the information collection, and states, “Whereas the abstract states, ‘FEMA proposes conducting qualitative research in the form of focus groups in order to test creative concepts developed for FEMA’s national Ready public service advertising (PSA) campaign, which aims to educate and empower Americans to prepare for and respond to emergencies. The research will help determine the clarity, relevance, and motivating appeal of the concepts prior to final production of the advertising.’ It does not state research will include the effectiveness of the PSA. Clearly it is difficult for metrics to be measured because they are not an exact science, and there is no way to measure success. What can be measured are ‘results’. Therefore PSAs should be written with the level of creativity where they generate results, then results or the effectiveness of the PSA can be measured. With no means of measurement stated in the abstract, it seems like determining if there is actual ‘qualitative testing’ will not be captured.” The proposed research is a qualitative research approach; the objective of the focus groups is to facilitate discussion around the creative PSA product developed and to identify patterns in response to determine whether the creative concepts are relevant to the intended audience, deliver the message clearly, and have potential to motivate behavior change. This data collection is not intended to measure whether the final produced campaign is impactful in-market; other methods, such as a survey of the campaign audience, are planned to evaluate the impact of the campaign and will be a separate data collection. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Ready PSA Campaign Creative Testing Research.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0139.

Form Titles and Numbers: FEMA Forms: FEMA Form 008–0–21, Recruitment Screener (script); FEMA Form 008–0–22, Focus Group Discussion Guide.

Abstract: FEMA proposes conducting qualitative research in the form of focus groups in order to test creative concepts developed for FEMA's national Ready public service advertising campaign, which aims to educate and empower Americans to prepare for and respond to emergencies. The research will help determine the clarity, relevance, and motivating appeal of the concepts prior to final production of the advertising.

Affected Public: Individuals or households.

Estimated Number of Respondents: 90.

Estimated Number of Responses: 90.

Estimated Total Annual Burden Hours: 58.

Estimated Total Annual Respondent Cost: \$2,060.16.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$52,834.81.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

William H. Holzerland,

Sr. Director, Information Management Division, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018-22301 Filed 10-12-18; 8:45 am]

BILLING CODE 9111-69-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4395-DR; Docket ID FEMA-2018-0001]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA-4395-DR), dated September 27, 2018, and related determinations.

DATES: The declaration was issued September 27, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 27, 2018, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from Hurricane Lane during the period of August 22 to August 29, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Hawaii have been designated as adversely affected by this major disaster:

Hawaii, Kauai, and Maui for Public Assistance.

All areas within the State of Hawaii are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018-22306 Filed 10-12-18; 8:45 am]

BILLING CODE 9111-11-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4387-DR; Docket ID FEMA-2018-0001]

Nebraska; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA-4387-DR), dated August 27, 2018, and related determinations.

DATES: This amendment was issued October 2, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 27, 2018.

Boyd County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–22305 Filed 10–12–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0024; OMB No. 1660–0140]

Agency Information Collection Activities: Proposed Collection; Comment Request; Integrated Public Alert and Warning Systems (IPAWS) Memorandum of Agreement Applications

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before November 14, 2018.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to dhsdeskofficer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Wade Witmer, Deputy for the Integrated Public Alert and Warning System (IPAWS) Program, FEMA, Continuity Communications Division, (202) 646–2523, wade.witmer@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on June 21, 2018, at 83 FR 28857 with a 60-day public comment period. FEMA received four comments that were unrelated to this collection. Public Law 114–143, The IPAWS Modernization Act of 2015, and Presidential Executive Order 13407 established the policy for an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the American people in situations of war, terrorist attack, natural disaster, or other hazards to public safety and wellbeing. The Integrated Public Alert and Warning System (IPAWS) is the Department of Homeland Security's (DHS) response to the Executive Order. The Stafford Act (U.S.C. Title 42, Chapter 68, Subchapter II) requires that FEMA make IPAWS available to Federal, State, and local agencies for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters. The information collected is used by FEMA to create a Memorandum of Agreement (MOA) that regulates the management, operations, and security of the information technology system connection between a Federal, State, territorial, tribal or local alerting authority and IPAWS–OPEN (Open Platform for Emergency Notifications).

Collection of Information

Title: Integrated Public Alert and Warning Systems (IPAWS)

Memorandum of Agreement Applications.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0140.

FEMA Forms: FEMA Form 007–0–25, IPAWS Memorandum of Agreement (MOA) Application; FEMA Form 007–0–26, Memorandum of Agreement Application for Tribal Governments.

Abstract: A Federal, State, territorial, tribal, or local alerting authority that applies for authorization to use IPAWS is designated as a Collaborative Operating Group or “COG” by the IPAWS Program Management Office (PMO). Access to IPAWS is free; however, to send a message using IPAWS, an organization must procure its own IPAWS-compatible software. To become a COG, a Memorandum of Agreement (MOA) governing system security must be executed between the sponsoring organization and FEMA.

Affected Public: State, local, or Tribal governments.

Estimated Number of Respondents: 160.

Estimated Number of Responses: 160.

Estimated Total Annual Burden Hours: 160 hours.

Estimated Total Annual Respondent Cost: \$8,150.40.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$115,890.42.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Maile Arthur,

*Acting Records Management Branch Chief,
Office of the Chief Administrative Officer,
Mission Support, Federal Emergency
Management Agency, Department of
Homeland Security.*

[FR Doc. 2018-22298 Filed 10-12-18; 8:45 am]

BILLING CODE 9111-AB-P

DEPARTMENT OF THE INTERIOR

**Office of Surface Mining Reclamation
and Enforcement**

[S1D1S SS08011000 SX064A000
189S180110; S2D2S SS08011000
SX064A000 18XS501520; OMB Control
Number 1029-0051]

**Agency Information Collection
Activities: State Regulatory Authority:
Inspection and Enforcement**

AGENCY: Office of Surface Mining
Reclamation and Enforcement, Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1995, we,
the Office of Surface Mining
Reclamation and Enforcement (OSMRE)
are announcing our intention to request
renewed approval for the collection of
information which requires that each
regulatory authority conduct periodic
inspections of coal mining activities,
and prepare and maintain inspection
reports and other related documents for
OSMRE and public review. This
information collection activity was
previously approved by the Office of
Management and Budget (OMB), and
assigned control number 1029-0051.

DATES: Interested persons are invited to
submit comments on or before
November 14, 2018.

ADDRESSES: Send written comments on
this information collection request (ICR)
to the Office of Management and
Budget's Desk Officer for the
Department of the Interior by email at
OIRA_Submission@omb.eop.gov; or via
facsimile to (202) 395-5806. Please
provide a copy of your comments to
John Trelease, Office of Surface Mining
Reclamation and Enforcement, 1849 C
Street NW, Mail Stop 4559, Washington,
DC 20240; or by email to *jtrelease@
osmre.gov*. Please reference OMB
Control Number 1029-0051 in the
subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To
request additional information about
this ICR, contact John Trelease by email
at *jtrelease@osmre.gov*, or by telephone

at (202) 208-2783. You may also view
the ICR at [http://www.reginfo.gov/
public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain).

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 provides
the requested data in the desired format.

A **Federal Register** notice with a 60-
day public comment period soliciting
comments on this collection of
information was published on July 12,
2018 (83 FR 32325). No comments were
received.

We are again 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
OSMRE; (2) is the estimate of burden
accurate; (3) how might OSMRE
enhance the quality, utility, and clarity
of the information to be collected; and
(4) how might OSMRE 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. 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.

Title of Collection: 30 CFR part 840—
State Regulatory Authority: Inspection
and Enforcement.

OMB Control Number: 1029-0051.

Abstract: This provision requires the
regulatory authority to conduct periodic
inspections of coal mining activities,
and prepare and maintain inspection
reports and other related documents for
OSMRE and public review. This
information is necessary to meet the
requirements of the Surface Mining
Control and Reclamation Act of 1977
and its public participation provisions.
Public review assures the public that the
State is meeting the requirements of the

Act and approved State regulatory
program.

Form Number: None.

Type of Review: Extension of a
currently approved collection.

Respondents/Affected Public: State
Regulatory Authorities.

*Total Estimated Number of Annual
Responses:* 24 States.

*Total Estimated Number of Annual
Responses:* 61,585.

*Estimated Completion Time per
Response:* From 1.5 hours to 6 hours per
response depending on activity.

*Total Estimated Number of Annual
Burden Hours:* 330,900 hours.

Respondent's Obligation: Required to
obtain or retain a benefit.

Frequency of Collection: Once,
annually, quarterly, and monthly.

*Total Estimated Annual Nonhour
Burden Cost:* \$625.

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.

Authority: The authorities for this
action are the Surface Mining Control
and Reclamation Act of 1977, as
amended (30 U.S.C. 1201 *et seq.*), and
the Paperwork Reduction Act of 1995
(44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018-22331 Filed 10-12-18; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

**Office of Surface Mining Reclamation
and Enforcement**

[S1D1S SS08011000 SX064A000
189S180110; S2D2S SS08011000
SX064A000 18XS501520; OMB Control
Number 1029-0027]

**Agency Information Collection
Activities: General Requirements for
Surface Coal Mining and Reclamation
Operations on Federal Lands**

AGENCY: Office of Surface Mining
Reclamation and Enforcement, Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1995, we,
the Office of Surface Mining
Reclamation and Enforcement (OSMRE),
are announcing our intention to request
renewed approval for the collection of
information which requires that a
Federal lands program be established to
govern surface coal mining and
reclamation operations on Federal
lands. The information requested is

needed to assist the regulatory authority to determine the eligibility of an applicant to conduct surface coal mining operations on Federal lands.

DATES: Interested persons are invited to submit comments on or before November 14, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at OIRA_Submission@omb.eop.gov; or via facsimile to (202) 395-5806. Please provide a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240; or by email to jtrelease@osmre.gov. Please reference OMB Control Number 1029-0027 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at jtrelease@osmre.gov, or by telephone at (202) 208-2783. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

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 provides the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 6, 2018 (83 FR 31567). No comments were received.

We are again 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 OSMRE; (2) is the estimate of burden accurate; (3) how might OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might OSMRE 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. 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.

Title of Collection: 30 CFR part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands.

OMB Control Number: 1029-0027.

Abstract: Section 523 of the Surface Mining Control and Reclamation Act of 1977 requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information is needed to assist the regulatory authority to determine the eligibility of an applicant to conduct coal mining on Federal lands.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for surface coal mine permits on Federal lands, and State Regulatory Authorities.

Total Estimated Number of Annual Respondents: 5 applicants and 5 States.

Total Estimated Number of Annual Responses: 6 applicants and 6 States.

Estimated Completion Time per Response: Varies from 1 to 244 hours for applicants depending on the activity, and 285 hours for each State regulatory authority.

Total Estimated Number of Annual Burden Hours: 1,225 hours for applicants and 1,425 hours for States.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: \$0.

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.

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,
Acting Chief, Division of Regulatory Support.
[FR Doc. 2018-22332 Filed 10-12-18; 8:45 am]

BILLING CODE 4310-05-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1046]

Certain Non-Volatile Memory Devices and Products Containing Same Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 in this investigation and has issued a limited exclusion order prohibiting importation of infringing non-volatile memory devices and products containing the same and issued cease and desist orders directed to the domestic respondents Toshiba America, Inc. and its subsidiaries, Toshiba America Electronic Components, Inc. and Toshiba America Information Systems, Inc. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337-TA-1046 on April 12, 2017, based on a complaint filed by Macronix International Co., Ltd. of Hsin-chu, Taiwan and Macronix America, Inc. of Milpitas, California (collectively, "Macronix"). 82 FR 17687-88 (Apr. 12, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the

importation into the United States, the sale for importation, and the sale within the United States after importation of certain non-volatile memory devices and products containing the same that infringe one or more of claims 1–8 of U.S. Patent No. 6,552,360 (“the ‘360 patent”); claims 1–12 and 16 of U.S. Patent No. 6,788,602 (“the ‘602 patent”); and claims 1–7, 11–16, and 18 of U.S. Patent No. 8,035,417 (“the ‘417 patent”). The notice of investigation named the following respondents: Toshiba Corporation of Tokyo, Japan; Toshiba America, Inc. of New York, New York; Toshiba America Electronic Components, Inc. of Irvine, California; Toshiba America Information Systems, Inc. of Irvine, California; and Toshiba Information Equipment (Philippines), Inc. of Binan, Philippines (collectively, “Toshiba”). The Office of Unfair Import Investigations is a party to the investigation.

On June 16, 2017, the Commission determined not to review the ALJ’s order (Order No. 11) granting an unopposed motion to amend the Notice of investigation to add Toshiba Memory Corporation of Tokyo, Japan as a respondent. *See* Order No. 11, Comm’n Notice of Non-Review (June 16, 2017).

On October 17, 2017, the Commission determined not to review the ALJ’s order (Order No. 20) granting an unopposed motion to terminate the investigation as to claims 11, 12, and 16 of the ‘602 patent. *See* Order No. 20, Comm’n Notice of Non-Review (Oct. 17, 2017).

On October 4, 2017, the ALJ held a *Markman* hearing to construe certain disputed claim terms. On December 5, 2017, the ALJ issued Order No. 23 (*Markman* Order), setting forth her construction of the disputed claim terms.

On January 18, 2018, the Commission determined not to review the ALJ’s order (Order No. 24) granting an unopposed motion to terminate the investigation as to claims 1–7 and 18 of the ‘417 patent. Order No. 24; Comm’n Notice of Non-Review (Jan. 18, 2018).

The ALJ held an evidentiary hearing from February 8, 2018, through February 14, 2018, and thereafter received post-hearing briefs.

On April 27, 2018, the ALJ issued her final ID, finding no violation of section 337 by Toshiba in connection with the remaining claims, *i.e.*, claims 1–8 of the ‘360 patent; claims 1–10 of the ‘602 patent; and claims 11–16 of the ‘417 patent. Specifically, the ALJ found that the Commission has subject matter jurisdiction, *in rem* jurisdiction over the accused products, and *in personam* jurisdiction over Toshiba. ID at 15–17.

The ALJ also found that Macronix satisfied the importation requirement of section 337 (19 U.S.C. 1337(a)(1)(B)). *Id.* The ALJ, however, found that the accused products do not infringe the asserted claims of the ‘360 patent and ‘417 patent. *See* ID at 19–65, 118–130. The ALJ also found that Toshiba failed to establish that the asserted claims of the ‘417 patent are invalid for obviousness. ID at 132–141. Toshiba did not challenge the validity of the ‘360 patent. ID at 70. With respect to the ‘602 patent, the ALJ found that certain accused products infringe asserted claims 1–10, but that claims 1–5 and 7–10 are invalid for obviousness. ID at 71–88, 91–117. Finally, the ALJ found that Macronix failed to establish the existence of a domestic industry that practices the asserted patents under 19 U.S.C. 1337(a)(2) and also failed to show a domestic industry in the process of being established. *See* ID at 257–261, 288–294.

On May 10, 2018, the ALJ issued her recommended determination on remedy and bonding. Recommended Determination on Remedy and Bonding (“RD”). The ALJ recommends that in the event the Commission finds a violation of section 337, the Commission should issue a limited exclusion order prohibiting the importation of Toshiba’s accused products that infringe the asserted claims of the asserted patents. RD at 1–5. The ALJ also recommends issuance of cease and desist orders against the domestic Toshiba respondents based on the presence of commercially significant inventory in the United States. RD at 5. With respect to the amount of bond that should be posted during the period of Presidential review, the ALJ recommends that the Commission set a bond in the amount of 100 percent of entered value for Toshiba flash memory devices and solid state drives, and a bond in the amount of six percent of entered value for Toshiba PCs imported during the period of Presidential review. RD at 6–9.

On May 14, 2018, Macronix filed a petition for review challenging the ID’s finding of no violation of section 337. The IA also filed a petition for review that day, challenging the ID’s finding that Macronix failed to establish a domestic industry in the process of being established and certain findings as to the ‘602 patent. Also on May 14, 2018, Toshiba filed a contingent petition for review of the ID “in the event that the Commission decides to review the ID.” On May 22, 2018, Macronix and Toshiba filed their respective responses to the petitions for review. On May 23, 2018, the IA filed a response to the private parties’ petitions for review. The

Chairman granted the IA’s motion for leave to file the response one day late.

On June 28, 2018, the Commission determined to review the final ID in part and requested the parties to brief certain issues. *See* 83 FR 31416–18 (July 5, 2018). Specifically, the Commission determined to review the following: (1) The finding that Macronix failed to satisfy the domestic industry requirement; and (2) the findings of infringement and invalidity as to the ‘602 patent. On July 12, 2018, the parties filed submissions to the Commission’s questions and also briefed the issues of remedy, the public interest and bonding. On July 19, 2018, the parties filed responses to the initial submissions.

Having examined the record of this investigation, including the final ID, and the parties’ submissions, the Commission has determined to (1) reverse the ALJ’s finding that the accused products do not directly infringe the asserted claims of the ‘602 patent; (2) affirm the ALJ’s indirect infringement and invalidity findings as to the ‘602 patent; and (3) reverse the ALJ’s finding that Macronix failed to establish a domestic industry in the process of being established. The Commission adopts the ID’s findings to the extent they are not inconsistent with the Commission opinion issued herewith. The Commission action results in a violation of section 337 as to claim 6 of the ‘602 patent.

Having found a violation of section 337 in this investigation, the Commission has determined that the appropriate form of relief is: (1) A limited exclusion order prohibiting the unlicensed entry of non-volatile memory devices and products containing the same that infringe claim 6 of the ‘602 patent that are manufactured by, or on behalf of, or are imported by or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the ‘602 patent except under license of the patent owner or as provided by law; and (2) cease and desist orders prohibiting domestic respondents Toshiba America, Inc. and its subsidiaries, Toshiba America Electronic Components, Inc. and Toshiba America Information Systems, Inc. from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, transferring

(except for exportation), and soliciting U.S. agents or distributors for, non-volatile memory device and products containing same covered by claim 6 of the '602 patent.

The Commission has also determined that the public interest factors enumerated in section 337(d) and (f) (19 U.S.C. 1337(d) and (f)) do not preclude issuance of the limited exclusion order or cease and desist orders. Finally, the Commission has determined that a bond in the amount of 100 percent of entered value for Toshiba flash memory devices, solid-state drives, USB flash drives, and microcontroller units; and a bond in the amount of six percent of entered value for Toshiba personal computers, multi-function printers, and air conditioners is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)) of products that are subject to the remedial orders. The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 9, 2018

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2018-22325 Filed 10-12-18; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Phillip O. Rawlings, Jr., M.D.; Decision and Order

On March 8, 2018, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Phillip O. Rawlings, Jr., M.D. (Registrant), of Mobile, Alabama. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. FR0024997 on the ground that he has "no state authority to handle controlled substances." Order to Show Cause, Government Exhibit (GX) 8, at 1 (citing 21 U.S.C. 824(a)(3)). For the same reason, the Order also proposed the denial of any of Registrant's "applications for renewal or modification of such registration and

any applications for any other DEA registrations." *Id.*

Regarding the Agency's jurisdiction, the Show Cause Order alleged that Registrant holds DEA Certificate of Registration No. FR0024997, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V at the registered address of Providence Family Physicians, 8833 Cottage Hill Road, Mobile, Alabama. *Id.* The Order also alleged that this registration was set to expire by its terms on April 30, 2018. *Id.*

The substantive ground for the proceeding set forth in the Show Cause Order is that Registrant is "currently without authority to practice medicine or handle controlled substances in the State of Alabama, the state in which [he is] registered with the DEA" because Registrant's Alabama Medical License and Alabama Controlled Substances Certificate have been in "Inactive-By Request" status since December 31, 2016. *Id.* As a consequence, the Order alleged that "DEA must revoke your DEA registration." *Id.* at 2.

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Order also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 2-3 (citing 21 U.S.C. 824(c)(2)(C)).

On April 26, 2018, my office received the Government's Second Request for Final Agency Action (SRFAA)¹ describing Diversion Investigators' attempts to serve the Show Cause Order and seeking a final order revoking Registrant's registration. SRFAA, at 2, 6.

¹ On January 10, 2018, the Government submitted a Request for Final Agency Action seeking to revoke Registrant's same DEA registration based on an October 31, 2017 Order to Show Cause. GX 6. In that Request, the Government represented that Registrant did not request a hearing and "ha[d] not otherwise corresponded or communicated with DEA regarding the Order served on him . . . within 30 days of receipt of the Order." *Id.* at 1-2. However, on February 6, 2018, the then-Acting Administrator issued an Order noting that, "although the Government is clearly in possession of information suggesting that Registrant now lives in California, it has offered no explanation for why it did not attempt to obtain Registrant's address from the Board of Medical Examiners and serve Registrant at that address." GX 7, at 1. As a result, the then-Administrator denied the Government's Request for Final Agency Action without prejudice. *Id.* at 2. See also SRFAA, at 1-2. By that time, the December 26, 2017 hearing date listed in the 2017 Show Cause Order had passed. SRFAA, at 2 n.1. As a result, the Agency issued the pending Show Cause Order on March 8, 2018, with a new hearing date of April 24, 2018. *Id.*; GX 8, at 1. It is this new Show Cause Order for which the Government now seeks final agency action.

The Government also submitted a Certification of Registration History, which was sworn to on December 28, 2017 by the Associate Chief of the Registration and Program Support Section. GX 1. In that Certification, she stated that DEA Registration No. FR0024997 "expires on April 30, 2018." *Id.* at 1. The Associate Chief further stated that "Phillip O. Rawlings, Jr., M.D., has no other pending or valid DEA registration(s) in Alabama." *Id.* According to the Agency's current registration records for Registrant, of which I take official notice,² DEA Registration No. FR0024997 expired on April 30, 2018, and he has not submitted an application to renew his registration or for any other registration in the State of Alabama. Thus, I find that Registrant's registration expired on April 30, 2018, and that there is no application upon which to act.³

DEA has long held that "if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Donald Brooks Reece II, M.D.*, 77 FR 35054, 35055 (2012) (quoting *Ronald J. Riegel*, 63 FR 67312, 67133 (1998)); see also *Greg N. Rampey, D.O.*, 83 FR

² Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Registrant is "entitled on timely request to an opportunity to show to the contrary." 5 U.S.C. 556(e); see also 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed.

³ As already noted, my Office received the Government's Second Request for Final Agency Action on April 26, 2018. This filing arrived in my office too late for me to issue a final decision and order before the registration would expire on April 30, 2018. DEA regulation 21 CFR 1316.67 requires that I issue a final order that takes effect not less than 30 days from the date of publication in the **Federal Register** unless the public interest necessitates an earlier effective date. The record before me fails to include facts supporting a finding that "the public interest in the matter necessitates an earlier effective date." 21 CFR 1316.67. Thus, even if I had submitted a final order in this case to the **Federal Register** on the same day (April 26, 2018) that my office received the SRFAA to revoke Registrant's registration, I could not have issued an order that would have taken effect by April 30, 2018 because the **Federal Register** would not have been able to publish it 30 days before the registration's April 30, 2018 expiration. And as the Agency has previously noted, there is no point in issuing a ruling on a Show Cause Order where, as here, that ruling would constitute an advisory opinion subject to vacation on judicial review. See, e.g., *Josip Pasic, M.D.*, 82 FR 24146, 24147 (2017) ("As the requested factual findings and legal conclusions would be subject to vacation on judicial review, there is no point in making them.").

42696, 42697 (2018). “Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon.” *Reece*, 77 FR at 35055, *Rampey*, 83 FR at 42697. Accordingly, because Registrant has allowed his registration to expire and has not filed an application to renew his registration or for any other registration in Alabama, this case is now moot and will be dismissed.

Order

Pursuant to 28 CFR 0.100(b) and the authority thus vested in me by 21 U.S.C. 824(a), I order that the Order to Show Cause issued to Phillip O. Rawlings, Jr., M.D., be, and it hereby is, dismissed. This Order is effective immediately.

Dated: September 26, 2018.
Uttam Dhillon,
Acting Administrator.
 [FR Doc. 2018–22421 Filed 10–12–18; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration
[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrant listed below have applied for and been granted

registration by the Drug Enforcement Administration (DEA) as importers of various classes of schedule I or II controlled substances.

SUPPLEMENTARY INFORMATION: The company listed below applied to be registered as an importer of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted and no requests for hearing were submitted for these notices.

Company	FR Docket	Published
Galephar Pharmaceutical Research Inc	83 FR 37525	August 1, 2018.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrant to import the applicable basic classes of schedule I or II controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company’s maintenance of effective controls against diversion by inspecting and testing each company’s physical security systems, verifying the company’s compliance with state and local laws, and reviewing the company’s background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I or II controlled substance to the above listed company.

Dated: September 24, 2018.
John J. Martin,
Assistant Administrator.
 [FR Doc. 2018–22420 Filed 10–12–18; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cambrex High Point, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before November 14, 2018. Such persons may also file a written request for a hearing on the application on or before November 14, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant

Administrator of the DEA Diversion Control Division (“Assistant Administrator”) pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on July 16, 2018, Cambrex High Point Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265–8017 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Codeine	9050	II
Oxymorphone	9652	II
Noroxymorphone	9668	II

The company plans to manufacture the above listed controlled substances in bulk for distribution to its customers.

Dated: October 1, 2018.
John J. Martin,
Assistant Administrator.
 [FR Doc. 2018–22416 Filed 10–12–18; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Specgx, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written

comments on or objections to the issuance of the proposed registration on or before December 14, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled

Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been

redelegated to the Assistant Administrator of the DEA Diversion Control Division (“Assistant Administrator”) pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 26, 2018, Specgx, LLC, 3600 North Second Street, Saint Louis, Missouri 63147–3457 applied to be registered as a bulk manufacturer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters, and ethers	9850	I

The company plans to manufacture the above-listed controlled substance in gram quantities for sale as analytical research standards.

Dated: September 24, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–22415 Filed 10–12–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; America’s Promise Job-Driven Grant Program Evaluation; Office of the Secretary

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) proposal titled, “E America’s Promise Job-Driven Grant Program Evaluation,” to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 14, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov website at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1290-001 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not

a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OASP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth 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 ICR seeks PRA authority for the America’s Promise Job-Driven Grant Program Evaluation information collection to support an implementation and impact evaluation. The America’s Promise program aims to create or expand regional partnerships that will identify the needs of specific industry sectors relying on the H–1B visa program to hire skilled foreign workers and prepare the domestic workforce for middle- and high-skilled, high-growth jobs in those sectors. This evaluation offers a unique opportunity to build knowledge about the implementation and effectiveness of these regional partnerships. The information collections consist of a grantee survey and a partner network survey. American Competitiveness and Workforce Improvement Act section 169 authorizes this information collection. See 29 U.S.C. 3224(a).

This proposed 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 it is approved by the OMB under the PRA 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 if the collection of information does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on July 12, 2017 (82 FR 32204).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201801–1290–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OASP.

Title of Collection: America's Promise Job-Driven Grant Program Evaluation.
OMB ICR Reference Number: 201801–1290–001.

Affected Public: State, Local, and Tribal Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 48.

Total Estimated Number of Responses: 88.

Total Estimated Annual Time Burden: 31 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 9, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–22348 Filed 10–12–18; 8:45 am]

BILLING CODE 4510–HX–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–077)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, November 1, 2018, 8:30 a.m.–4:30 p.m.; and Friday, November 2, 2018, 8:30 a.m.–2:30 p.m., Local Time.

ADDRESSES: NASA Headquarters, Program Review Center (Room 9H40), 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or khenderson@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free number 1–888–324–2680 or toll number 1–517–308–9418, passcode 8870080 followed by the # sign, on both days, to participate in this meeting by telephone. The WebEx link is <https://nasa.webex.com/>; the meeting number is 991 102 227 and the password is SC@Nov2018 (case sensitive) for both days. The agenda for the meeting includes the following topics:

—Science Mission Directorate Missions, Programs and Activities

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days in advance. Information should be sent to Ms. KarShelia Henderson, via email at khenderson@nasa.gov or by fax at (202) 358–2779. It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia Rausch,

*Advisory Committee Management Officer,
National Aeronautics and Space Administration.*

[FR Doc. 2018–22379 Filed 10–12–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2018–063]

National Industrial Security Program Policy Advisory Committee (NISPPAC)

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Advisory Committee meeting.

SUMMARY: We are announcing the following National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting.

DATES: November 15, 2018, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: National Archives and Records Administration; 700 Pennsylvania Avenue NW; McGowan Theater; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert Tringali, Program Analyst, by mail at ISOO, National Archives Building; 700 Pennsylvania Avenue NW; Washington, DC 20408, by telephone at (202) 357–5335, or by email at robert.tringali@nara.gov. Contact ISOO at ISOO@nara.gov and the NISPPAC at NISPPAC@nara.gov.

SUPPLEMENTARY INFORMATION: We hold and announce NISPPAC Federal advisory committee meetings in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101–6. The purpose of this meeting is to discuss National Industrial Security Program policy matters. The meeting will be open to the public. However, due to space limitations and access procedures, you must submit the name and telephone number of individuals planning to attend to the Information Security Oversight Office (ISOO) no later than Friday, November 9, 2018. ISOO will provide additional instructions for accessing the meeting's location.

Miranda Andreacchio,

Committee Management Officer.

[FR Doc. 2018–22323 Filed 10–12–18; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Tuesday, October 23, 2018, 9:00 a.m.–5:00 p.m., Central Time, in Jackson, MS.

PLACE: This meeting will occur in Jackson, Mississippi at the Hilton Garden Inn Jackson/Downtown, Triple C's: Club, Crown, Coronet, 2nd Floor, 235 W Capitol Street, Jackson, MS 39201. Interested parties may join the meeting in person at the meeting location or may join by phone in a listening-only capacity (other than the period allotted for public comment noted below) using the following call-in

information: Teleconference number: 1–800–667–5617; Conference ID: 6973399; Conference Title: NCD Meeting; Host Name: Neil Romano.

MATTERS TO BE CONSIDERED: The Council will receive agency updates on policy projects, finance, governance, and other business. Following agency updates, the Council will receive a presentation on 14(c) of the Fair Labor Standards Act before lunch. Following lunch, the Council will receive a presentation on its latest report, “New Deal to Real Deal: Joining the Industries of the Future,” including a consumer panel to discuss it. Lunch will follow that panel. Following lunch, the Council will receive a series of presentations from a bioethics and disability panel on the topics of genetic testing and gene editing, organ transplant policy, the use of quality adjust life years to limit healthcare, and physician-assisted suicide. Following a brief break, the Council will next receive a presentation regarding involuntary institutionalization as a result of disasters. The meeting will then include a time for public comment on NCD’s bioethics topics, before concluding with a brief period for any unfinished business.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Central):

Tuesday, October 23

9:00–9:15 a.m.—Welcome and introductions
 9:15–9:45 a.m.—Executive reports
 9:45–11:45 a.m.—“From the New Deal to the Real Deal: Joining the Industries of the Future” national disability employment policy and consumer panel
 11:45 a.m.–1:15 p.m.—LUNCH BREAK
 1:15–3:15 p.m.—Bioethics and disability policy panel
 3:15–3:30 p.m.—BREAK
 3:30–4:15 p.m.—Involuntary institutionalization as a result of disasters policy panel
 4:15–4:45 p.m.—Town hall to receive comments about bioethics and disability (The five areas NCD is conducting research on include: Organ transplants; medical futility; Quality Adjusted Life Years; physician assisted suicide; and genetic testing.)
 4:45–5:00 p.m.—Unfinished business
 5:00 p.m.—Adjourn

PUBLIC COMMENT: To better facilitate NCD’s public comment, any individual interested in providing public comment is asked to register his or her intent to provide comment in advance by sending

an email to PublicComment@ncd.gov with the subject line “Public Comment” with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the quarterly meeting must be received by Monday, October 22, 2018. Priority will be given to those individuals who are in-person to provide their comments during the public comment period. Those commenters on the phone will be called on per the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes. Comments received at the October quarterly meeting will be limited to those regarding NCD’s bioethics and disability research areas—organ transplants; medical futility; Quality Adjusted Life Years; physician assisted suicide; and genetic testing.

CONTACT PERSON: Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

ACCOMMODATIONS: A CART streamtext link has been arranged for this meeting. The web link to access CART on Tuesday, October 23, 2018 is: <http://www.streamtext.net/player?event=NCD-QUARTERLY>.

Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants.

Dated: October 11, 2018.

Sharon M. Lisa Grubb,
Executive Director.

[FR Doc. 2018–22511 Filed 10–11–18; 4:15 pm]

BILLING CODE 8421–03–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Wednesday, October 17, 2018.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Board Briefing, NCUA’s 2019–2020 Budget.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,
Secretary of the Board.

[FR Doc. 2018–22438 Filed 10–11–18; 11:15 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Notice of Agency Meeting

TIME AND DATE: 9:00 a.m., Thursday, October 18, 2018.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supervisory Enforcement Action. Closed pursuant to Exemptions (6), (8), (9)(ii), and (10).

2. Supervisory Enforcement Action. Closed pursuant to Exemptions (6), (8), (9)(ii), and (10).

3. Request under Section 205(d). Closed pursuant to Exemption (6).

RECESS: 9:45 a.m.

TIME AND DATE: 10:00 a.m., Thursday, October 18, 2018.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA’s Rules and Regulations, Federal Credit Union Bylaws.

2. NCUA’s Rules and Regulations, Risk-Based Capital.

FOR FURTHER INFORMATION CONTACT:

Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,
Secretary of the Board.

[FR Doc. 2018–22500 Filed 10–11–18; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Materials Research—

Site visit review of the National High Magnetic Field Laboratory (NHMFL) at Florida State University, Tallahassee, FL (#1203).

Date and Time: November 14, 2018; 7:30 a.m.–8:30 p.m.; November 15, 2018; 7:30 a.m.–5 p.m.

Place: NHMFL—Florida State University, 1800 E Paul Dirac Dr., Tallahassee, FL 32310.

Type of Meeting: Part-Open.

Contact Person: Dr. Leonard Spinu, Program Director, Division of Materials Research, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–2665.

Purpose of Meeting: Site visit to provide advice and recommendations concerning further support of the NHMFL.

Agenda

Wednesday, November 14, 2018

7:30 a.m.–4:15 p.m. Open—Review of the NHMFL
4:15 p.m.–8:30 p.m. Closed—Executive Session

Thursday, November 15, 2018

7:30 a.m.–9 a.m. Open—Review of the NHMFL
9 a.m.–5 p.m. Closed—Executive Session, Draft and Review Report

Reason for Closing: The work being reviewed during closed portions of the site visit includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the project. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 9, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–22286 Filed 10–12–18; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for the Division of Physics (1208)—University of California-Berkeley—Site Visit.

Date and Time: November 14, 2018; 8:00 p.m.–9:00 p.m., November 15, 2018; 8:30 a.m.–6:45 p.m. through November 16, 2018; 8:30 a.m.–4:00 p.m.

Place: University of California-Berkeley, 420 Latimer Hall, Berkeley, CA 94720.

Type of Meeting: Part-Open.

Contact Person: Bogdan Mihaila, Program Director for Nuclear Theory, Division of Physics, National Science Foundation, 2415 Eisenhower Avenue, Room W9217, Alexandria, VA 22314; Telephone: (703) 292–8235.

Purpose of Meeting: Site visit to provide an evaluation of the progress of the projects at the host site for the Division of Physics at the National Science Foundation.

Agenda

November 14, 2018 8:00 a.m.–9:00 p.m.

8:00 p.m.–9:00 p.m. Informal Panel Orientation (CLOSED)

November 15, 2018; 8:30 a.m.–6:45 p.m.

8:30 a.m.–8:45 a.m. Greetings and introductions
8:45 a.m.–9:00 a.m. Executive Session (CLOSED)
9:00 a.m.–9:45 a.m. N3AS Director Report on FRHTP Program and Activities
9:45 a.m.–10:00 a.m. Break
10:00 a.m.–12:15 p.m. Science Presentations (SIs or PSIs)
12:15 p.m.–1:45 p.m. Lunch (with Postdocs/Students) (CLOSED)
1:45 p.m.–2:30 p.m. Science Presentations (SIs) or (PSIs)
2:30 p.m.–4:15 p.m. Postdoc Presentations
4:15 p.m.–5:00 p.m. Executive Session to formulate queries (CLOSED)
5:00 p.m.–6:45 p.m. Poster Session
6:45 p.m. Panel and NSF Staff Dinner (CLOSED)

November 16, 2018; 8:30 a.m.–4:00 p.m.

8:30 a.m.–9:00 a.m. Coffee and Pastries
9:00 a.m.–10:30 a.m. Response to Panel Queries (CLOSED)
10:30 a.m.–11:00 a.m. Department Chair (CLOSED)
11:00 p.m.–12:00 p.m. Dean and VPR (CLOSED)
12:00 p.m.–1:30 p.m. Executive Session (Lunch) (CLOSED)
1:30 p.m.–2:15 p.m. N3AS Director (PI) & Executive Board (Co-PIs) (CLOSED)
2:15 p.m.–4:00 p.m. Complete Report (CLOSED)
5:00 p.m. Adjourn

Reason for Closing: Topics to be discussed and evaluated during the closed portions of the site review will include information of a proprietary or confidential nature, including technical information and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–22401 Filed 10–12–18; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form 11–K; SEC File No. 270–101, OMB Control No. 3235–0082

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 11–K (17 CFR 249.311) is the annual report designed for use by employee stock purchase, savings and similar plans to comply with the reporting requirements under Section 15(d) of the Securities and Exchange Act of 1934 (the “Exchange Act”) (15 U.S.C. 78o(d)). Section 15(d) establishes a periodic reporting obligation for every issuer of securities registered under the Securities Act of 1933 (the “Securities Act”) (15 U.S.C. 77a *et seq.*). Form 11–K provides employees of an issuer with financial information so that they can assess the performance of the stock plan or investment vehicle. The information collected must be filed with the Commission and is publicly available. Form 11–K takes approximately 30 hours per response and is filed by 1,302 respondents for total of 39,060 burden hours (30 hours per response x 1,302 responses).

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 control number.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503,

or by sending an email to: Lindsay.M.Abate@omb.eop.gov; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-22288 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84386; File No. SR-NASDAQ-2018-078]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend, Reorganize and Enhance Its Membership, Registration and Qualification Rules

October 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 27, 2018, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend, reorganize and enhance its membership, registration and qualification rules, and to make conforming changes to certain other rules.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaq.cchwallstreet.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 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose Overview

Nasdaq has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. In general, the current rules require that persons engaged in a member’s investment banking or securities business who are to function as representatives or principals register with the Exchange in each category of registration appropriate to their functions by passing one or more qualification examinations,³ and exempt specified associated persons from the registration requirements.⁴ They also prescribe ongoing continuing education requirements for registered persons.⁵ The Exchange now proposes to amend, reorganize and enhance its rules regarding registration, qualification examinations and continuing education, as described below.

In 2006 Nasdaq separated from the National Association of Securities Dealers, Inc. (formerly “NASD” and now the Financial Industry Regulatory Authority or “FINRA”) and began to operate as a national securities exchange. At that time it adopted a rulebook with provisions respecting registration, qualification examinations and continuing education that were designed to parallel the NASD rulebook

³ See, e.g., Exchange Rules 1021, Registration Requirements, 1022, Categories of Principal Registration, 1031, Registration Requirements, 1032, Categories of Representative Registration, and 1041, Registration Requirements for Assistant Representatives.

⁴ See Rule 1060, Persons Exempt from Registration.

⁵ See Rule 1120, Continuing Education Requirements.

in many respects.⁶ Recently, the Commission approved a FINRA proposed rule change consolidating and adopting NASD and Incorporated NYSE rules relating to qualification and registration requirements into the Consolidated FINRA Rulebook,⁷ restructuring the FINRA representative-level qualification examinations, creating a general knowledge examination and specialized knowledge examinations, allowing permissive registration, establishing an examination waiver process for persons working for a financial services affiliate of a member, and amending certain continuing education (“CE”) requirements (collectively, the “FINRA Rule Changes”).⁸ The FINRA Rule Changes will become effective on October 1, 2018.

The Exchange now proposes to amend, reorganize and enhance certain of its corresponding membership, registration and qualification requirements rules in part in response to the FINRA Rule Changes, and also in order to facilitate the adoption of similar membership, registration and qualification rules by Nasdaq’s affiliated exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Nasdaq-affiliated exchanges. At the same time, the Exchange is proposing to further amend or delete certain existing Exchange rules originally based upon FINRA rules but

⁶ See Securities Exchange Act Release No. 54136 (July 12, 2006), 71 FR 40759 (July 18, 2006).

⁷ The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) rules incorporated from the New York Stock Exchange (“NYSE”) (the “Incorporated NYSE rules”). While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE.

⁸ See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007). See also FINRA Regulatory Notice 17-30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017). FINRA articulated its belief that the proposed rule change would streamline, and bring consistency and uniformity to, its registration rules, which would, in turn, assist FINRA members and their associated persons in complying with the rules and improve regulatory efficiency. FINRA also determined to enhance the overall efficiency of its representative-level examinations program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations, and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public. FINRA amended certain aspects of its continuing education rule, including by codifying existing guidance regarding the effect of failing to complete the Regulatory Element on a registered person’s activities and compensation.

which are no longer appropriate for the business conducted by Nasdaq or its affiliated exchanges.⁹ Last, the Exchange proposes to enhance its registration rules by adding a new registration requirement applicable to developers of algorithmic trading systems similar to a requirement adopted by FINRA pursuant to a 2016 FINRA proposed rule change.¹⁰

As part of this proposed rule change, current IM–1002–2, Status of Persons Serving in the Armed Forces of the United States; IM–1002–3, Failure to Register Personnel; 1020, Registration of Principals; 1021, Registration Requirements; 1022, Categories of Principal Registration; IM–1022–1, Reserved; IM–1022–2, Limited Principal-General Securities Sales Supervisor; 1030, Registration of Representatives; 1031, Registration Requirements, Sections (a)–(e); 1032, Categories of Representative Registration; 1040, Registration of Assistant Representatives; 1041, Registration Requirements for Assistant Representatives; 1042, Restrictions for Assistant Representatives; 1043, Reserved; 1060, Persons Exempt from Registration¹¹; 1070, Qualification Examinations and Waiver of Requirements; 1080, Confidentiality of Examinations; 1100, Reserved; 1110, Reserved; 1120, Continuing Education Requirements; and Chapter II, Section 2, Requirements for Options Participation, Subsections (g) and (h) and Commentary .01, are proposed to be deleted. Rule 1140, Electronic Filing Requirements for Uniform Forms, is proposed to be amended and relocated. A number of other rules are proposed to be amended

with conforming changes, or relocated in view of the foregoing amendments.¹²

In place of the deleted rules and rule sections, the Exchange proposes to adopt a new 1200 Series of rules captioned Registration, Qualification and Continuing Education, generally conforming to and based upon FINRA's new 1200 Series of rules resulting from the FINRA Rule Changes, but with a number of Exchange-specific variations.¹³ The proposed new 1200 Series is also being proposed for adoption by Nasdaq's affiliated exchanges in order to facilitate compliance with membership, registration and qualification regulatory requirements by members of two or more of those affiliated exchanges.¹⁴ In the new 1200 Series the Exchange would, among other things, recognize additional associated person registration categories, recognize a new general knowledge examination, permit the maintenance of permissive registrations, and require Securities Trader registration of developers of algorithmic trading strategies consistent with a comparable existing FINRA registration requirement.¹⁵

¹² Conforming amendments are proposed to Rules 0120, Definitions; 1050, Research Analysts; 3010, Supervision; 7003, Registration and Processing Fees; IM–9216, Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2); and 9630, Appeal. In the Exchange's Options Rules, amendments are proposed to Chapter XI, Section 2, Registration of Options Principals and Section 3, Registration of Representatives.

¹³ The proposed 1200 Series of Rules would consist of Rule 1210, Registration Requirements; Rule 1220, Registration Categories; Rule 1230, Associated Persons Exempt from Registration; Rule 1240, Continuing Education Requirements; and Rule 1250, Electronic Filing Requirements for Uniform Forms.

¹⁴ The Exchange's five affiliated exchanges, Nasdaq BX, Inc. ("BX"), Nasdaq PHLX LLC ("PHLX"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX"), and Nasdaq MRX, LLC ("MRX") (together with Nasdaq, the "Nasdaq Affiliated Exchanges") are also submitting proposed rule changes to adopt the 1200 Series of rules. See SR–BX–2018–047, SR–Phlx–2018–61, SR–ISE–2018–82, SR–GEMX–2018–33, and SR–MRX–2018–31. The Exchange recently added a shell structure to its rulebook with the purpose of improving efficiency and readability and to align its rules more closely to those of the other Nasdaq Affiliated Exchanges. See Securities Exchange Act Release No. 82175 (November 29, 2017), 82 FR 57494 (December 5, 2017) (SR–NASDAQ–2017–125). Ultimately, the Exchange intends to submit another proposed rule change to transfer the 1200 Series of rules into the new shell structure. (The Exchange notes that the Phlx 1200 Series of rules would differ slightly from the 1200 Series of the other Nasdaq Affiliated Exchanges given Phlx's trading floor and its unique membership structure which features the concept of a "member organization.")

¹⁵ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (order approving SR–FINRA–2016–007). In its proposed rule change to adopt this registration requirement, FINRA addressed the increasing significance of

The proposed rule change would become operative October 1, 2018 with the exception of the new registration requirement for developers of algorithmic trading strategies which would become operative on April 1, 2019.

Proposed Rules

A. Registration Requirements (Proposed Rule 1210)

Exchange Rules 1021(a) and 1031(a) currently require that persons engaged, or to be engaged, in the investment banking or securities business of a member who are to function as representatives or principals register with the Exchange in the category of registration appropriate to their functions as specified in Exchange Rules 1022 and 1032.¹⁶ The Exchange is proposing to consolidate and streamline provisions of Exchange Rules 1021(a) and 1031(a) and to adopt them as Exchange Rule 1210, subject to several changes.¹⁷

Proposed Rule 1210 provides that each person engaged in the securities business of a member must register with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed Rule 1220, unless exempt from registration pursuant to proposed Rule 1230. Unlike current Rules 1021(a) and 1031(a), proposed Rule 1210 would not

algorithmic trading strategies by proposing to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

¹⁶ In addition, IM–1002–3 provides that the failure to register an individual as a registered representative may be deemed to be conduct inconsistent with just and equitable principles of trade and may be sufficient cause for appropriate disciplinary action. As explained below the Exchange proposes to delete IM–1002–3 as superfluous.

¹⁷ Rule 1031, Registration Requirements, contains certain sections that are not affected by this proposed rule change. However, due to the overall organizational restructuring of the registration rules, those sections (current Rules 1031(c), (d) and (e)) are being relocated with non-substantive amendments to new Supplementary Material .12, Application for Registration and Jurisdiction, to proposed Rule 1210, Registration Requirements. These relocated provisions govern the process for applying for registration and amending the registration application, as well as for notifying the Exchange of termination of a member's association with a person registered with the Exchange. The Exchange proposes to adopt Rule 1210, Supplementary Material .12, into the 1200 Series in order to have uniform processes and requirements in this area across the Nasdaq Affiliated Exchanges. This relocated language is unique to the Exchange—the FINRA Rule Changes do not contain a counterpart Rule 1210 Supplementary Material .12. The Exchange anticipates amending Rule 1031(f) in a future proposed rule change.

⁹ For example, the Exchange is deleting the Limited Principal—Investment Company and Variable Contracts Products (current Nasdaq Rule 1022(d)), Limited Representative—Investment Company and Variable Contracts Products (current Nasdaq Rule 1032(b)) and Introducing Broker/Dealer Financial and Operations Principal (current Nasdaq Rule 1022(c)) registration categories from the array of registration categories recognized by the Exchange. Although FINRA is retaining these registration categories for its own purposes, the activities permitted by registration in those categories have little or no practical relevance to the Exchange.

¹⁰ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR–FINRA–2016–007). In its proposed rule change FINRA addressed the increasing significance of algorithmic trading strategies by amending its rules to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

¹¹ Provisions currently found in Rule 1060(b) are being amended and relocated to new Rule 2040, as discussed below.

require persons engaged in the investment banking business of a member to register with the Exchange since a member's investment banking business is not the primary concern of the Exchange or the focus of its operations.¹⁸ Proposed Exchange Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules. This latter provision is a consolidation of similar provisions in the registration categories under the current Exchange rules.

Further, the Exchange is proposing to delete Exchange IM-1002-3 because it is superfluous. The failure to register a representative as required under current Exchange Rule 1031(a) is in fact a violation of Exchange rules.

B. Minimum Number of Registered Principals (Proposed Rule 1210.01)

Rule 1021(e)(1) currently requires that a member, except a sole proprietorship, have a minimum of two registered principals with respect to each aspect of the member's investment banking and securities business pursuant to the applicable provisions of Rule 1022, provided however that a proprietary trading firm with 25 or fewer registered representatives shall only be required to have one registered principal. This requirement applies to applicants for membership and existing members. Exchange Rule 1021(e)(2) also provides that, pursuant to the Exchange's Rule 9600 Series, the Exchange may waive the principal requirements of Rule 1021(e)(1) in situations that indicate conclusively that only one person associated with an applicant for membership should be required to register as a principal. Rule 1021(e)(3) provides that an applicant for membership, if the nature of its business so requires, must also have at least one person qualified for registration under Rule 1022(b) and (c) as a Financial and Operations Principal (or an Introducing

Broker/Dealer Financial and Operations Principal).¹⁹

The Exchange is proposing to adopt Rule 1021(e) as Rule 1210.01, subject to the following changes. The Exchange proposes to provide firms that limit the scope of their business with greater flexibility to satisfy the two-principal requirement. In particular, proposed Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities.²⁰ For instance, if a firm's business is limited to securities trading, the firm may have two Securities Trader Principals, instead of two General Securities Principals. Currently, a sole proprietor member (without any other associated persons) is not subject to the two-principal requirement because such member is operating as a one-person firm. Given that one-person firms may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), proposed Exchange Rule 1210.01 provides that any member with only one associated person is excluded from the two principal requirement. In addition, proposed Rule 1210.01 clarifies that existing members as well as new applicants may request a waiver of the two-principal requirement. Finally, the Exchange is proposing to retain the existing rule's provision permitting a proprietary trading firm with 25 or fewer registered representatives to have just one registered principal. The FINRA Rule Changes do not include this provision.²¹

¹⁹ Exchange Rules 1022(b) and (c) as well as other Exchange rules currently refer to categories of limited principal registration as "Limited Principal—" followed by the name of the registration category. In this proposed rule change and in the proposed rules, the Exchange will no longer employ the term "Limited Principal—" in identifying various principal registration categories. No substantive change is intended; shortening the names of the various principals simply improves readability of the rules.

²⁰ The principal registration categories are described in greater detail below.

²¹ The Exchange is not proposing provisions conforming to the new FINRA Rule 1210.01 requirements that all FINRA members are required to have a Principal Financial Officer and a Principal Operations Officer, because it believes that its proposed Rule 1220(a)(4), Financial and Operations Principal, which requires member firms operating pursuant to certain provisions of SEC rules to designate at least one Financial and Operations Principal, is sufficient. Further, the Exchange is not adopting the FINRA Rule 1210.01 requirements that (1) a member engaged in investment banking activities have an Investment Banking Principal, (2) a member engaged in research activities have a Research Principal, or (3) a member engaged in

C. Permissive Registrations (Proposed Rule 1210.02)

Rules 1021(a) and 1031(a) currently permit a member to register or maintain the registration(s) as a representative or principal of an individual performing legal, compliance, internal audit, back-office operations or similar responsibilities for the member. Rule 1031(a) also permits a member to register or maintain the registration as a representative of an individual performing administrative support functions for registered persons. In addition, Rules 1021(a) and 1031(a) permit a member to register or maintain the registration(s) as a representative or principal of an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

The Exchange is proposing to consolidate these provisions under Rule 1210.02. The Exchange is also proposing to expand the scope of permissive registrations and to clarify a member's obligations regarding individuals who are maintaining such registrations.

Specifically, proposed Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed Rule 1210.02 allows an individual engaged in the securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

The Exchange is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed

options activities with the public have a Registered Options Principal. The Exchange does not recognize the Investment Banking Principal or the Research Principal registration categories, and the Registered Options Principal registration requirement is set forth in Rule 1210.08 and its inclusion is therefore unnecessary in Rule 1210.01.

¹⁸ Miami International Securities Exchange LLC ("MIAX") Rule 203(a) and ISE Rule 313(a)(1) likewise require registration of associated persons of members engaged in the member's securities business, but do not require registration with the exchanges of associated persons of members who engage in the member's investment banking business. Because the Exchange's proposed registration rules focus solely on securities trading activity, the proposed rules differ from the FINRA Rule Changes by omitting references to investment banking in proposed Rules 1210, 1210.03, 1210.10, 1220(a)(1), 1220(a)(2)(B), 1220(b), and 1240(b)(1), and also by omitting as unnecessary from Rule 1220(a)(10) a limitation on the qualification of a General Securities Sales Supervisor to supervise the origination and structuring of an underwriting.

rule change would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all Exchange rules, to the extent relevant to their activities. For instance, an individual working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of rules relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the Exchange's supervision rules, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions.²² With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a nonregistered person. Members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.²³

²² The FINRA Proposed Rules at Rule 1210.02 cite FINRA's own supervision rule, by number. Because the 1200 Series of rules is intended to apply to the Exchange as well as to its affiliates which have different supervision rules, proposed Rule 1210.02 refers generally to the supervision rules rather than identifying them by number.

²³ In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

D. Qualification Examinations and Waivers of Examinations (Proposed Rule 1210.03)

Rules 1021(a) and 1031(a) currently set forth general requirements that an individual pass an appropriate qualification examination before his or her registration as a representative or principal can become effective. The Exchange is proposing to consolidate these provisions and adopt them as Rule 1210.03.

In addition, as part of the FINRA Rule Changes FINRA has adopted a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the Securities Industry Essentials Exam or "SIE") and a specialized knowledge examination appropriate to their job functions at the firm with which they are associating. Therefore, proposed Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed Rule 1220. Proposed Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed Rule 1220.

Further, proposed 1210.03 provides that if the job functions of a registered representative, other than an individual registered as an Order Processing Assistant Representative, change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.²⁴ Thus under the

²⁴ The exception for Order Processing Assistant Representatives and Foreign Associates was adopted by FINRA in FINRA Rule 1210.03, and is included in proposed Exchange Rule 1210.03 without the reference to Foreign Associates which is a registration category the Nasdaq Affiliated Exchanges do not recognize. FINRA has stated that the SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. Proposed Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed Rule 1210.03 also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA has stated its belief that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to

proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of exam questions they would be required to answer because the SIE content would be tested only once.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the operative date of the proposed rule change, a previously unregistered individual registering as a Securities Trader for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Securities Trader may engage under current Exchange Rules.

Individuals who are registered on the operative date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to the operative date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they reregister with the Exchange within two years from the date of their last registration.

Further, registered representatives, other than an individual registered as an Order Processing Assistant Representative, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the operative date of the proposed rule change, they could do so by taking only the appropriate specialized knowledge examination.²⁵ However, with respect to

demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed Rule 1210.03, passing the SIE alone would not qualify them for registration with the Exchange. Rather, to be eligible for registration with the Exchange, an individual would be required to pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

²⁵ Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial

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an individual who is not registered on the operative date of the proposed rule change but was registered within the past two years prior to the operative date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register within four years from the date of the individual's last registration.²⁶

In addition, individuals, with the exception of Order Processing Assistant Representatives, who had been registered as representatives two or more years, but less than four years, prior to the operative date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the operative date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated. Similar to the current process for registration, firms would continue to use the CRD system to request registrations for representatives. An individual would be able to schedule both the SIE and specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Finally, paragraph (d) of Rule 1070 currently permits the Exchange, in exceptional cases and where good cause is shown, to waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. The Exchange is proposing to transfer the provisions of Rule 1070(d) into proposed Rule 1210.03 with changes which track FINRA Rule 1210.03.²⁷ The proposed rule provides that the Exchange will only consider examination waiver requests submitted by a firm for individuals associated with

and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

²⁶ As discussed below, the Exchange is proposing a four-year expiration period for the SIE.

²⁷ Rules 1070(a), (b) and (c) provide general information relating to the examination process. The Exchange is proposing to delete these provisions given that they relate to the administration of the examination program rather than rule requirements.

the firm who are seeking registration in a representative- or principal-level registration category. Moreover, proposed Rule 1210.03 states that the Exchange will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed Rule 1210.04)

Exchange Rule 1021(d) provides that a person who is currently registered with a member as a representative and whose duties are changed by the member so as to require registration as a principal may function as a principal for up to 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. In addition, it allows a formerly registered representative who is required to register as a principal to function as a principal without passing the appropriate principal qualification examination for up to 90 calendar days, provided the person first satisfies all applicable prerequisite requirements. A person who has never been registered does not qualify for this exception. This provision applies to a person associated with a member of another registered national securities exchange or association who is required to register in a principal classification under Nasdaq rules but who is not required to be so registered under the rules of the other exchange or association.

The Exchange is proposing to adopt Rule 1021(d) as Rule 1210.04, subject to the following changes. Proposed Rule 1210.04 states that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a limited period, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. This change is intended to ensure that representatives designated to function as principals for the limited period under the proposed rule have an appropriate level of registered representative experience. The proposed rule clarifies that the requirements of the rule apply to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.²⁸ The Exchange is

²⁸ In this regard, the Exchange notes that qualifying as a registered representative is currently a prerequisite to qualifying as a principal on the

not conserving in Rule 1210.04 the language that this provision applies to a person associated with a member of another registered national securities exchange or association who is required to register in a principal classification under the Nasdaq rules but who is not required to be so registered under the rules of the other exchange or association. The Exchange believes this language is superfluous as the applicability to various individuals of proposed Rule 1210.04 speaks for itself and requires no elaboration.²⁹ Proposed Rule 1210.04 would increase the Rule 1021(d)'s 90 day period to 120 days, to provide additional flexibility for representatives functioning as principals for a limited period of time.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualifications examination, FINRA's Sanction Guidelines recommend a bar.³⁰

Effective October 1, 2018 FINRA has codified the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA also adopted Rules of Conduct for taking the SIE for associated persons and non-associated persons who take the SIE.

The Exchange proposes to adopt its own version of Rule 1210.05, which would provide that associated persons taking the SIE are subject to the SIE Rules of Conduct, and that associated persons taking any representative or principal examination are subject to the Rules of Conduct for representative and

Exchange except with respect to the Financial and Operations Principal and the Introducing Broker/ Dealer Financial and Operations Principal.

²⁹ Proposed Rule 1210.04 omits FINRA Rule 1210.04's reference to Foreign Associates, which is a registration category not recognized by the Nasdaq Affiliated Exchanges, but otherwise tracks the language of FINRA Rule 1210.04.

³⁰ See SR-FINRA-2017-007, pp. 26-27.

principal examinations. Under the proposed rule, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of Exchange rules requiring observance of high standards of commercial honor or just and equitable principles of trade, such as Exchange Rule 2010A.³¹ Further, if the Exchange determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by the Exchange.

Proposed Rule 1210.05 states that the Exchange considers all of the qualification examinations content to be highly confidential. The removal of examination content from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification examination or any other use that would compromise the effectiveness of the examinations and the use in any manner and at any time of the questions or answers to the examinations would be prohibited and would be deemed to be a violation of Exchange rules requiring observance of high standards of commercial honor or just and equitable principles of trade. Finally, proposed Rule 1210.05 would prohibit an applicant from receiving assistance while taking the examination, and require the applicant to certify that no assistance was given to or received by him or her during the examination.³²

G. Waiting Periods for Retaking a Failed Examination (Proposed Rule 1210.06)

Rule 1070(e) currently sets forth waiting periods for retaking failed examinations. The rule provides that a person who fails a qualification examination would be permitted to retake the examination after either a period of 30 calendar days has elapsed from the date of the prior examination or the next administration of an examination administered on a monthly basis. However, if the person fails an examination three or more times in

³¹ Pursuant to Exchange Rule 2010A, a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade. FINRA Rule 1210.05 cites FINRA Rule 2010, which is a comparable rule.

³² In view of proposed Rule 1210.05, the Exchange is proposing to delete Rule 1080, Confidentiality of Examinations, which is largely duplicative. The Exchange is not adopting portions of FINRA's Rule 1210.05 which apply to non-associated persons, over whom the Exchange would in any event have no jurisdiction.

succession, he or she would be prohibited from retaking the examination either until a period of 180 calendar days has elapsed from the date of his or her last attempt to pass the examination or until the sixth subsequent administration of an examination administered on a monthly basis. The Exchange is proposing to adopt Rule 1070(e) as Rule 1210.06, with the following changes.

Proposed Rule 1210.06 provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination. The proposed rule deletes the reference to examinations administered on a monthly basis because examinations are no longer administered in such a manner.

Proposed Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations.³³

H. CE Requirements (Proposed Rule 1210.07)

Pursuant to current Rule 1120, the CE requirements applicable to registered persons consist of a Regulatory Element³⁴ and a Firm Element.³⁵ The Regulatory Element applies to registered persons and must be completed within prescribed time frames.³⁶ For purposes

³³ FINRA Rule 1210.06 requires individuals taking the SIE who are not associated persons to agree to be subject to the same waiting periods for retaking the SIE. The Exchange is not including this language in proposed Rule 1210.06, as the Exchange will not apply the 1200 Series of rules in any event to individuals who are not associated persons of members.

³⁴ See Rule 1120(a).

³⁵ See Rule 1120(b).

³⁶ Pursuant to Rule 1120(a), each registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. Unless otherwise determined by the Exchange, a registered person who has not completed the Regulatory Element program within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under Rule 1120(a) must cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of the Exchange's rules. The

of the Regulatory Element, a "registered person" is defined in the current rule as any person registered with the Exchange as a representative, principal, or assistant representative.³⁷ The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term "covered registered persons" is defined as any registered person who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, and the immediate supervisors of such persons.³⁸

The Exchange proposes to delete Rule 1120 and to replace it with Rule 1240, Continuing Education Requirements. The Exchange believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, the Exchange is proposing Rule 1210.07, to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed Rule 1240. Individuals who have passed the SIE but not a representative or principal-level examination and do not hold a registered position would not be subject to any CE requirements.

Consistent with current practice, proposed Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

I. Lapse of Registration and Expiration of SIE (Proposed Rule 1210.08)

Rule 1021(c) currently states that any person whose registration has been revoked pursuant to Rule 8310³⁹ or

Exchange may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

³⁷ See Rule 1120(a)(5).

³⁸ See Rule 1120(b)(1).

³⁹ Under Rule 8310(a)(3), the Exchange may impose one or more sanctions on a member or person associated with a member for each violation of the federal securities laws, rules or regulations thereunder, or Exchange rules, including suspending the membership of a member or suspending the registration of a person associated

whose most recent registration as a principal has been terminated for a period of two or more years immediately preceding the date of receipt by the Exchange of a new application is required to pass a qualification examination for principals appropriate to the category of registration as specified in Rule 1022. Pursuant to Rule 1031(b), any person whose registration has been revoked pursuant to Rule 8310 or whose most recent registration as a representative or principal has been terminated for a period of two or more years immediately preceding the date of receipt by the Exchange of a new application is required to pass a qualification examination for representatives appropriate to the category of registration as specified in Rule 1032.⁴⁰ The two years are calculated from the termination date stated on the individual's Form U5 (Uniform Termination Notice for Securities Industry Registration) and the date the Exchange receives a new application for registration.

The Exchange is proposing to consolidate the requirements of Rules 1021(c) and 1031(b) and adopt them as Rule 1210.08. Proposed Rule 1210.08 clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by the Exchange if that application does not result in a registration.

Proposed Rule 1210.08 also sets forth the expiration period of the SIE. Based on the content covered on the SIE, the Exchange is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become

with a member for a definite period or a period contingent on the performance of a particular act.

⁴⁰ In addition, Exchange Rule 1041(c) provides that if any person whose most recent registration as an Assistant Representative—Order Processing has been terminated for a period of two or more years immediately preceding the date of receipt by the Exchange of a new application is required to pass a qualification examination for Assistant Representative—Order Processing. As discussed below, the Exchange is proposing to eliminate Rule 1041(c) as part of the elimination of the Assistant Representative—Order Processing registration category on the Exchange.

an associated person of a firm, pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the operative date of the proposed rule change would have up to four years to re-associate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two year expiration period as is the case today.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed Rule 1210.09)

The Exchange is proposing Rule 1210.09 to provide a process whereby individuals who would be working for a financial services industry affiliate of a member⁴¹ would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate (“FSA”) waiver.⁴² The purpose of the FSA waiver is to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they may gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member with which the individual is registered would notify the Exchange of the FSA designation. The member would concurrently file a full Form U5 terminating the individual's registration

⁴¹ Proposed Rule 1210.09 defines a “financial services industry affiliate of a member” as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, Commodity Futures Trading Commission (“CFTC”), state securities authorities, federal or state banking authorities, state insurance regulatory authorities, or substantially equivalent foreign regulatory authorities.

⁴² There is no counterpart to proposed Rule 1210.09 in the Exchange's existing rules. FINRA Rule 1210.09 was recently adopted as a new waiver process for FINRA registrants, as part of the FINRA Rule Changes.

with the firm, which would also terminate the individual's other SRO and state registrations.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member.⁴³ An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation⁴⁴ provided that the other conditions of the waiver, as described below, have been satisfied.

Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.⁴⁵

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be

⁴³ For purposes of this requirement, a five year period of registration with the Exchange, with FINRA or with another self-regulatory organization would be sufficient.

⁴⁴ Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

⁴⁵ The following examples illustrate this point:
Example 1. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A's financial services affiliate for three years, the individual directly joins Firm B's financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate for three years. Firm A then submits a waiver request to re-register the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual rejoins Firm A's financial services affiliate for two years, after which the individual directly joins Firm B's financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (*i.e.*, the individual would have the standard two-year period after termination to re-register without having to retake an examination). The Exchange is making corresponding changes to proposed Rule 1240 (currently Rule 1120, Continuing Education Requirements).

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request to the Exchange,⁴⁶ similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. The Exchange would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. The Exchange would summarily grant the request if the following conditions are met:

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member;

(3) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5;

(4) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

(5) The individual has complied with the Regulatory Element of CE; and

(6) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

⁴⁶ The Exchange would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.⁴⁷ An individual who has been designated as an FSA-eligible person by a member would not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed Rule 1210.10)

IM-1002-2(a) and (b) currently provide specific relief to registered persons serving in the Armed Forces of the United States. Among other things, these rules permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be registered in an inactive status and remain eligible to receive ongoing transaction-related compensation. IM-1002-2(c) also includes specific provisions regarding the deferment of the lapse of registration requirements in Exchange Rules 1021(c), 1031(b) and 1041(c) for formerly registered persons serving in the Armed Forces of the United States.

The Exchange is proposing to adopt IM-1002-2 as Rule 1210.10 with the following changes. To enhance the efficiency of the current notification process for registered persons serving in the Armed Forces, proposed Rule 1210.10 requires that the member with which such person is registered promptly notify the Exchange of such person's return to employment with the member. A sole proprietor must similarly notify the Exchange of his or her return to participation in the securities business. Further, proposed Rule 1210.10 provides that the Exchange would also defer the lapse of the SIE for formerly registered persons serving in the Armed Forces of the United States.⁴⁸

⁴⁷ For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

⁴⁸ Proposed Rule 1210.10 tracks FINRA Rule 1210.10 except for the statement that inactive

L. Impermissible Registrations (Proposed Rule 1210.11)

Rules 1021(a) and 1031(a) currently prohibit a member from maintaining a representative or principal registration with the Exchange for any person who is no longer active in the member's investment banking or securities business, who is no longer functioning as a representative or principal as defined under the rules or where the sole purpose is to avoid the requalification requirement applicable to persons who have not been registered for two or more years. These rules also prohibit a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its investment banking or securities business. These prohibitions do not apply to the current permissive registration categories.

In light of proposed Rule 1210.02, the Exchange is proposing to delete these provisions and instead adopt Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is consistent with the requirements of proposed Rule 1210.⁴⁹

M. Registration Categories (Proposed Rule 1220)

The Exchange is proposing to integrate the various registration categories and related definitions under the Exchange's rules into a single rule, Rule 1220, subject to the changes described below.⁵⁰

1. Definition of Principal (Proposed Rule 1220(a)(1))

Rule 1021(b) currently defines the term "principal" to include sole proprietors, officers, partners, managers of offices of supervisory jurisdiction and directors who are actively engaged in the management of the member's investment banking or securities

registered persons are not to be included within the definition of "Personnel" for purposes of dues or assessments as provided in Article VI of the FINRA By-Laws. Instead, proposed Rule 1210.10 conserves language from existing IM-1002-2 stating that inactive persons under the rule are not included within the scope of fees, if any, charged by the Exchange with respect to registered persons.

⁴⁹ As discussed above, the Exchange is also proposing Rule 1210, Supplementary Material .12, Application for Registration and Jurisdiction, which is not included in FINRA Rule 1210. Proposed Exchange Rule 1210, Supplementary Material .12, is based upon portions of existing Exchange Rule 1031.

⁵⁰ For ease of reference, the Exchange proposes to adopt as Rule 1220, Supplementary Material .07, in chart form, a Summary of Qualification Requirements in chart form for each of the Exchange's permitted registration categories discussed below.

business, such as supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions. The Exchange is proposing to streamline and adopt Rule 1021(b) as Rule 1220(a)(1).

For the reason discussed above in connection with proposed Rule 1210, proposed Rule 1220(a)(1) would not apply to individuals who are not engaged in the management of the member's securities business even if they are engaged in the management of the member's investment banking business. The proposed rule clarifies that a member's chief executive officer ("CEO") and chief financial officer ("CFO") (or equivalent officers) are considered principals based solely on their status. The proposed rule further clarifies that the term "principal" includes any other associated person who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under Exchange rules. In addition, the proposed rule provides that the phrase "actively engaged in the management of the member's securities business" includes the management of, and the implementation of corporate policies related to, such business as well as managerial decision-making authority with respect to the member's securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.

2. General Securities Principal (Proposed Rule 1220(a)(2))

Rule 1022(a)(1) currently requires that an associated person who meets the definition of "principal" under Rule 1021 and each person designated as Chief Compliance Officer ("CCO") on Schedule A of the member's Form BD (Uniform Application for Broker-Dealer Registration) register as a General Securities Principal. A person registering as a General Securities Principal must pass the General Securities Principal examination. The rule, however, provides that such person is not required to register as a General Securities Principal if the person's activities are so limited as to qualify such person for one or more of the limited principal categories specified in Rule 1022. Further, the rule does not preclude individuals registered in a limited principal category from registering as General Securities Principals. Rule 1022(a)(1) also includes transitioning and grandfathering provisions for CCO's.

Rule 1022(a) provides that a person seeking to register as a General Securities Principal must satisfy the General Securities Representative or Corporate Securities Representative prerequisite registration. Rule 1022(a)(2) qualifies this provision by providing that the Corporate Securities Representative prerequisite registration gives a General Securities Principal only limited supervisory authority.

Rule 1022(a)(3) includes a grandfathering provision for persons who were registered as principals before the adoption of the General Securities Principal registration category.

Rule 1022(a)(4) provides that an associated person registered solely as a General Securities Principal is not qualified to function as a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), or Limited Principal—General Securities Sales Supervisor, unless the General Securities Principal is also registered in these other categories.

Exchange Rule 1022(a)(5) currently requires that each associated person who is included within the definition of "principal" in Rule 1021 with supervisory responsibility over the securities trading activities described in Rule 1032(f)(1)⁵¹ register as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an individual must be registered as a Securities Trader and pass the General Securities Principal qualification examination. The rule provides that a person qualified and registered as a Securities Trader Principal may only have supervisory responsibility over the activities specified in Rule 1032(f)(1), unless such person is separately registered in another appropriate principal registration category, such as the General Securities Principal registration category. The rule further provides that a person registered as a General Securities Principal is not qualified to supervise the trading activities described in Rule 1032(f)(1), unless he or she qualifies and registers as a Securities Trader (by passing the Series

⁵¹ Current Rule 1032(f)(1) provides for the registration as a Securities Trader of an associated person if, with respect to transactions in equity, preferred or convertible debt securities or foreign currency options on Nasdaq, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member.

57 Securities Trader examination) and affirmatively registers as a Securities Trader Principal.

The Exchange is proposing to streamline the provisions of Rule 1022(a) and adopt them as Rule 1220(a)(2) with the following changes.

The Exchange is proposing to more clearly set forth the obligation to register as a General Securities Principal. Specifically, proposed Rule 1220(a)(2)(A) states that each principal as defined in proposed Rule 1220(a)(1) is required to register with the Exchange as a General Securities Principal, subject to the following exceptions. The proposed rule provides that if a principal's activities are limited to the functions of a Compliance Official, a Financial and Operations Principal, a Securities Trader Principal, a Securities Trader Compliance Officer, or a Registered Options Principal, then the principal shall appropriately register in one or more of these categories.⁵² Proposed Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she shall be required to register as a General Securities Sales Supervisor or as a Registered Options Principal.⁵³

Proposed Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. In conjunction with the elimination of the Corporate Securities Representative registration category, the Exchange is proposing in Rule 1220(a)(2) to delete the provision in Rule 1022(a)(1)(A) permitting the Corporate Securities Representative prerequisite registration. However, proposed Rule 1220(a)(2)(B) provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration on the Exchange in lieu of the General Securities Representative prerequisite registration and individuals who had

⁵² The Exchange is proposing to recognize the Compliance Official and Securities Trader Compliance Officer registration categories for the first time as a result of this proposed rule change.

⁵³ The Exchange's proposed Rule 1220(a)(2)(A) deviates somewhat from the counterpart FINRA rule in that it does not offer various limited registration categories provided for in FINRA's new Rule 1220(a)(2)(A).

been registered as such within the past two years prior to the operative date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.

Proposed Rule 1220(a)(2)(B) requires all other individuals registering as General Securities Principal after October 1, 2018, to first become registered as a General Securities Representative pursuant to Rule 1220(b)(2).⁵⁴

Moreover, as described in greater detail below, the Exchange is proposing to adopt with some changes the requirements of Rule 1022(a)(1) relating to the registration of CCOs, and Rule 1022(a)(5) relating to the supervision of securities trading activities as Rule 1220(a)(3).

The Exchange is also proposing to eliminate the grandfathering provision for individuals who were registered as principals prior to the adoption of the General Securities Principal registration category because it no longer has any practical application. Finally, the Exchange is proposing to delete the provision that persons eligible for registration in other principal categories are not precluded from registering as General Securities Principals because it is superfluous.⁵⁵

3. Compliance Official (Proposed Rule 1220(a)(3))

The Exchange is proposing to adopt Rule 1022(a)(1)'s CCO registration requirement as Rule 1220(a)(3), subject to the following changes.

Specifically, proposed Rule 1220(a)(3) provides that each person designated as

a Chief Compliance Officer on Schedule A of Form BD shall be required to register with the Exchange as a General Securities Principal, provided that such person may instead register as a Compliance Official if his or her duties do not include supervision of trading. All individuals registering as Compliance Official shall, prior to or concurrent with such registration, pass the Compliance Official qualification examination. An individual designated as a Chief Compliance Officer on Schedule A of Form BD of a member that is engaged in limited securities business could also be registered in a principal category under Rule 1220(a) that corresponds to the limited scope of the member's business.

Additionally, proposed Rule 1220(a)(3) provides that an individual designated as a Chief Compliance Officer on Schedule A of Form BD may register and qualify as a Securities Trader Compliance Officer if, with respect to transactions in equity, preferred or convertible debt securities, or options such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities other than a person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with a member. All individuals registering as Securities Trader Compliance Officers would be required to first become registered pursuant to paragraph (b)(4) as a Securities Trader, and to pass the Compliance Official qualification exam.⁵⁶

4. Financial and Operations Principal, (Proposed Rule 1220(a)(4))

Rule 1022(b)(1) currently provides that every member operating pursuant to the provisions of SEC Rule 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate as Limited Principal—Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who performs the duties described in Rule

1022(b)(2).⁵⁷ Each person associated with a member who performs such duties is required to register as a Limited Principal—Financial and Operations with the Exchange and pass an appropriate qualification examination before such registration may become effective. A person registered solely as a Limited Principal—Financial and Operations is not qualified to function in a principal capacity with responsibility over any area of business activity not described in 1022(b)(2).

Rule 1022(c) currently provides that every member subject to the requirements of SEC Rule 15c3-1, other than a member operating pursuant to SEC Rule 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8) in which case Rule 1022(b) shall apply, shall designate as Limited Principal—Introducing Broker/Dealer Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who perform the duties described in 1022(c)(2).⁵⁸ Each person associated with a member who performs such duties is required to register as a Limited Principal—Introducing Broker/Dealer Financial and Operations with the Exchange and pass an appropriate Qualification Examination before such registration may become effective.

Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals are not

⁵⁷ These duties include (A) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; (B) final preparation of such reports; (C) supervision of individuals who assist in the preparation of such reports; (D) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived; (E) supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; (F) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; or (G) any other matter involving the financial and operational management of the member.

⁵⁸ These duties include (A) final approval and responsibilities for the accuracy of financial reports submitted to any duly established securities industry regulatory body; (B) final preparation of such reports; (C) supervision of individuals who assist in the preparation of such reports; (D) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived; (E) supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; (F) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; or (G) any other matter involving the financial and operational management of the member.

⁵⁴ The Exchange is not adopting the FINRA Rule 1220(a)(2)(B) language permitting an individual registering as a General Securities Principal after October 1, 2018 to register as a General Securities Sales Supervisor and to pass the General Securities Principal Sales Supervisor Module qualification examination. The Exchange believes that individuals registering as General Securities Principals should be required to demonstrate their competence for that role by passing the General Securities Principal qualification examination.

⁵⁵ Proposed Rule 1220(a)(2) generally tracks FINRA Rule 1220(a)(2), except that it omits references to a number of registration categories which FINRA recognizes but that the Exchange does not, and it includes a reference to the Securities Trader Compliance Officer category which the Exchange proposes to recognize, but which FINRA does not. Additionally, proposed Rule 1220(a)(2)(A)(i) extends that provision's exception to the General Securities Principal registration requirement to certain principals whose activities are "limited to" (rather than "include") the functions of a more limited principal. The Exchange believes that activities "limited to" expresses the intent of that exception more accurately than activities that "include." Finally, proposed Rule 1220(a)(2)(B) specifies that registration as a Corporate Securities Representative must be with the Exchange in order to fulfill the Corporate Securities Representative registration prerequisite for General Securities Principal registration pursuant to that rule.

⁵⁶ Proposed Rule 1220(a)(3) differs from FINRA Rule 1220(a)(3), Compliance Officer. The Exchange does not recognize the Compliance Officer registration category. Similarly, FINRA does not recognize the Compliance Official or the Securities Trader Compliance Officer registration categories which the Exchange proposes to recognize. However, FINRA Rule 1220(a)(3), like proposed Rule 1220(a)(3), offers an exception pursuant to which a Chief Compliance Officer designated on Schedule A of Form BD may register in a principal category that corresponds to the limited scope of the member's business.

subject to a prerequisite representative registration, but they must pass the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal examination, as applicable.

The Exchange is proposing to move the provisions in Rules 1022(b) regarding Financial and Operations Principals to Rule 1220(a)(4)(A), substituting the word “and” for the current word “or” found in Rule 1022(b)(2)(F) in order to conform to FINRA Rule 1220(a)(4)(A) in describing the duties of a Financial and Operations Principal. In addition, the Exchange proposes to delete the Introducing Broker-Dealer Financial and Operations Principals Rule 1022(c), as the Exchange has determined it no longer requires this registration category as it is relatively little used.⁵⁹

5. Investment Banking Principal (Proposed Rule 1220(a)(5))

The Exchange does not recognize the Investment Banking Principal registration category and is reserving Rule 1220(a)(5), retaining the caption solely to facilitate comparison with FINRA’s rules.

6. Research Principal (Proposed Rule 1220(a)(6))

The Exchange does not recognize the Research Principal registration category and is reserving Rule 1220(a)(6), retaining the caption solely to facilitate comparison with FINRA’s rules.

7. Securities Trader Principal (Proposed Rule 1220(a)(7))

The Exchange is proposing to adopt Rule 1022(a)(5) relating to Securities Trader Principal registration as Rule 1220(a)(7). Similar to the current rule, proposed Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed Rule 1220(b)(4)⁶⁰ register as a Securities Trader Principal. The proposed rule requires individuals

⁵⁹ FINRA Rule 1220(a)(4) differs from proposed Rule 1220(a)(4) in that it includes an Introducing Broker-Dealer Financial and Operations Principal registration requirement. Additionally, proposed Rule 1220(a)(4) contains a requirement, which the FINRA rule does not, that each person associated with a member who performs the duties of a Financial and Operations Principal must register as such with the Exchange. Further, as discussed above, the Exchange is not adopting a Principal Financial Officer or Principal Operations Officer requirement like FINRA Rule 1220(a)(4)(B), as it believes the Financial and Operations Principal requirement is sufficient. Finally, proposed Rule 1220(a)(4)(B)(v) and (vi) contain minor wording variations from the FINRA rule which are carried over from existing Nasdaq Rule 1022.

⁶⁰ Proposed Rule 1220(b)(4), discussed below, provides for representative-level registration in the “Securities Trader” category.

registering as Securities Trader Principals to be registered as Securities Traders and to pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed Rules 1220(a)(8))

Chapter II, Section 2(g) of the rulebook currently requires that members engaged in security futures or options transactions with public customers have at least one Registered Options and Security Futures Principal. It also provides that every person engaged in the supervision of options and security futures sales practices shall be registered as a Registered Options and Security Futures Principal and pass the appropriate qualification examination for Registered Options and Security Futures Principal, or an equivalent examination acceptable to the Exchange. Further, each person required to register and qualify as a Registered Options and Security Futures Principal must, prior to or concurrent with such registration, be or become qualified pursuant to the Rule 1030 Series, as either a General Securities Representative or a Limited Representative—Corporate Securities and a Registered Options and Security Futures Representative.

The rule provides that a person registered solely as a Registered Options and Security Futures Principal is not qualified to function in a principal capacity with responsibility over any area of business activity not prescribed in Chapter II, Section 2(g). Chapter II, Section 2(g)(5) provides that any person who is registered as a Registered Options and Security Futures Principal, or who becomes registered as a Registered Options and Security Futures Principal before a revised examination that includes security futures products is offered, must complete a firm-element continuing education program that addresses security futures and a principal’s responsibilities for security futures before such person can supervise security futures activities. Finally, Chapter II, Section 2 of the Exchange’s options rules further requires in Commentary .01 that members that have one Registered Options Principal promptly notify the Exchange and agree to specified conditions if such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform his or her duties.

The Exchange is proposing to adopt Chapter II, Section 2(g) as Rule 1220(a)(8), Registered Options Principal, with certain changes. The registration category would now be titled Registered

Options Principal, rather than Registered Options and Security Futures Principal.⁶¹ All references to a revised examination that includes security futures products would be deleted. Instead, Rule 1220(b), Supplementary Material .02 will simply provide that each person who is registered with the Exchange as a Registered Options Principal (or as a General Securities Representative, Options Representative, or General Securities Sales Supervisor) shall be eligible to engage in security futures activities as a principal, as applicable, provided that such individual completes a Firm Element program as set forth in proposed Rule 1240 that addresses security futures products before such person engages in security futures activities.⁶²

Proposed Rule 1220(a)(8) provides that a General Securities Sales Supervisor may also supervise options activities. Rule 1220(b), Supplementary Material .02 regarding security futures activities will apply to General Securities Sales Supervisors as well as to Registered Options Principals.⁶³

Further, as discussed below, the Exchange is proposing to eliminate the Options Representative and Corporate Securities Representative registration categories. In conjunction with these changes, the Exchange is proposing to eliminate registration as an Options Representative and a Corporate Securities Representative from the prerequisite choices in the current rule. Consequently, a person registering as a Registered Options Principal under proposed Rule 1220(a)(8) would be required to satisfy the General Securities Representative prerequisite registration.⁶⁴

Finally, the Exchange is proposing to adopt Chapter II, Section 2 Commentary .01 with non-substantive changes as Supplementary Material .03 of Rule 1220.⁶⁵

⁶¹ FINRA has also shortened references to “Registered Options and Security Futures Principal” in its rulebook to “Registered Options Principal”. See Securities Exchange Act Release No. 58932 (November 12, 2008), 73 FR 69696 (November 19, 2008) (SR-FINRA-2008-032).

⁶² Unlike FINRA Rule 1220.02, proposed Exchange Rule 1220.02 omits references to United Kingdom Securities Representatives and Canada Securities Representatives, which are registration categories the Exchange does not recognize. In any case, the Exchange does not currently offer security futures products for trading.

⁶³ Rule 1220(b), Supplementary Material .02 regarding security futures activities will also apply to General Securities Representatives and to Options Representatives.

⁶⁴ Proposed Rule 1220(a)(8) differs from FINRA Rule 1220(a)(8) in that it omits certain references to other specific FINRA rules.

⁶⁵ Chapter XI, Doing Business with the Public, at Section 2(a) provides that no order entry firm (“OEF”) shall be approved to transact options

9. Government Securities Principal (Rule 1220(a)(9))

The Exchange does not recognize the Government Securities Principal registration category and is reserving Rule 1220(a)(9), retaining the caption solely to facilitate comparison with FINRA's rules.

10. General Securities Sales Supervisor (Proposed Rules 1220(a)(10) and 1220.04)

Pursuant to Exchange Rule 1022(g), each associated person of a member who is included within the definition of "principal" in Rule 1021 may register as a Limited Principal—General Securities Sales Supervisor, instead of separately registering in multiple principal registration categories,⁶⁶ if the individual's supervisory responsibilities are limited solely to securities sales activities. A person registering as a Limited Principal—General Securities Sales Supervisor must satisfy the General Securities Representative prerequisite registration and pass the General Securities Sales Supervisor examinations.⁶⁷ Moreover, a General Securities Sales Supervisor is precluded

business with the public until those associated persons who are designated as Options Principals have been approved by and registered with the Exchange. Persons engaged in the management and supervision of the OEF's business pertaining to options contracts must be designated as Options Principals and shall have responsibility for the overall oversight of the OEF's options related activities on the Exchange. Similarly, Chapter XI, Sections 3(a) and (b) provide that no OEF shall be approved to transact business with the public until those persons associated with it who are designated representatives have been approved by and registered with the Exchange, and also that persons who perform duties for the OEF which are customarily performed by sales representatives or branch office managers shall be designated as representatives of the OEF. The foregoing provisions of Chapter XI are specific to conducting an options business with the public and are not proposed to be amended in this proposed rule change, other than to add a customer protection requirement, similar to existing Phlx Rule 1024.08 and existing ISE Rule 602(d), that a person accepting orders from non-member customers (unless such customer is a broker-dealer registered with the Commission) is required to register with the Exchange and to be qualified by passing the General Securities Registered Representative Examination (Series 7). However, Chapter XI, Sections 2(b) and (c) and Section 3(c) also contain provisions regarding submission of Forms U4 and U5 to WebCRD that are duplicative of the proposed 1200 Series of rules, in particular proposed Rules 1210.12, Application for Registration and Jurisdiction, and 1250, Electronic Filing Requirements for Electronic Forms, and are therefore proposed to be deleted.

⁶⁶ For instance, a principal supervising the sale of corporate securities and options must be registered as a General Securities Principal and a Registered Options Principal, unless the principal is registered as a General Securities Sales Supervisor.

⁶⁷ An individual may also register as a General Securities Sales Supervisor by passing a combination of other principal-level examinations.

from performing any of the following activities: (1) Supervision of the origination and structuring of underwritings; (2) supervision of market-making commitments; (3) final approval of advertisements as these are defined in Exchange Rule 2210; (4) supervision of the custody of firm or customer funds or securities for purposes of SEC Rule 15c3-3; or (5) supervision of overall compliance with financial responsibility rules. Current IM-1022-2 explains the purpose of the General Securities Sales Supervisor registration category.

The Exchange is proposing to adopt Rule 1022(g) and IM-1022-2 as Rules 1220(a)(10) and 1220.04, respectively.⁶⁸ Rule 1220(a)(10), however, omits the current Rule 1022(g) prohibition against supervision of the origination and structuring of underwritings, as that activity does not fall within the new, more limited scope of "securities trading" covered by the new 1200 Series of rules.

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Rules 1220(a)(11) and (a)(12))

The Exchange is proposing to eliminate the Investment Company and Variable Contracts Products Principal registration category and does not recognize the Direct Participation Programs Principal registration category. The Exchange is therefore reserving Rules 1220(a)(11) and (a)(12), retaining the captions solely to facilitate comparison with FINRA's rules.

12. Private Securities Offerings Principal (Rule 1220(a)(13))

The Exchange does not recognize the Private Securities Offerings Principal registration category and is therefore reserving Rule 1220(a)(13), retaining the caption solely to facilitate comparison with FINRA's rules.

⁶⁸ The Exchange is not proposing to carry over into proposed Rule 1220(a)(10) the current Rule 1022(g)(2)(C)(iii) prohibition against final approval of advertisements by General Securities Sales Supervisors. The Exchange notes that FINRA removed this prohibition several years ago from NASD Rule 1022(g) (Limited Principal—General Securities Sales Supervisor) and NASD IM-1022-2 (Limited Principal—General Securities Sales Supervisor). See Securities Exchange Act Release No. 68918 (February 13, 2013), 78 FR 11925 (February 20, 2013) (SR-FINRA-2013-014). Also, unlike FINRA Rule 1220.04, proposed Exchange Rule 1220.04 refers to "multiple exchanges" rather than listing the various exchanges where a sales principal might be required to qualify in the absence of the General Securities Sales Supervisor registration category. It also omits FINRA internal cross-references.

13. Supervisory Analyst (Rule 1220(a)(14))

The Exchange does not recognize the Supervisory Analyst registration category and is therefore reserving Rule 1220(a)(14), retaining the caption solely to facilitate comparison with FINRA's rules.

14. Definition of Representative (Proposed Rule 1220(b)(1))

Rule 1011(k) currently defines the term "representative" as an associated person of a registered broker or dealer, including assistant officers other than principals, who is engaged in the investment banking or securities business for the member including the functions of supervision, solicitation or conduct of business in securities or who is engaged in the training of persons associated with a broker or dealer for any of these functions. Rule 1011(k) further states that, as provided in Rule 1031, all representatives of members are required to be registered with the Exchange, and that representatives that are so registered are referred to as registered representatives.

The Exchange now proposes to adopt a definition of "representative" in proposed Rule 1220(b)(1). Current Rule 1011, Definitions, Section (k) would be amended by deleting the existing definition of representative, and replacing it with a cross reference to the new definition of representative in Rule 1220(b)(1). Proposed 1220(b)(1) would define the term representative as any person associated with a member, including assistant officers other than principals, who is engaged in the member's securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions. Unlike the current Rule 1011(k) "representative" definition, the new Rule 1220(b)(1) definition would be confined to associated persons of Exchange members (rather than to associated persons of broker dealers generally) who are engaged in the member's securities business (and not also in the member's investment banking business).

15. General Securities Representative (Proposed Rule 1220(b)(2))

Rule 1032(a) currently requires that an associated person who meets the definition of "representative" under Rule 1011 register as a General Securities Representative. A person registering as a General Securities Representative must pass the General Securities Representative examination. The rule, however, provides that a

representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited representative categories specified in Rule 1032, such as an Investment Company and Variable Contracts Products Representative, a Corporate Securities Representative, or a Securities Trader. Further, the rule does not preclude individuals registered in a limited representative category from registering as General Securities Representatives.

Rule 1032(a)(2) provides that if a representative does not engage in municipal securities activities, registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative. These foreign registration categories were created in the 1990s as an alternative to General Securities Representative registration for individuals who do not engage in municipal securities activities and who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator. To qualify for registration as a United Kingdom Securities Representative or Canada Securities Representative, an individual must pass the United Kingdom Securities Representative examination or Canada Securities Representative examinations, respectively. Rule 1032(a)(2) also permits a person registered and in good standing as a representative with the Japanese securities regulators to become qualified to function as a General Securities Representative by passing the Japan Module of the General Securities Representative examination. The Japan Module, however, was never implemented.

The Exchange is proposing to streamline the provisions of Rule 1032(a) and adopt them as Rule 1220(b)(2) with the following changes.

Similar to the proposed changes to the General Securities Principal registration category, the Exchange is proposing to more clearly set forth the obligation to register as a General Securities Representative. Specifically, proposed Rule 1220(b)(2)(A) states that each representative as defined in proposed Rule 1220(b)(1) is required to register with the Exchange as a General Securities Representative, except that if a representative's activities include the functions of a Securities Trader, as specified in this Rule, then such person shall appropriately register as a Securities Trader.

Further, consistent with the proposed restructuring of the representative-level examinations, proposed Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination.⁶⁹

In addition, the Exchange is proposing to adopt Rule 1220.01 to provide individuals who are associated persons of firms and who hold foreign registrations an alternative, more flexible, process to obtain an Exchange representative-level registration. The Exchange believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain an Exchange representative-level registration. Finally, the Exchange is proposing to delete the provision that persons eligible for registration in other representative categories are not precluded from registering as General Securities Representatives because it is superfluous.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

Operations Professional, Investment Banking Representative, Research Analyst, Direct Participation Programs Representative and Private Securities Offerings Representative. The Exchange has not adopted these registration categories for its associated persons. The Exchange is reserving Rules 1220(b)(3)—Operations Professional, and related Rule 1220.05; 1220(b)(5)—Investment Banking Representative,

1220(b)(6)—Research Analyst; 1220(b)(8)—Direct Participation Programs Representative; and 1220(b)(9)—Private Securities Offerings Representative, retaining the captions, solely to facilitate comparison with FINRA's rules.

Securities Trader—Proposed Rule 1220(b)(4). Pursuant to current Exchange Rule 1032(f), each associated person of a member who is included within the definition of "representative" in Rule 1101 is required to register as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities or foreign currency options on the Exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis or the direct supervision of such activities. The rule provides an exception from the registration requirement for any associated person of a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with the member. Individuals registering as Securities Traders must pass the Securities Trader examination. Finally, the rule provides that registered Securities Traders are not qualified to function in any other registration category, unless he or she is also qualified and registered in such other registration category.

The Exchange now proposes to amend the rule, and adopt it as proposed Rule 1220(b)(4).⁷⁰ As amended, the Rule would require individuals registering as Securities Traders to pass the SIE as well as the Securities Trader qualification exam, and it would be expanded to refer not just to foreign currency options, but to the trading of options generally.

Additionally, proposed Rule 1220(b)(4)(A) would require each person associated with a member who is: (i) Primarily responsible for the design, development or significant modification of an algorithmic trading strategy relating to equity, preferred or convertible debt securities or options; or (ii) responsible for the day-to-day supervision or direction of such activities to register with the Exchange as a Securities Trader.⁷¹

⁷⁰ Proposed Rule 1220(b)(4)(A) differs from FINRA Rule 1220(b)(4)(A) in that it applies to trading on the Exchange while the FINRA rule is limited to the specified trading which is "effected otherwise than on a securities exchange." Additionally, the FINRA rule does not specifically extend to options trading.

⁷¹ As noted above, this new registration requirement was recently added to the FINRA

⁶⁹ Proposed Rule 1220(b)(2)(B) differs from FINRA Rule 1220(b)(2)(B) in that it omits references to various registration categories which FINRA recognizes but which the Exchange does not propose to recognize.

For purposes of this proposed new registration requirement an “algorithmic trading strategy” is an automated system that generates or routes orders (or order-related messages) but does not include an automated system that solely routes orders received in their entirety to a market center. The proposed registration requirement applies to orders and order related messages whether ultimately routed or sent to be routed to an exchange or over the counter. An order router alone would not constitute an algorithmic trading strategy. However, an order router that performs any additional functions would be considered an algorithmic trading strategy. An algorithm that solely generates trading ideas or investment allocations—including an automated investment service that constructs portfolio recommendations—but that is not equipped to automatically generate orders and order-related messages to effectuate such trading ideas into the market—whether independently or via a linked router—would not constitute an algorithmic trading strategy.⁷²

The associated persons covered by the expanded registration requirement would be required to pass the requisite qualification examination and be subject to the same continuing education requirements that are applicable to individual Securities Traders. The Exchange believes that potentially problematic conduct stemming from algorithmic trading strategies—such as failure to check for order accuracy, inappropriate levels of messaging traffic, wash sales, failure to mark orders as “short” or perform proper short sale “locates,” and inadequate risk management controls—could be reduced or prevented, in part, through improved education regarding securities regulations for the specified individuals involved in the algorithm design and development process.

The proposal is intended to ensure the registration of one or more associated persons that possesses knowledge of, and responsibility for, both the design of the intended trading strategy and the technological implementation of the strategy, sufficient to evaluate whether the resulting product is designed to achieve regulatory compliance in addition to

business objectives. For example, a lead developer who liaises with a head trader regarding the head trader’s desired algorithmic trading strategy and is primarily responsible for the supervision of the development of the algorithm to meet such objectives must be registered under the proposal as the associated person primarily responsible for the development of the algorithmic trading strategy and supervising or directing the team of developers. Individuals under the lead developer’s supervision would not be required to register under the proposal if they are not primarily responsible for the development of the algorithmic trading strategy or are not responsible for the day-to-day supervision or direction of others on the team. Under this scenario, the person on the business side that is primarily responsible for the design of the algorithmic trading strategy, as communicated to the lead developer, also would be required to register. In the event of a significant modification to the algorithm, members, likewise, would be required to ensure that the associated person primarily responsible for the significant modification (or the associated person supervising or directing such activity), is registered as a Securities Trader.

A member employing an algorithm is responsible for the algorithm’s activities whether the algorithm is designed or developed in house or by a third-party. Thus, in all cases, robust supervisory procedures, both before and after deployment of an algorithmic trading strategy, are a key component in protecting against problematic behavior stemming from algorithmic trading. In addition, associated persons responsible for monitoring or reviewing the performance of an algorithmic trading strategy must be registered, and a member’s trading activity must always be supervised by an appropriately registered person. Therefore, even where a firm purchases an algorithm off-the-shelf and does not significantly modify the algorithm, the associated person responsible for monitoring or reviewing the performance of the algorithm would be required to be registered.

Pursuant to proposed Rule 1220(b)(4)(B) each person registered as a Securities Trader on October 1, 2018 and each person who was registered as a Securities Trader within two years prior to October 1, 2018 would be qualified to register as a Securities Trader without passing any additional qualification examinations. All other individuals registering as Securities Traders after October 1, 2018 would be required, prior to or concurrent with

such registration, pass the SIE and the Securities Trader qualification examination.

Investment Company and Variable Contracts Products Representative—Proposed Rule 1220(b)(7). Pursuant to current Rule 1032(b), each associated person of a member who is included within the definition of “representative” in Rule 1031 may register as an Investment Company and Variable Contracts Products Representative, instead of registering as a General Securities Representative, if the individual’s activities are limited solely to redeemable securities of companies registered under the Investment Company Act, securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. Individuals registering as Investment Company and Variable Contracts Products Representatives must pass the Investment Company and Variable Contracts Products Representative examination. The Exchange has experienced little demand for registration in this category. Therefore, it now proposes to eliminate the Investment Company and Variable Contracts Products Representative category as an acceptable category for Exchange representative registration. The Exchange is reserving proposed Rule 1220(b)(7), retaining the caption solely to facilitate comparison with FINRA’s rule.

17. Additional Eliminated Registration Categories (Proposed Rule 1220.06)

As noted above, the Exchange is proposing to eliminate the Investment Company and Variable Products Representative category, reserving proposed Rule 1220(b)(7), and retaining the caption solely to facilitate comparison with FINRA’s rule. Similarly, it is eliminating the Investment Company and Variable Contracts Products Principal category, reserving proposed Rule 1220(a)(11), and retaining the caption solely to facilitate comparison with FINRA’s rule.

Consistent with the FINRA Rule Changes, the Exchange is also proposing to eliminate from its rules the Order Processing Assistant Representative, Options Representative, and Corporate Securities Representative categories that FINRA is eliminating effective October 1, 2018, as discussed below.

Order Processing Assistant Representative. Pursuant to current Rule 1041, an associated person is not required to register as a General Securities Representative or in one or

rulebook. The Exchange has determined to add a parallel requirement to its own rules, but also to add options to the scope of products within the proposed rule’s coverage. See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

⁷² See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

more of the limited categories of representative registration if the person's activities are so limited as to qualify such person for registration as an Order Processing Assistant Representative. An Order Processing Assistant Representative is an associated person whose only function is to accept unsolicited customer orders from existing customers for submission for execution by the member. Pursuant to Rule 1042, Order Processing Assistant Representatives are subject to specified restrictions regarding their activities and compensation and are subject to particular supervisory requirements. In addition, they may not be registered concurrently in any other capacity.

Options Representative. Chapter II, Section 2(h) of the Exchange's rulebook provides that each person associated with a member who is included within the definition of a representative as defined in Rule 1031 may register with the Exchange as a Limited Representative—Options and Security Futures if: (A) Such person's activities in the investment banking or securities business of the member involve the solicitation or sale of option or security futures contracts, including option contracts on government securities as that term is defined in Section 3(a)(42)(D) of the Act, for the account of a broker, dealer or public customer; and (B) such person passes an appropriate qualification examination for Limited Representative—Options and Security Futures. It also provides that each person seeking to register and qualify as a Limited Representative—Options and Security Futures must, concurrent with or before such registration may become effective, become registered with the Exchange or another SRO as either as a Limited Representative—Corporate Securities or Limited Representative—Government Securities. The Limited Representative—Options and Security Futures registration category is the same as the Options Representative category.

Corporate Securities Representative. Rule 1032(e) currently provides that each associated person of a member who is included within the definition of "representative" in Rule 1031 may register as a Corporate Securities Representative, instead of a General Securities Representative, if the individual's activities are limited solely to securities as defined under Section 3(a)(10) of the Act, other than municipal securities, options, mutual funds (except for money market funds), variable contracts and direct participation program securities. Individuals registering as Corporate Securities Representatives must pass the

Corporate Securities Representative examination.

The Exchange is proposing to eliminate the current registration categories of Order Processing Assistant Representative, Options Representative, and Corporate Securities, as FINRA has done in the FINRA Rule Changes. The Exchange believes that the utility of the Order Processing Assistant Representative registration category has diminished as technological advances and changes in industry practice have reduced the need for such representatives. As a result, the volume of candidates taking the Order Processing Assistant Representative examination has diminished. The Options Representative and Corporate Securities Representative registration categories were created over the years as subcategories of the General Securities Representative category. These subcategories currently allow an individual to sell a subset of the products (*e.g.*, options, common stocks and corporate bonds) permitted to be sold by a General Securities Representative. In recent years, however, the utility of these subcategories has also diminished as a result of technological, regulatory and business practice changes. This is evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations.

Investment Company and Variable Products Representatives, Investment Company and Variable Contracts Products Principals, Order Processing Assistant Representatives, Options Representatives, and Corporate Securities Representatives would be eligible to maintain their registrations with the Exchange. Specifically, proposed Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered with the Exchange in any capacity recognized by the Exchange immediately prior to October 1, 2018, and each person who was registered with the Exchange in such categories within two years prior to October 1, 2018, shall be eligible to maintain such registrations with the Exchange. However, if individuals registered in these categories terminate their registration with the Exchange and the registration remains terminated for two or more years, they would not be able to re-register in that category. In addition, proposed Rule 1220.06 would include the current restrictions to which Order Processing Assistant

Representatives are subject under Rule 1042.⁷³

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed Rule 1220(a)(2) (relating to General Securities Principals) and proposed Rule 1220.06 (relating to the eliminated registration categories), the Exchange is proposing to include grandfathering provisions in proposed Rule 1220(a)(8) (Registered Options Principal), 1220(b)(2) (General Securities Representative), and 1220(b)(4) (Securities Trader). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered in specified registration categories on the operative date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the operative date of the proposed rule change would be qualified to register in the proposed corresponding registration categories without having to take any additional examinations.

N. Associated Persons Exempt From Registration (Proposed Rules 1230 and 1230.01)

Rule 1060(a) currently provides that the following persons associated with a member are not required to register:

(1) Persons associated with a member whose functions are solely and exclusively clerical or ministerial;

(2) persons associated with a member who are not actively engaged in the investment banking or securities business;

(3) persons associated with a member whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation; and

(4) persons associated with a member whose functions are related solely and exclusively to: (A) Effecting transactions on the floor of another national securities exchange and who are registered as floor members with such exchange; (B) transactions in municipal securities; (C) transactions in commodities; (D) transactions in security futures, provided that any such person is registered with FINRA or a registered futures association; or (E) transactions in variable contracts and insurance premium funding programs and other contracts issued by an insurance company; (F) transactions in

⁷³ Proposed Exchange Rule 1220.06 omits references to a number of registration categories it does not propose to recognize, but which FINRA refers to in its own Rule 1220.06.

direct participation programs; (G) Reserved; (H) transactions in government securities; or (I) effecting sales as part of a primary offering of securities not involving a public offering pursuant to Section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder.

(5) Persons associated with a member that are not citizens, nationals, or residents of the United States or any of its territories or possessions and that will conduct all of their securities activities in areas outside the jurisdiction of the United States and will not engage in any securities activities with or for any citizen, national or resident of the United States.

Rule 1060(a) is not meant to provide an exclusive or exhaustive list of exemptions from registration. Associated persons may otherwise be exempt from registration based on their activities and functions.

The Exchange is proposing to adopt Rule 1060(a) as Rule 1230 subject to the following changes. As noted above, Rule 1060(a) exempts from registration those associated persons who are not actively engaged in the investment banking or securities business. Rule 1060(a) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.⁷⁴ The Exchange believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. The Exchange does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's investment banking or securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated persons whose functions are related only to a member's need for capital participation is consistent with this analytical framework. The Exchange therefore is proposing to delete these exemptions. Rule 1060(a) further exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of another national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration

categories other than the floor member category, proposed Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of another national securities exchange, provided they are appropriately registered with such exchange.⁷⁵ Additionally, the Exchange proposes to add Section 3 of Rule 1230, pursuant to which persons associated with a member that are not citizens, nationals, or residents of the United States or any of its territories or possessions, that will conduct all of their securities activities in areas outside the jurisdiction of the United States, and that will not engage in any securities activities with or for any citizen, national or resident of the United States need not register with the Exchange.⁷⁶

The Exchange proposes to adopt Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

O. Changes to CE Requirements (Proposed Rule 1240)

As described above, current Rule 1120 includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. The Exchange is proposing to delete Rule 1120 and replace it with Rule 1240. Proposed Rule 1240 would differ from

current Rule 1120 in a number of respects, discussed below.⁷⁷

1. Regulatory Element

The Exchange is proposing to replace the term "registered person" under current Rule 1120(a) with the term "covered person" and make conforming changes to proposed Rule 1240(a). For purposes of the Regulatory Element, the Exchange is proposing to define the term "covered person" in Rule 1240(a)(5) as any person registered pursuant to proposed Rule 1210, including any person who is permissively registered pursuant to proposed Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed Rule 1210.09. In addition, consistent with proposed Rule 1210.09, proposed Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, the Exchange is proposing to add a rule to address the impact of failing to complete the Regulatory Element on a registered person's activities and compensation. Specifically, proposed Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, like the FINRA rule, the proposed rule provides that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.

The Exchange is also proposing to remove the requirements currently found in Rule 1120(a)(1) prescribing the

⁷⁴ These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

⁷⁵ Proposed Rule 1230 differs from FINRA Rule 1230 in that it contains a number of additional exemptions, based upon current Nasdaq Rule 1060(a), which are not included in FINRA Rule 1230.

⁷⁶ Individuals described by Section 3 of Rule 1230 who are associated with FINRA members may be registered with FINRA as Foreign Associates pursuant to FINRA Rule 1220.06. FINRA is eliminating this registration category effective October 1, 2018, and the Exchange has never recognized it.

⁷⁷ Proposed Rule 1240 also differs slightly from FINRA Rule 1240 in that it omits references to certain registration categories which the Exchange does not recognize as well as an internal cross reference to FINRA Rule 4517.

specific Regulatory Elements administered by FINRA that are required for General Securities Representatives, Securities Traders or persons registered in a supervisory capacity, so that Rule 1240(a)(1) will conform more closely to the FINRA counterpart rule which does not identify specific Regulatory Element requirements for particular categories of registrant.

2. Firm Element

The Exchange believes that training in ethics and professional responsibility should apply to all covered registered persons. Therefore, proposed Rule 1240(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements, would also require that a firm's training program cover training in ethics and professional responsibility.

P. Electronic Filing Rules

Existing Rule 1140, Electronic Filing Requirements for Uniform Forms, is proposed to be relocated as Rule 1250, Electronic Requirements for Uniform Forms, with non-substantive conforming changes. As revised the rule provides that all forms required to be filed under the Exchange's registration rules including the Rule 1200 series shall be filed through an electronic process or such other process as the Exchange may prescribe to the Central Registration Depository. Rule 1250, as part of the uniform 1200 Series, will consolidate Form U4 and U5 electronic filing requirements in a single location, across the Nasdaq Affiliated Exchanges.

Q. Other Rules

The Exchange is deleting Rule 1060, Persons Exempt from Registration, as explained above. Rule 1060(b) however, contains provisions dealing with Nonregistered Foreign "Finders" and is simply being relocated with non-substantive changes to new Rule 2040.⁷⁸ The remaining rules identified above under "Overview" which are to be amended in this proposed rule change but are not further discussed herein simply update citations and/or make technical or non-substantive changes to the proposed new rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷⁹ in general, and furthers the

objectives of Section 6(b)(5) of the Act,⁸⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing examinations that currently have limited utility. In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the securities business. The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

The Exchange believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

The extension of the Securities Trader registration requirement to developers of algorithmic trading strategies requires

associated persons primarily responsible for the design, development or significant modification of an algorithmic trading strategy or responsible for the day-to-day supervision or direction of such activities to register and meet a minimum standard of knowledge regarding the securities rules and regulations applicable to the member employing the algorithmic trading strategy. This minimum standard of knowledge is identical to the standard of knowledge currently applicable to traditional securities traders. The Exchange believes that improved education of firm personnel may reduce the potential for problematic market conduct and manipulative trading activity.

Finally, the proposed rule change makes organizational changes to Exchange rules to maintain appropriate parallelism with corresponding Exchange rules, in order to prevent unnecessary regulatory burdens and promote efficient administration of the rules. The change also makes minor updates and corrections to the Exchange's rules which improve readability.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to ensure that all associated persons of members engaged in a securities business are, and will continue to be, properly trained and qualified to perform their functions, will be supervised, and can be identified by regulators. The proposed new 1200 Series of rules, which are similar in many respects to the registration-related requirements adopted by FINRA effective October 1, 2018, should enhance the ability of member firms to comply with the Exchange's rules as well as with the Federal securities laws. Additionally, as described above, the Exchange intends the amendments described herein to eliminate inconsistent registration-related requirements across the Nasdaq Affiliated Exchanges, thereby promoting uniformity of regulation across markets. The new 1200 Series should in fact remove administrative burdens that currently exist for members seeking to register associated persons on multiple Nasdaq Affiliated Exchanges featuring varying registration-related requirements. Additionally, all similarly-situated associated persons of

⁷⁸ The FINRA counterpart to current Rule 1060(b) occupies a similar location in the FINRA rulebook. See FINRA Rule 2040(c), Nonregistered Foreign Finders.

⁷⁹ 15 U.S.C. 78f(b).

⁸⁰ 15 U.S.C. 78f(b)(5).

members will be treated similarly under the new 1200 Series in terms of standards of training, experience and competence for persons associated with Exchange members.

With respect to registration of developers of algorithmic trading strategies in particular, the Exchange recognizes that the proposal would impose costs on member firms employing associated persons engaged in the activity subject to the registration requirement. Specifically, among other things, additional associated persons would be required to become registered under the proposal, and the firm would need to establish policies and procedures to monitor compliance with the proposed requirement on an ongoing basis. However, given the prevalence and importance of algorithmic trading strategies in today's markets, the Exchange believes that associated persons engaged in the activities covered by this proposal must meet a minimum standard of knowledge regarding the applicable securities rules and regulations. To mitigate the costs imposed on member firms, the proposed rule change limits the scope of registration requirement by excluding technological or development support personnel who are not primarily responsible for the covered activities. It also excludes supervisors who are not responsible for the "day-to-day" supervision or direction of the covered activities.

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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-

4(f)(6)(iii)⁸¹ 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 on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.⁸² The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.⁸³

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)⁸⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2018-078 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2018-078. This

⁸¹ 17 CFR 240.19b-4(f)(6)(iii).

⁸² See *supra* note 5.

⁸³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸⁴ 15 U.S.C. 78s(b)(2)(B).

file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2018-078, and should be submitted on or before November 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-22295 Filed 10-12-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-071, OMB Control No. 3235-0058]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Extension:

Form 12b-25

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities

⁸⁵ 17 CFR 200.30-3(a)(12).

and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

The purpose of Form 12b-25 (17 CFR 240.12b-25) is to provide notice to the Commission and the marketplace that a registrant will be unable to timely file a required periodic or transition report pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*). If all the filing conditions of the form are satisfied, the registrant is granted an automatic filing extension. The information required is filed on occasion and is mandatory. All information is available to the public for review. Approximately 3,432 registrants file Form 12b-25 and it takes approximately 2.5 hours per response for a total of 8,580 burden hours (2.5 hours per response × 19 responses).

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 control number.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Lindsay.M.Abate@omb.eop.gov; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-22289 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84384; File No. SR-ISE-2018-82]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend, Reorganize and Enhance Its Membership, Registration and Qualification Rules and To Make Conforming Changes to Certain Other Rules

October 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 27, 2018, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend, reorganize and enhance its membership, registration and qualification rules and to make conforming changes to certain other rules.

The text of the proposed rule change is available on the Exchange’s website at <http://ise.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

Overview

The Exchange has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. In general, the current rules require that persons engaged in a member’s securities business who are to function as representatives or principals register with the Exchange in each category of registration appropriate to their functions by passing one or more qualification examinations³ and exempt specified associated persons from the registration requirements.⁴ They also prescribe ongoing continuing education requirements for registered persons.⁵ The Exchange now proposes to amend, reorganize and enhance its rules regarding registration, qualification examinations and continuing education, as described below.⁶

Recently, the Commission approved a Financial Industry Regulatory Authority (“FINRA”) proposed rule change consolidating and adopting NASD and Incorporated NYSE rules relating to qualification and registration requirements into the Consolidated FINRA Rulebook,⁷ restructuring the FINRA representative-level qualification examinations, creating a general knowledge examination and specialized knowledge examinations, allowing permissive registration, establishing an examination waiver process for persons working for a financial services affiliate of a member, and amending certain continuing education (“CE”) requirements (collectively, the “FINRA Rule Changes”).⁸ The FINRA Rule

³ See, e.g., ISE Rule 313, Registration Requirements, Section (a)(1).

⁴ See, e.g., ISE Rule 313, Registration Requirements, Section (a)(2).

⁵ See ISE Rule 604, Continuing Education for Registered Persons.

⁶ The ISE rules governing these matters were extensively updated and amended in Securities Exchange Act Release No. 63843 (February 4, 2011), 76 FR 7884 (SR-ISE-2010-115), which adopted Rule 313.

⁷ The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) rules incorporated from the New York Stock Exchange (“NYSE”) (the “Incorporated NYSE rules”). While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE.

⁸ See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007). See also FINRA Regulatory Notice 17-30 (SEC Approves

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Changes will become effective on October 1, 2018.

The Exchange now proposes to amend, reorganize and enhance its own membership, registration and qualification requirements rules in part in response to the FINRA Rule Changes, and also in order to conform its rules to those of its affiliated exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Nasdaq-affiliated exchanges including ISE. Last, the Exchange proposes to enhance its registration rules by adding a new registration requirement for developers of algorithmic trading systems similar to a requirement adopted by FINRA pursuant to a 2016 FINRA proposed rule change.⁹

As part of this proposed rule change, current Rules 313, Registration Requirements; 601, Registration of Options Principals, Sections (b)–(d); 602, Registration of Representatives, Section (c); 603, Termination of Registered Persons; and 604, Continuing Education for Registered Persons, are proposed to be deleted.¹⁰

In place of the deleted rules and rule sections, the Exchange proposes to adopt a new 1200 Series of rules captioned Registration, Qualification and Continuing Education, generally conforming to and based upon FINRA's new 1200 Series of rules resulting from the FINRA Rule Changes but with a

number of Exchange-specific variations.¹¹ The proposed new 1200 Series is also being proposed for adoption by ISE's affiliated exchanges in order to facilitate compliance with membership, registration and qualification regulatory requirements by members of two or more of those affiliated exchanges.¹² In the new 1200 Series the Exchange would, among other things, recognize an additional associated person registration category, recognize a new general knowledge examination, permit the maintenance of permissive registrations, and require Securities Trader registration of developers of algorithmic trading strategies consistent with a comparable existing FINRA registration requirement.¹³

The proposed rule change would become operative October 1, 2018, with the exception of the new registration requirement for developers of algorithmic trading strategies, which would become operative April 1, 2019.

Proposed Rules

A. Registration Requirements (Proposed Rule 1210)

Exchange Rule 313(a) currently requires individual associated persons engaged or to be engaged in the securities business of a member to be registered with the Exchange in the category of registration appropriate to the function to be performed as

prescribed by the Exchange. The Exchange is proposing to delete this language and to adopt in its place Exchange Rule 1210.¹⁴

Proposed Rule 1210 provides that each person engaged in the securities business of a member must register with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed Rule 1220, unless exempt from registration pursuant to proposed Rule 1230.¹⁵ Proposed Exchange Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules.

B. Minimum Number of Registered Principals (Proposed Rule 1210.01)

Existing Rule 313.07 requires members to register with the Exchange each individual acting in any of the following capacities: (i) Officer; (ii) partner; (iii) director; (iv) supervisor of proprietary trading, market-making or brokerage activities; and/or (v) supervisor of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities. Members must register with the Exchange at least two individuals acting in one or more of these capacities (the "two-principal requirement"). The Exchange may waive this requirement if a member demonstrates conclusively that only one individual acting in one or more of these capacities should be required to register. Further, a member that conducts proprietary trading only and has 25 or fewer registered persons is

Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements (October 2017). FINRA articulated its belief that the proposed rule change would streamline, and bring consistency and uniformity to, its registration rules, which would, in turn, assist FINRA members and their associated persons in complying with the rules and improve regulatory efficiency. FINRA also determined to enhance the overall efficiency of its representative-level examinations program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations, and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public. FINRA amended certain aspects of its continuing education rule, including by codifying existing guidance regarding the effect of failing to complete the Regulatory Element on a registered person's activities and compensation.

⁹ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007). In its proposed rule change FINRA addressed the increasing significance of algorithmic trading strategies by amending its rules to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

¹⁰ Conforming changes are proposed to Rules 100, Definitions, and 208, Regulatory Fees or Charges, as well as to Chapter 90, Code of Procedure.

¹¹ The proposed 1200 Series of Rules would consist of Rule 1210, Registration Requirements; Rule 1220, Registration Categories; Rule 1230, Associated Persons Exempt from Registration; Rule 1240, Continuing Education Requirements; and Rule 1250, Electronic Filing Requirements for Uniform Forms.

¹² The Exchange's five affiliated exchanges, The Nasdaq Stock Market LLC ("Nasdaq"), Nasdaq BX, Inc. ("BX"), Nasdaq PHLX LLC ("PHLX"), Nasdaq GEMX, LLC ("GEMX"), and Nasdaq MRX, LLC ("MRX") (together with ISE, the "Nasdaq Affiliated Exchanges") are also submitting proposed rule changes to adopt the 1200 Series of rules. See SR-NASDAQ-2018-078, SR-BX-2018-047, SR-Phlx-2018-61, SR-GEMX-2018-33, and SR-MRX-2018-31. Additionally, the Exchange recently added a shell structure to its rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of the other Nasdaq Affiliated Exchanges. See Securities Exchange Act Release No. 82173 (November 29, 2017), 82 FR 57505 (December 5, 2017) (SR-ISE-2017-102). Ultimately, the Exchange intends to submit another proposed rule change to transfer the 1200 Series of rules into the new shell structure.

¹³ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007). In its proposed rule change FINRA addressed the increasing significance of algorithmic trading strategies by amending its rules to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

¹⁴ In general the 1200 Series would conform the Exchange's rules to FINRA's rules as revised in the FINRA Rule Changes, with modifications tailored to the business of the Exchange and of the other Nasdaq Affiliated Exchanges. However, the Exchange also proposes to adopt Rule 1210, Supplementary Material .12, which is not based upon a FINRA rule but instead on current Nasdaq Rule 1031(c), (d) and (e), which Nasdaq is proposing in SR-Nasdaq-2018-078 to relocate to Rule 1210, Supplementary Material .12 in the Nasdaq rulebook. These provisions govern the process for applying for registration and amending the registration application, as well as for notifying the Exchange of termination of the member's association with a person registered with the Exchange. The Exchange proposes to adopt Rule 1210, Supplementary Material .12, in order to have uniform processes and requirements in this area across the Nasdaq Affiliated Exchanges.

¹⁵ Because the Exchange's proposed registration rules focus solely on securities trading activity, the proposed rules differ from the FINRA Rule Changes by omitting references to investment banking in proposed Rules 1210, 1210.03, 1210.10, 1220(a)(1), 1220(a)(2)(B), 1220(b), and 1240(b)(1), and also by omitting as unnecessary from Rule 1220(a)(10) a limitation on the qualification of a General Securities Sales Supervisor to supervise the origination and structuring of an underwriting.

only required to have one officer or partner who is registered in this capacity.¹⁶

The Exchange is proposing to delete these requirements and in their place to adopt new Rule 1210.01. The new rule would provide firms that limit the scope of their business with flexibility in satisfying the two-principal requirement. In particular, proposed Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities.¹⁷ For instance, if a firm's business is limited to securities trading, the firm may have two Securities Trader Principals, instead of two General Securities Principals. Additionally, Exchange Rule 1210.01 provides that any member with only one associated person is excluded from the two principal requirement. Proposed Rule 1210.01 would provide that existing members as well as new applicants may request a waiver of the two-principal requirement, consistent with current Exchange Rule 313.07. Finally, the Exchange is proposing to include a provision currently found in current Rule 313 permitting a proprietary trading firm with 25 or fewer registered representatives to have just one registered principal. The FINRA Rule Changes do not include this provision.¹⁸

¹⁶ Rule 313, Supplementary Material .07, describes when a member is considered to be conducting only proprietary trading of the member. Because the Exchange is proposing to delete Rule 313 in its entirety, Rule 313, Supplementary Material .07 would be reworded and relocated to Rule 100(a), Definitions, as a provision defining the term "proprietary trading" for purposes of Rule 1210.

¹⁷ The principal registration categories are described in greater detail below.

¹⁸ The Exchange is not proposing provisions comparable to the new FINRA Rule 1210.01 requirements that all FINRA members are required to have a Principal Financial Officer and a Principal Operations Officer, because it believes that its proposed Rule 1220(a)(4), Financial and Operations Principal, which requires member firms operating pursuant to certain provisions of SEC rules to designate at least one Financial and Operations Principal, is sufficient. Further, the Exchange is not adopting the FINRA Rule 1210.01 requirements that (1) a member engaged in investment banking activities have an Investment Banking Principal, (2) a member engaged in research activities have a Research Principal, or (3) a member engaged in options activities with the public have a Registered Options Principal. The Exchange does not recognize the Investment Banking Principal or the Research Principal registration categories, and the Registered Options Principal registration requirement is set forth in Rule 1210.08 and its inclusion is therefore unnecessary in Rule 1210.01.

C. Permissive Registrations (Proposed Rule 1210.02)

Current Rule 313(a)(1) prohibits members from maintaining a registration with the Exchange for any person (1) who is no longer active in the member's securities business; (2) who is no longer functioning in the registered capacity; or (3) where the sole purpose is to avoid an examination requirement. It further prohibits a member from making an application for the registration of any person where there is no intent to employ that person in the member's securities business. A member may, however, maintain or make application for the registration of an individual who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member, or a person who performs administrative support functions for registered personnel, or a person engaged in the securities business of a foreign securities affiliate or subsidiary of the member.

The Exchange is proposing to replace this provision with new Rule 1210.02. The Exchange is also proposing to expand the scope of permissive registrations and to clarify a member's obligations regarding individuals who are maintaining such registrations.

Specifically, proposed Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed Rule 1210.02 allows an individual engaged in the securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

The Exchange is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow members to

develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all Exchange rules, to the extent relevant to their activities. For instance, an individual working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of rules relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the Exchange's supervision rules, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions.¹⁹ With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a nonregistered person. Members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.²⁰

¹⁹ The FINRA Proposed Rules at Rule 1210.02 cite FINRA's own supervision rule, by number. Because the 1200 Series of rules is intended to apply to the Exchange as well as to its affiliates which have different supervision rules, proposed Rule 1210.02 refers generally to the supervision rules rather than identifying them by number.

²⁰ In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

D. Qualification Examinations and Waivers of Examinations (Proposed Rule 1210.03)

Current Rule 313(a)(1) provides that before a registration can become effective, the individual associated person shall submit the appropriate application for registration, pass a qualification examination appropriate to the category of registration as prescribed by the Exchange and submit any required registration and examination fees. The Exchange is proposing to replace this rule language with new Rule 1210.03, Qualification Examinations and Waivers of Examinations.

As part of the FINRA Rule Changes, FINRA has adopted a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the Securities Industry Essentials Exam or "SIE") and a specialized knowledge examination appropriate to their job functions at the firm with which they are associating. Therefore, proposed Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed Rule 1220. Proposed Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed Rule 1220.

Further, proposed 1210.03 provides that if the job functions of a registered representative, other than an individual registered as an Order Processing Assistant Representative, change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.²¹ Thus under the

²¹ The exception for Order Processing Assistant Representatives and Foreign Associates was adopted by FINRA in FINRA Rule 1210.03, and is included in proposed Exchange Rule 1210.03 without the reference to Foreign Associates which is a registration category the Nasdaq Affiliated Exchanges do not recognize. FINRA has stated that the SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. Proposed Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed Rule 1210.03 also

proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of exam questions they would be required to answer because the SIE content would be tested only once.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the operative date of the proposed rule change, a previously unregistered individual registering as a Securities Trader for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Securities Trader may engage under current Exchange Rules.

Individuals who are registered on the operative date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to the operative date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they reregister with the Exchange within two years from the date of their last registration.

Further, registered representatives, other than an individual registered as an Order Processing Assistant Representative, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the operative date of the proposed rule change, they could do so by taking only the appropriate specialized knowledge examination.²² However, with respect to

provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA has stated its belief that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed Rule 1210.03, passing the SIE alone would not qualify them for registration with the Exchange. Rather, to be eligible for registration with the Exchange, an individual would be required to pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

²² Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be

an individual who is not registered on the operative date of the proposed rule change but was registered within the past two years prior to the operative date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register within four years from the date of the individual's last registration.²³

In addition, individuals, with the exception of Order Processing Assistant Representatives, who had been registered as representatives two or more years, but less than four years, prior to the operative date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the operative date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated. Similar to the current process for registration, firms would continue to use the CRD system to request registrations for representatives. An individual would be able to schedule both the SIE and specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Finally, under current Rule 313.05, the Exchange may, in exceptional cases and where good cause is shown, waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. The Exchange is proposing to replace Rule 313.05 with proposed Rule 1210.03 with changes which track FINRA Rule 1210.03. The proposed rule provides that the Exchange will only consider examination waiver requests submitted by a firm for individuals associated with the firm who are seeking registration in a representative- or principal-level registration category.

considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

²³ As discussed below, the Exchange is proposing a four-year expiration period for the SIE.

Moreover, proposed Rule 1210.03 states that the Exchange will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed Rule 1210.04)

The Exchange is proposing to adopt new Rule 1210.04, which provides that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a period of 120 calendar days prior to passing an appropriate principal qualification examination, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation and has fulfilled all prerequisite registration, fee and examination requirements prior to designation as principal. These requirements apply to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.²⁴ Similarly, the rule would permit a member to designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for a period of 120 calendar days prior to passing an appropriate qualification examination as specified under Rule 1220.²⁵

This provision, which has no counterpart in the Exchange's current rules, is intended to provide flexibility to members in meeting their principal requirements on a temporary basis.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination

content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualification examination, FINRA's Sanction Guidelines recommend a bar.²⁶

Effective October 1, 2018 FINRA has codified the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA also adopted Rules of Conduct for taking the SIE for associated persons and non-associated persons who take the SIE.

The Exchange proposes to adopt its own version of Rule 1210.05, which would provide that associated persons taking the SIE are subject to the SIE Rules of Conduct, and that associated persons taking any representative or principal examination are subject to the Rules of Conduct for representative and principal examinations. Under the proposed rule, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of Exchange rules requiring observance of high standards of commercial honor or just and equitable principles of trade, such as Exchange Rule 400.²⁷ Further, if the Exchange determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by the Exchange.

Proposed Rule 1210.05 also states that the Exchange considers all of the qualification examinations' content to be highly confidential. The removal of examination content from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification examination or any other use that would compromise the effectiveness of the examinations and the use in any manner and at any time of the questions or answers to the examinations would be prohibited and would be deemed to be a violation of Exchange rules requiring

observance of high standards of commercial honor or just and equitable principles of trade. Finally, proposed Rule 1210.05 would prohibit an applicant from receiving assistance while taking the examination, and require the applicant to certify that no assistance was given to or received by him or her during the examination.²⁸

G. Waiting Periods for Retaking a Failed Examination (Proposed Rule 1210.06)

The Exchange proposes to adopt new Rule 1210.06, which provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination.²⁹ Proposed Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations.³⁰

H. CE Requirements (Proposed Rule 1210.07)

Pursuant to current Exchange Rule 313.04, each individual required to register under Rule 313 is required to satisfy the continuing education requirements set forth in Exchange Rule 604, Continuing Education for Registered Persons, or any other applicable continuing education requirements as prescribed by the Exchange. Under Rule 604 the CE requirements applicable to registered persons consist of a Regulatory Element³¹ and a Firm Element.³² The Regulatory Element applies to registered persons and must be completed within prescribed time frames.³³ For purposes

²⁸ The Exchange is not adopting portions of FINRA's Rule 1210.05 which apply to non-associated persons, over whom the Exchange would in any event have no jurisdiction.

²⁹ Proposed Rule 1210.06 has no counterpart in existing Exchange rules.

³⁰ FINRA Rule 1210.06 requires individuals taking the SIE who are not associated persons to agree to be subject to the same waiting periods for retaking the SIE. The Exchange is not including this language in proposed Rule 1210.06, as the Exchange will not apply the 1200 Series of rules in any event to individuals who are not associated persons of members.

³¹ See Rule 604(a).

³² See Rule 604(c).

³³ Pursuant to Rule 604(a), each registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. Unless otherwise determined by the Exchange, a registered person who has not completed the Regulatory Element program within the prescribed

²⁴ In this regard, the Exchange notes that qualifying as a registered representative is currently a prerequisite to qualifying as a principal on the Exchange except with respect to the Financial and Operations Principal.

²⁵ Proposed Rule 1210.04 omits FINRA Rule 1210.04's reference to Foreign Associates, which is a registration category not recognized by the Nasdaq Affiliated Exchanges, but otherwise tracks the language of FINRA Rule 1210.04.

²⁶ See SR-FINRA-2017-007, pp. 26-27.

²⁷ Exchange Rule 400 prohibits members from engaging in acts or practices inconsistent with just and equitable principles of trade. Persons associated with members have the same duties and obligations as members under Rule 400. FINRA Rule 1210.05 cites FINRA Rule 2010, which is a comparable rule.

of the Regulatory Element, a “registered person” is defined in the current rule as any person registered or required to be registered with the Exchange under the Exchange’s rules.³⁴ The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term “covered registered persons” is defined as any registered person who has a Series 57 registration or who has direct contact with customers in the conduct of the member’s securities sales, trading and investment banking activities, and the immediate supervisors of such persons.³⁵

The Exchange proposes to delete Rule 313.04. The CE requirements set forth in Rule 313.04 have been reorganized and renumbered, and are now proposed to be adopted as new Rule 1240. The Exchange believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, the Exchange is proposing Rule 1210.07, to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed new Rule 1240, discussed below.³⁶ Individuals who have passed the SIE but not a representative or principal-level examination and do not hold a registered position would not be subject to any CE requirements. Consistent with current practice, proposed Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under Rule 604(a) must cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of the Exchange’s rules. The Exchange may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

³⁴ See Rule 604.01.

³⁵ See Rule 604(c)(1).

³⁶ Current Rule 313.04 would be deleted.

I. Lapse of Registration and Expiration of SIE (Proposed Rule 1210.08)

Existing Rule 313(e) states that any person whose registration has been revoked by the Exchange as a disciplinary sanction or whose most recent registration has been terminated for two or more years immediately preceding the date of receipt by the Exchange of a new application shall be required to pass a qualification examination appropriate to the category of registration as prescribed by the Exchange. The two year period is calculated from the termination date to the date the Exchange receives a new application for registration. The Exchange is proposing to delete existing Rule 313(e), and to replace it with Rule 1210.08, Lapse of Registration and Expiration of SIE.

Proposed Rule 1210.08 contains language comparable to that of existing Rule 313(e) but also clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by the Exchange if that application does not result in a registration. Proposed Rule 1210.08 also sets forth the expiration period of the SIE. Based on the content covered on the SIE, the Exchange is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become an associated person of a firm, pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the operative date of the proposed rule change would have up to four years to re-associate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two year expiration period as is the case today.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed Rule 1210.09)

The Exchange is proposing Rule 1210.09 to provide a new process whereby individuals who would be working for a financial services industry affiliate of a member³⁷ would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate (“FSA”) waiver.³⁸ The purpose of the FSA waiver is to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they may gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member with which the individual is registered would notify the Exchange of the FSA designation. The member would concurrently file a full Form U5 terminating the individual’s registration with the firm, which would also terminate the individual’s other SRO and state registrations.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member.³⁹ An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven

³⁷ Proposed Rule 1210.09 defines a “financial services industry affiliate of a member” as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, Commodity Futures Trading Commission (“CFTC”), state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

³⁸ There is no counterpart to proposed Rule 1210.09 in the Exchange’s existing rules. FINRA Rule 1210.09 was recently adopted as a new waiver process for FINRA registrants, as part of the FINRA Rule Changes.

³⁹ For purposes of this requirement, a five year period of registration with the Exchange, with FINRA or with another self-regulatory organization would be sufficient.

years from the date of initial designation⁴⁰ provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.⁴¹

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (*i.e.*, the individual would have the standard two-year period after termination to re-register without having to retake an examination). The Exchange is making corresponding changes to proposed Rule 1240 (currently Rule 604, Continuing Education for Registered Persons).

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also

⁴⁰ Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

⁴¹ The following examples illustrate this point:

Example 1. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A's financial services affiliate for three years, the individual directly joins Firm B's financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate for three years. Firm A then submits a waiver request to reregister the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual rejoins Firm A's financial services affiliate for two years, after which the individual directly joins Firm B's financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

submit an examination waiver request to the Exchange,⁴² similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. The Exchange would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. The Exchange would summarily grant the request if the following conditions are met:

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member;

(3) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5;

(4) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

(5) The individual has complied with the Regulatory Element of CE; and

(6) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.⁴³ An individual who has been designated as an FSA-eligible person by a member would not

⁴² The Exchange would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

⁴³ For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed Rule 1210.10)

The Exchange is proposing to adopt new Rule 1210.10, Status of Persons Serving in the Armed Forces of the United States.⁴⁴ Rule 1210.10(a) would permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be placed, after proper notification to the Exchange, on inactive status. The registered person would not need to be re-registered by such member upon his or her return to active employment with the member.

The registered person would remain eligible to receive transaction-related compensation, including continuing commissions, and the employing member could allow the registered person to enter into an arrangement with another registered person of the member to take over and service the person's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, because such persons would be inactive, they could not perform any of the functions and responsibilities performed by a registered person, nor would they be required to complete either the continuing education Regulatory Element or Firm Element set forth in proposed Rule 1240 during the pendency of such inactive status.⁴⁵

Pursuant to proposed Exchange Rule 1210.10(b), a member that is a sole proprietor who temporarily closes his or her business by reason of volunteering for or being called into active duty in the Armed Forces of the United States, shall be placed, after proper notification to the Exchange, on inactive status while the member remains on active military duty, would not be required to pay dues or assessments during the pendency of such inactive status and would not be required to pay an

⁴⁴ There is no counterpart to proposed Rule 1210.10 in the Exchange's existing rules.

⁴⁵ The relief provided in Rule 1210.10(a) would be available to a registered person during the period that such person remains registered with the member with which he or she was registered at the beginning of active duty in the Armed Forces of the United States, regardless of whether the person returns to active employment with another member upon completion of his or her active duty. The relief would apply only to a person registered with a member and only while the person remains on active military duty. Further, the member with which such person is registered would be required to promptly notify the Exchange of such person's return to active employment with the member.

admission fee upon return to active participation in the securities business. This relief would be available only to a sole proprietor member and only while the person remains on active military duty, and the sole proprietor would be required to promptly notify the Exchange of his or her return to active participation in the securities business.

If a person who was formerly registered with a member volunteers for or is called into active duty in the Armed Forces of the United States at any time within two years after the date the person ceased to be registered with a member, the Exchange shall defer the lapse of registration requirements set forth in proposed Rule 1210.08 (*i.e.*, toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (*i.e.*, toll the four-year expiration period for the SIE). The Exchange would defer the lapse of registration requirements and the SIE commencing on the date the person begins actively serving in the Armed Forces of the United States, provided that the Exchange is properly notified of the person's period of active military service within 90 days following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral will terminate 90 days following the person's completion of active service in the Armed Forces of the United States. Accordingly, if such person does not re-register with a member within 90 days following his or her completion of active service in the Armed Forces of the United States, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE shall consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08 reduced by the period of time between the person's termination of registration and beginning of active service in the Armed Forces of the United States.

Finally, under proposed Rule 1210.10(c), if a person placed on inactive status while serving in the Armed Forces of the United States ceases to be registered with a member, the Exchange would defer the lapse of registration requirements set forth in Rule 1210.08 (*i.e.*, toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (*i.e.*, toll the four-year expiration period for the SIE) during the pendency of his or her active

service in the Armed Forces of the United States. The Exchange would defer the lapse of registration requirements based on existing information in the CRD system, provided that the Exchange is properly notified of the person's period of active military service within two years following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral would terminate 90 days following the person's completion of active service in the Armed Forces of the United States. Accordingly, if such person did not re-register with a member within 90 days following completion of active service, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE would consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08.⁴⁶

L. Impermissible Registrations (Proposed Rule 1210.11)

Existing Rule 313(a)(1) prohibits a member from maintaining a representative or principal registration with the Exchange for any person who is no longer active in the member's securities business, who is no longer functioning in the registered capacity, or where the sole purpose is to avoid an examination requirement. The rule also prohibits a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its securities business. These prohibitions do not apply to the current permissive registration categories identified in Rule 313(a)(1).

In light of proposed Rule 1210.02, Permissive Registrations, discussed above, the Exchange is proposing to delete these provisions of Rule 313(a)(1) and instead adopt Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is

⁴⁶ Proposed Rule 1210.10 tracks FINRA Rule 1210.10 except for the statement that inactive registered persons are not to be included within the definition of "Personnel" for purposes of dues or assessments as provided in Article VI of the FINRA By-Laws. Instead, proposed Rule 1210.10 includes language from existing Nasdaq IM-1002-2 stating that inactive persons under the rule are not included within the scope of fees, if any, charged by the Exchange with respect to registered persons.

consistent with the requirements of proposed Rule 1210.⁴⁷

M. Registration Categories (Proposed Rule 1220)

The Exchange is proposing to adopt new and revised registration category rules and related definitions in proposed Rule 1220, Registration Categories.⁴⁸

1. Definition of Principal (Proposed Rule 1220(a)(1))

The Exchange's registration rules currently do not include a definition of the term "principal." Rather than employing a defined term, the Exchange's principal registration requirement directly identifies the types of persons who would be encompassed within the term "principal" if that term were defined.⁴⁹ The Exchange is now proposing to adopt a definition of "principal" in Rule 1220(a)(1).

Under proposed Rule 1220(a)(1) a "principal" would be defined as any person associated with a member, including, but not limited to, sole proprietor, officer, partner, manager of office of supervisory jurisdiction, director or other person occupying a similar status or performing similar functions, who is actively engaged in the management of the member's securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions. Such persons would include, among other persons, a member's chief executive officer and chief financial officer (or equivalent officers). A "principal" would also include any other person associated with a member who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal

⁴⁷ As discussed above, the Exchange is also proposing Rule 1210, Supplementary Material .12, Application for Registration and Jurisdiction, which is not included in FINRA Rule 1210. Proposed Exchange Rule 1210, Supplementary Material .12, is based upon portions of existing Nasdaq Rule 1031.

⁴⁸ For ease of reference, the Exchange proposes to adopt as Rule 1220, Supplementary Material .07, in chart form, a Summary of Qualification Requirements for each of the Exchange's permitted registration categories discussed below.

⁴⁹ Pursuant to existing Rule 313.07 each member must register with the Exchange each individual acting as an officer, partner, director, supervisor of proprietary trading, market-making or brokerage activities, and/or supervisor of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities. This requirement is consistent with FINRA's current registration requirement for principals (NASD Rule 1021). See Securities Exchange Act Release No. 63843 (February 4, 2011), 76 FR 7884 (SR-ISE-2010-115), at footnote 18.

under Exchange rules. The term “actively engaged in the management of the member’s securities business” would include the management of, and the implementation of corporate policies related to, such business, as well as managerial decision-making authority with respect to the member’s securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member’s executive, management or operations committees.

2. General Securities Principal (Proposed Rule 1220(a)(2))

The Exchange currently does not impose a General Securities Principal registration obligation. The Exchange is now proposing to adopt new Rule 1220(a)(2), which establishes an obligation to register as a General Securities Principal, but with certain exceptions.⁵⁰

Proposed Rule 1220(a)(2)(A) states that each principal as defined in proposed Rule 1220(a)(1) is required to register with the Exchange as a General Securities Principal, except that if a principal’s activities are limited to the functions of a Compliance Official, a Financial and Operations Principal, a Securities Trader Principal, a Securities Trader Compliance Officer, or a Registered Options Principal, then the principal shall appropriately register in one or more of these categories.⁵¹ Proposed Rule 1220(a)(2)(A) further provides that if a principal’s activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she would be required to register as a General Securities Sales Supervisor or as a Registered Options Principal.⁵²

Proposed Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination.

⁵⁰ There is no counterpart to proposed Rule 1220(a)(2) in the Exchange’s existing rules.

⁵¹ The Exchange is proposing to recognize the General Securities Principal and the Compliance Official registration categories for the first time in this proposed rule change.

⁵² The Exchange’s proposed Rule 1220(a)(2)(A) deviates somewhat from the counterpart FINRA rule in that it does not offer various limited registration categories provided for in FINRA’s new Rule 1220(a)(2)(A). It therefore proposes to reserve Rules 1220(a)(2)(A)(ii) and (iv).

Proposed Rule 1220(a)(2)(B) provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration on the Exchange in lieu of the General Securities Representative prerequisite registration and individuals who had been registered as such within the past two years prior to the operative date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.⁵³ Proposed Rule 1220(a)(2)(B) requires all other individuals registering as General Securities Principals after October 1, 2018, to first become registered as a General Securities Representative pursuant to Rule 1220(b)(2). The Exchange is not adopting the FINRA Rule 1220(a)(2)(B) language permitting an individual registering as a General Securities Principal after October 1, 2018 to register as a General Securities Sales Supervisor and to pass the General Securities Principal Sales Supervisor Module qualification examination. The Exchange believes that individuals registering as General Securities Principals should be required to demonstrate their competence for that role by passing the General Securities Principal qualification examination.⁵⁴

3. Compliance Official (Proposed Rule 1220(a)(3))

Existing Rule 313(c) requires each member to designate a Chief Compliance Officer on Schedule A of Form BD, and requires individuals designated as a Chief Compliance Officer to register with the Exchange and pass the appropriate heightened qualification examination(s) as

⁵³ The Exchange itself does not recognize the Corporate Securities Representative registration category, but understands that FINRA and Nasdaq currently accept Corporate Securities Representative registration as a prerequisite to General Securities Principal registration.

⁵⁴ Proposed Rule 1220(a)(2) generally tracks FINRA Rule 1220(a)(2), except that it omits references to a number of registration categories which FINRA recognizes but that the Exchange does not, and it includes a reference to the Securities Trader Compliance Officer category which the Exchange proposes to recognize, but which FINRA does not. Additionally, proposed Rule 1220(a)(2)(A)(i) extends that provision’s exception to the General Securities Principal registration requirement to certain principals whose activities are “limited to” (rather than “include”) the functions of a more limited principal. The Exchange believes that activities “limited to” expresses the intent of that exception more accurately than activities that “include.” Finally, proposed Rule 1220(a)(2)(B) specifies that registration as a Corporate Securities Representative must be with the Exchange in order to fulfill the Corporate Securities Representative registration prerequisite for General Securities Principal registration pursuant to that rule.

prescribed by the Exchange.⁵⁵ Current Rule 313.08(a)(3) provides that an individual associated person who is a Chief Compliance Officer (or performs similar functions) for a member that engages in proprietary trading, market-making or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader Compliance Officer (CT) in WebCRD and to satisfy the prerequisite registration and qualification requirements.⁵⁶

The Exchange is proposing to delete Rules 313(c) and 313.08(a)(3) and to adopt Rule 1220(a)(3), Compliance Official, in their place. Proposed Rule 1220(a)(3) provides that each person designated as a Chief Compliance Officer on Schedule A of Form BD shall be required to register with the Exchange as a General Securities Principal, provided that such person may instead register as a Compliance Official if his or her duties do not include supervision of trading. All individuals registering as Compliance Official would be required, prior to or concurrent with such registration, to pass the Compliance Official qualification examination. An individual designated as a Chief Compliance Officer on Schedule A of Form BD of a member that is engaged in limited securities business could be registered in a principal category under Rule 1220(a) that corresponds to the limited scope of the member’s business.

Additionally, Rule 1220(a)(3) would provide that an individual designated as a Chief Compliance Officer on Schedule A of Form BD may register and qualify as a Securities Trader Compliance Officer if, with respect to transactions in equity, preferred or convertible debt securities, or options such person is engaged in proprietary trading, the

⁵⁵ Rule 313(c) further provides that a person who has been designated as a Chief Compliance Officer on Schedule A of Form BD for at least two years immediately prior to January 1, 2002, and who has not been subject within the last ten years to any statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension; or the imposition of a fine of \$5,000 or more for a violation of any provision of any securities law or regulation, or any agreement with, rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding shall be required to register in the category of registration appropriate to the function to be performed as prescribed by the Exchange, but shall be exempt from the requirement to pass the heightened qualification examination as prescribed by the Exchange.

⁵⁶ Rule 313.08(b) establishes the Series 14 as the appropriate qualification examination for a Securities Trader Compliance Officer, but also permits General Securities Principal Registration (GP) or Securities Trader Principal (TP) (Series 24) as alternative acceptable qualifications.

execution of transactions on an agency basis, or the direct supervision of such activities other than a person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with a member. All individuals registering as Securities Trader Compliance Officers would be required to first become registered pursuant to paragraph (b)(4) as a Securities Trader, and to pass the Compliance Official qualification exam.⁵⁷

4. Financial and Operations Principal (Proposed Rule 1220(a)(4))

Existing Rule 313(b) provides that each member subject to Exchange Act Rule 15c3-1 must designate a Financial/Operations Principal. It specifies that the duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the member complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. It requires Financial/Operations Principal to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). The rule provides that each Financial/Operations Principal designated by a trading member shall be registered in that capacity with the Exchange as prescribed by the Exchange, and that a Financial/Operations Principal of a member may be a full-time employee, a part-time employee or independent contractor of the member.

The Exchange is proposing to delete Rule 313(b) and to adopt in its place Rule 1220(a)(4). Under the new rule, every member of the Exchange that is operating pursuant to the provisions of SEC Rule 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate at least one Financial and Operations Principal who shall be responsible for performing the duties described in subparagraph (B) of

⁵⁷ Proposed Rule 1220(a)(3) differs from FINRA Rule 1220(a)(3), Compliance Officer. The Exchange does not recognize the Compliance Officer registration category. Similarly, FINRA does not recognize the Compliance Official or the Securities Trader Compliance Officer registration categories which the Exchange proposes to recognize. However, FINRA Rule 1220(a)(3), like proposed Rule 1220(a)(3), offers an exception pursuant to which a Chief Compliance Officer designated on Schedule A of Form BD may register in a principal category that corresponds to the limited scope of the member's business.

that rule. In addition, each person associated with a member who performs such duties shall be required to register as a Financial and Operations Principal with the Exchange.

Subparagraph (B) defines the term Financial and Operations Principal as a person associated with a member whose duties include (i) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body, (ii) final preparation of such reports, (iii) supervision of individuals who assist in the preparation of such reports, (iv) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived, (v) supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act, (vi) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations and (vii) any other matter involving the financial and operational management of the member.

Subparagraph (C) would require all individuals registering as a Financial and Operations Principal to pass the Financial and Operations Principal qualification examination before such registration may become effective. Finally, subparagraph (D) would prohibit a person registered solely as a Financial and Operations Principal from functioning in a principal capacity with responsibility over any area of business activity not described in subparagraph (2) of the rule.⁵⁸

5. Investment Banking Principal (Proposed Rule 1220(a)(5))

The Exchange does not recognize the Investment Banking Principal registration category and is therefore reserving Rule 1220(a)(5), retaining the caption solely to facilitate comparison with FINRA's rules.

⁵⁸ FINRA Rule 1220(a)(4) differs from proposed Rule 1220(a)(4) in that it includes an Introducing Broker-Dealer Financial and Operations Principal registration requirement. Additionally, proposed Rule 1220(a)(4) contains a requirement, which the FINRA rule does not, that each person associated with a member who performs the duties of a Financial and Operations Principal must register as such with the Exchange. Further, as discussed above, the Exchange is not adopting a Principal Financial Officer or Principal Operations Officer requirement like FINRA Rule 1220(a)(4)(B), as it believes the Financial and Operations Principal requirement is sufficient. Finally, proposed Rule 1220(a)(4)(B)(v) and (vi) contain minor wording variations from the FINRA rule.

6. Research Principal (Proposed Rule 1220(a)(6))

The Exchange does not recognize the Research Principal registration category and is therefore reserving Rule 1220(a)(6), retaining the caption solely to facilitate comparison with FINRA's rules.

7. Securities Trader Principal (Proposed Rule 1220(a)(7))

Existing Rule 313.08(a)(2) provides that an individual associated person who (i) supervises or monitors proprietary trading, market-making and/or brokerage activities for broker-dealers; (ii) supervises or trains those engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer, with respect to those activities; and/or (iii) is an officer, partner or director of a member is required to register and qualify as a Securities Trader Principal (TP) in WebCRD and to satisfy the prerequisite registration and qualification requirements. Further, current Rule 313.08(b) specifies that the Series 24 is the appropriate qualification examination, and that General Securities Sales Supervision Registration and General Securities Principal—Sales Supervisor Module Registration (Series 9/10 and Series 23) is an alternative acceptable qualification. Finally, current Rule 313.08(a)(2) provides that Securities Trader Principals' (TP) supervisory authority is limited to supervision of the securities trading functions of members and of officers, partners, and directors of a member.

The Exchange is proposing to delete Rules 313.08(a)(2) and related portions of Rule 313.08(b) (a summary chart) and to adopt in their place Rule 1220(a)(7), Securities Trader Principal. Proposed Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed Rule 1220(b)(4)⁵⁹ register as a Securities Trader Principal. The proposed rule requires individuals registering as Securities Trader Principals to be registered as Securities Traders and pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed Rule 1220(a)(8))

The Exchange is proposing to adopt Rule 1220(a)(8), Registered Options Principal, which would require under its section (a)(8)(A) that each member that is engaged in transactions in

⁵⁹ Proposed Rule 1220(b)(4), discussed below, provides for representative-level registration in the "Securities Trader" category.

options with the public to have at least one Registered Options Principal.⁶⁰

In addition, each principal as defined in Rule 1220(a)(1) who is responsible for supervising a member's options sales practices with the public would be required to register with the Exchange as a Registered Options Principal, subject to the following exception. If a principal's options activities are limited solely to those activities that may be supervised by a General Securities Sales Supervisor, then such person may register as a General Securities Sales Supervisor pursuant to paragraph (a)(10) of the Rule in lieu of registering as a Registered Options Principal.⁶¹

Pursuant to proposed Rule 1220(a)(8)(B), subject to the lapse of registration provisions in Rule 1210.08, each person registered with the Exchange as a Registered Options Principal on October 1, 2018 and each person who was registered as a Registered Options Principal within two years prior to October 1, 2018 would be qualified to register as a Registered Options Principal without passing any additional qualification examinations. All other individuals registering as Registered Options Principals after

⁶⁰ Proposed Rule 1220(a)(8) differs from FINRA Rule 1220(a)(8) in that it omits certain references to other specific FINRA rules.

⁶¹ Current Rule 601(a) provides that no member shall be approved to transact options business with the public until those associated persons who are designated as Options Principals have been approved by and registered with the Exchange, and that persons engaged in the supervision of options sales practices or a person to whom the designated general partner or executive officer (pursuant to Rule 609) or another Registered Options Principal delegates the authority to supervise options sales practices shall be designated as Options Principals. Rule 601(e) provides that individuals who are delegated responsibility pursuant to Rule 609 for the acceptance of discretionary accounts, for approving exceptions to a member's criteria or standards for uncovered options accounts, and for approval of communications, shall be designated as Options Principals and are required to qualify as an Options Principal by passing the Registered Options Principal Qualification Examination (Series 4). The foregoing provisions of Rule 601 are specific to conducting an options business with the public and are not proposed to be amended in this proposed rule change. However, Rule 601(b) and (c) contain provisions regarding submission of Forms U4 and U5 to WebCRD that are duplicative of the proposed 1200 Series of rules, in particular proposed Rules 1210.12, Application for Registration and Jurisdiction, and 1250, Electronic Filing Requirements for Electronic Forms, and are therefore proposed to be deleted. Current Rule 601(d) provides that individuals engaged in the supervision of options sales practices and designated as Options Principals are required to qualify as an Options Principal by passing the Registered Options Principals Qualification Examination (Series 4) or the Sales Supervisor Qualification Examination (Series 9/10), and is proposed to be deleted in view of proposed Rule 1220(a)(8)(A). Rule 313(d), which merely serves as a cross-reference to Rules 601 and 602, is unnecessary and is therefore proposed to be deleted with the rest of Rule 313.

October 1, 2018 would, prior to or concurrent with such registration, be required to become registered pursuant to Rule 1220(b)(2) as a General Securities Representative and pass the Registered Options Principal qualification examination.⁶²

9. Government Securities Principal (Rule 1220(a)(9))

The Exchange does not recognize the Government Securities Principal registration category and is therefore reserving Rule 1220(a)(9), retaining the caption solely to facilitate comparison with FINRA's rules.

10. General Securities Sales Supervisor (Proposed Rules 1220(a)(10) and 1220.04)

The Exchange is proposing to adopt new Rule 1220(a)(10), General Securities Sales Supervisor, as well as new Rule 1220, Supplementary Material .04, which explains the purpose of the General Securities Sales Supervisor registration category.⁶³ Proposed Rule 1220(a)(10) provides that each principal, as defined in Rule 1220(a)(1), may register with the Exchange as a General Securities Sales Supervisor if his or her supervisory responsibilities in the securities business of a member are limited to the securities sales activities of the member, including the approval of customer accounts, training of sales and sales supervisory personnel and the maintenance of records of original entry or ledger accounts of the member required to be maintained in branch offices by the Exchange Act's record-keeping rules.

A person registered solely as a General Securities Sales Supervisor

⁶² Although the Exchange does not currently list security futures products, it is also proposing to adopt Rule 1220, Supplementary Material .02, which provides that each person who is registered with the Exchange as a Registered Options Principal, General Securities Representative, Options Representative or General Securities Sales Supervisor shall be eligible to engage in security futures activities as a principal provided that such individual completes a Firm Element program as set forth in proposed Rule 1240 that addresses security futures products before such person engages in security futures activities. Unlike FINRA Rule 1220.02, proposed Exchange Rule 1220.02 omits references to United Kingdom Securities Representatives and Canada Securities Representatives, which are registration categories the Exchange does not recognize. In addition, the Exchange is also proposing to adopt Rule 1220, Supplementary Material .03 which requires notification to the Exchange in the event a member's sole Registered Options Principal is terminated, resigns, becomes incapacitated or is otherwise unable to perform the duties of a Registered Options Principal, and imposes certain restrictions on the member's options business in that event.

⁶³ Proposed Rule 1220(a)(10) has no counterpart in the Exchange's current rules.

would not be qualified to perform any of the following activities: Supervision of market making commitments, supervision of the custody of broker-dealer or customer funds or securities for purposes of SEA Rule 15c3-3, or supervision of overall compliance with financial responsibility rules for broker-dealers promulgated pursuant to the provisions of the Exchange Act.⁶⁴

Each person seeking to register as a General Securities Sales Supervisor would be required, prior to or concurrent with such registration, to become registered pursuant to Rule 1220(b)(2) of the rule as a General Securities Representative and pass the General Securities Sales Supervisor qualification examinations.⁶⁵

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Rules 1220(a)(11) and (a)(12))

The Exchange does not recognize the Investment Company and Variable Contracts Products Principal and the Direct Participation Programs Principal registration categories and is reserving Rule 1220(a)(11) and (a)(12), retaining the captions solely to facilitate comparison with FINRA's rules.

12. Private Securities Offerings Principal (Rule 1220(a)(13))

The Exchange does not recognize the Private Securities Offerings Principal registration category and is reserving Rule 1220(a)(13), retaining the caption solely to facilitate comparison with FINRA's rules.

13. Supervisory Analyst (Rule 1220(a)(14))

The Exchange does not recognize the Supervisory Analyst registration category and is reserving Rule 1220(a)(14), retaining the caption solely to facilitate comparison with FINRA's rules.

14. Definition of Representative (Proposed Rule 1220(b)(1))

Exchange rules currently do not define the term "representative" although Rule 602(b) states that persons who perform duties for the member

⁶⁴ Rule 1220(a)(10), however, omits the FINRA Rule 1220(a)(10) prohibition against supervision of the origination and structuring of underwritings as unnecessary, as this kind activity does not fall within the scope of "securities trading" covered by the Exchange's new 1200 Series of rules.

⁶⁵ Unlike FINRA Rule 1220.04, proposed Exchange Rule 1220.04 refers to "multiple exchanges" rather than listing the various exchanges where a sales principal might be required to qualify in the absence of the General Securities Sales Supervisor registration category. It also omits FINRA internal cross-references.

which are customarily performed by sales representatives or branch office managers shall be designated as representatives of the member.

The Exchange now proposes to delete Rule 602(b) and to adopt a definition of “representative” in proposed Rule 1220(b)(1). Proposed 1220(b)(1) would define the term representative as any person associated with a member, including assistant officers other than principals, who is engaged in the member’s securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

15. General Securities Representative (Proposed Rule 1220(b)(2))

The Exchange proposes to adopt new Rule 1220(b)(2), General Securities Representative. Proposed Rule 1220(b)(2)(A) states that each representative as defined in proposed Rule 1220(b)(1) is required to register with the Exchange as a General Securities Representative, subject to the exception that if a representative’s activities include the functions of a Securities Trader, as specified in Rule 1220(b)(2), then such person shall appropriately register as a Securities Trader.⁶⁶

Further, consistent with the proposed restructuring of the representative-level examinations, proposed Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination except that individuals registered as a General Securities Representative within two years prior to October 1, 2018 would be

⁶⁶ Current Exchange Rule 602(a) and (b) provide that no member shall be approved to transact business with the public until those persons associated with it who are designated representatives have been approved by and registered with the Exchange, and that persons who perform duties for the member which are customarily performed by sales representatives or branch office managers shall be designated as Representatives of the member. Further, Rule 602(d) provides that a person accepting orders from non-member customers (unless such customer is a broker-dealer registered with the Commission) is required to register with the Exchange and to be qualified by passing the General Securities Registered Representative Examination (Series 7). The foregoing provisions of current Rule 602 are specific to conducting an options business with the public and are not proposed to be amended in this proposed rule change. However, Rule 602(c) contains provisions regarding the submission of Form U4 through WebCRD and the necessity of completing a qualification examination that are duplicative of the proposed 1200 Series of rules, in particular proposed Rules 1210.12, Application for Registration and Jurisdiction, and 1250, Electronic Filing Requirements for Electronic Forms, and is therefore proposed to be deleted.

qualified to register as General Securities Representatives without passing any additional qualification examinations.⁶⁷

In addition, the Exchange is proposing to adopt Rule 1220.01 to provide individuals who are associated persons of firms and who hold foreign registrations an alternative, more flexible, process to obtain an Exchange representative-level registration. The Exchange believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain an Exchange representative-level registration.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

Operations Professional, Investment Banking Representative, Research Analyst, Investment Company and Variable Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative. The Exchange does not recognize these registration categories for its associated persons. The Exchange is therefore reserving Rules 1220(b)(3)—Operations Professional, and related Rule 1220.05, Scope of Operations Professional Requirement; 1220(b)(5)—Investment Banking Representative; 1220(b)(6)—Research Analyst; 1220(b)(7)—Investment Company and Variable Products Representative; 1220(b)(8)—Direct Participation Programs Representative; and 1220(b)(9)—Private Securities Offerings Representative, retaining the captions

⁶⁷ Proposed Rule 1220(b)(2)(B) differs from FINRA Rule 1220(b)(2)(B) in that it omits references to various registration categories which FINRA recognizes but which the Exchange does not propose to recognize.

for each of them solely to facilitate comparison with FINRA’s rules.

Securities Trader—Proposed Rule 1220(b)(4). Pursuant to current Exchange Rule 313, Supplementary Material .08, an individual associated person who is engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader (TD).

The Exchange now proposes to delete that section of Exchange Rule 313, Supplementary Material .08, and to replace it with proposed Rule 1220(b)(4).⁶⁸ Rule 1220(b)(4) would require each representative as defined in Rule 1220(b)(1) of the Rule to register with the Exchange as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities, or options such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities other than a person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with a member. The revised definition of Securities Trader is consistent with the Securities Trader definition in the Nasdaq rules.⁶⁹ As a result of the revised rule, additional types of activity on ISE would fall within the Securities Trader registration category, including engaging in customer business. Rule 1220(b)(4) would require individuals registering as Securities Traders to pass the SIE as well as the Securities Trader qualification exam.

Additionally, proposed Rule 1220(b)(4)(A) would require each person associated with a member who is: (i) Primarily responsible for the design, development or significant modification of an algorithmic trading strategy relating to equity, preferred or convertible debt securities or options; or (ii) responsible for the day-to-day supervision or direction of such activities to register with the Exchange as a Securities Trader.⁷⁰

⁶⁸ Proposed Rule 1220(b)(4)(A) differs from FINRA Rule 1220(b)(4)(A) in that it applies to trading on the Exchange while the FINRA rule is limited to the specified trading which is “effected otherwise than on a securities exchange.” Additionally, the FINRA rule does not specifically extend to options trading.

⁶⁹ See current Nasdaq Rule 1032(f), Securities Trader.

⁷⁰ As noted above, this new registration requirement was recently added to the FINRA rulebook. The Exchange has determined to add a

For purposes of this proposed new registration requirement an “algorithmic trading strategy” is an automated system that generates or routes orders (or order-related messages) but does not include an automated system that solely routes orders received in their entirety to a market center. The proposed registration requirement applies to orders and order related messages whether ultimately routed or sent to be routed to an exchange or over the counter. An order router alone would not constitute an algorithmic trading strategy. However, an order router that performs any additional functions would be considered an algorithmic trading strategy. An algorithm that solely generates trading ideas or investment allocations—including an automated investment service that constructs portfolio recommendations—but that is not equipped to automatically generate orders and order-related messages to effectuate such trading ideas into the market—whether independently or via a linked router—would not constitute an algorithmic trading strategy.⁷¹

The associated persons covered by the expanded registration requirement would be required to pass the requisite qualification examination and be subject to the same continuing education requirements that are applicable to individual Securities Traders. The Exchange believes that potentially problematic conduct stemming from algorithmic trading strategies—such as failure to check for order accuracy, inappropriate levels of messaging traffic, and inadequate risk management controls—could be reduced or prevented, in part, through improved education regarding securities regulations for the specified individuals involved in the algorithm design and development process.

The proposal is intended to ensure the registration of one or more associated persons that possesses knowledge of, and responsibility for, both the design of the intended trading strategy and the technological implementation of the strategy, sufficient to evaluate whether the resulting product is designed to achieve regulatory compliance in addition to business objectives. For example, a lead developer who liaises with a head trader regarding the head trader’s desired

parallel requirement to its own rules, but also to add options to the scope of products within the proposed rule’s coverage. See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

⁷¹ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

algorithmic trading strategy and is primarily responsible for the supervision of the development of the algorithm to meet such objectives must be registered under the proposal as the associated person primarily responsible for the development of the algorithmic trading strategy and supervising or directing the team of developers. Individuals under the lead developer’s supervision would not be required to register under the proposal if they are not primarily responsible for the development of the algorithmic trading strategy or are not responsible for the day-to-day supervision or direction of others on the team. Under this scenario, the person on the business side that is primarily responsible for the design of the algorithmic trading strategy, as communicated to the lead developer, also would be required to register. In the event of a significant modification to the algorithm, members, likewise, would be required to ensure that the associated person primarily responsible for the significant modification (or the associated person supervising or directing such activity), is registered as a Securities Trader.

A member employing an algorithm is responsible for the algorithm’s activities whether the algorithm is designed or developed in house or by a third-party. Thus, in all cases, robust supervisory procedures, both before and after deployment of an algorithmic trading strategy, are a key component in protecting against problematic behavior stemming from algorithmic trading. In addition, associated persons responsible for monitoring or reviewing the performance of an algorithmic trading strategy must be registered, and a member’s trading activity must always be supervised by an appropriately registered person. Therefore, even where a firm purchases an algorithm off-the-shelf and does not significantly modify the algorithm, the associated person responsible for monitoring or reviewing the performance of the algorithm would be required to be registered.

Pursuant to proposed Rule 1220(b)(4)(B) each person registered as a Securities Trader on October 1, 2018 and each person who was registered as a Securities Trader within two years prior to October 1, 2018 would be qualified to register as a Securities Trader without passing any additional qualification examinations. All other individuals registering as Securities Traders after October 1, 2018 would be required, prior to or concurrent with such registration, to pass the SIE and the Securities Trader qualification examination.

17. Eliminated Registration Categories (Proposed Rule 1220.06)

Proposed Rule 1220.06 has no practical relevance to ISE, but is included because all the Nasdaq Affiliated Exchanges, including Nasdaq, are also proposing to adopt the new 1200 Series, on a uniform basis. Proposed Rule 1220.06 will be relevant to Nasdaq and BX which, unlike ISE, are proposing to eliminate certain existing registration categories that are not currently recognized by ISE.⁷²

Proposed Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered with the Exchange in any capacity recognized by the Exchange immediately prior to October 1, 2018, and each person who was registered with the Exchange in such categories within two years prior to October 1, 2018, shall be eligible to maintain such registrations with the Exchange. However, if individuals registered in such categories terminate their registration with the Exchange and the registration remains terminated for two or more years, they would not be able to re-register in that category. In addition, proposed Rule 1220.06 would include the current restrictions to which Order Processing Assistant Representatives are subject under Nasdaq rules.⁷³ As stated above, Rule 1220.06 would have no application to the Exchange.

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed Rule 1220(a)(2) (relating to General Securities Principals), and in proposed Rule 1220.06 (relating to the eliminated registration categories), the Exchange is proposing to include grandfathering provisions in proposed Rule 1220(a)(8) (Registered Options Principal), 1220(b)(2) (General Securities Representative), and 1220(b)(4) (Securities Trader). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered in specified registration categories on the operative date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the operative date of the proposed rule change would be qualified to register in the proposed

⁷² See SR-Nasdaq-2018-078 and SR-BX-2018-047.

⁷³ See Nasdaq Rule 1042. Proposed Exchange Rule 1220.06 omits references to a number of registration categories it does not propose to recognize, but which FINRA refers to in its own Rule 1220.06.

corresponding registration categories without having to take any additional examinations.

N. Associated Persons Exempt From Registration (Proposed Rules 1230 and 1230.01)

Existing Rule 313(a)(2) currently provides that the following persons associated with a member are not required to register:

(A) Individual associated persons whose functions are solely and exclusively clerical or ministerial;

(B) individual associated persons who are not actively engaged in the securities business;

(C) individual associated persons whose functions are related solely and exclusively to the Member's need for nominal corporate officers or for capital participation;

(D) individual associated persons whose functions are related solely and exclusively to:

(i) Transactions in commodities;

(ii) transactions in security futures;

and/or

(iii) effecting transactions on the floor of another national securities exchange and who are registered as floor members with such exchange.

Rule 313(a)(2) is not meant to provide an exclusive or exhaustive list of exemptions from registration.

Associated persons may otherwise be exempt from registration based on their activities and functions.

The Exchange is proposing to adopt Rule 313(a)(2) as Rule 1230 subject to certain changes. As noted above, Rule 313(a)(2)(B) exempts from registration those associated persons who are not actively engaged in the securities business. Rule 313(a)(2)(C) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.⁷⁴ The Exchange believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. The Exchange does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated

persons whose functions are related only to a member's need for capital participation is consistent with this analytical framework.⁷⁵ The Exchange therefore is proposing to delete these exemptions. Rule 313(a)(2) further exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of another national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration categories other than the floor member category, proposed Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of another national securities exchange, provided they are appropriately registered with such exchange.⁷⁶ Additionally, the Exchange proposes to add Section 3 of Rule 1230, pursuant to which persons associated with a member that are not citizens, nationals, or residents of the United States or any of its territories or possessions, that will conduct all of their securities activities in areas outside the jurisdiction of the United States, and that will not engage in any securities activities with or for any citizen, national or resident of the United States need not register with the Exchange.⁷⁷

The Exchange proposes to adopt Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

⁷⁵ The Exchanges also proposes to delete Rule 313.06 which specifies circumstances in which the Exchange considers an associated person of a member to be engaged in the securities business of a member. The Exchange believes these determinations may be made on case by case basis, depending upon facts and circumstances.

⁷⁶ Proposed Rule 1230 differs from FINRA Rule 1230 in that it contains a number of additional exemptions, based upon current Nasdaq Rule 1060(a), which are not included in FINRA Rule 1230.

⁷⁷ Individuals described by Section 3 of Rule 1230 who are associated with FINRA members may be registered with FINRA as Foreign Associates pursuant to FINRA Rule 1220.06. FINRA is eliminating this registration category effective October 1, 2018, and the Exchange has never recognized it.

O. Changes to Continuing Education Requirements (Proposed Rule 1240)

As described above, existing Rule 604, Continuing Education for Registered Persons, includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. The CE requirements set forth in Rule 604 have been reorganized and renumbered, and are now proposed to be adopted with amendments as new Rule 1240.⁷⁸

1. Regulatory Element

The Exchange is proposing to replace the term "registered person" with the term "covered person" and make conforming changes to proposed Rule 1240(a). For purposes of the Regulatory Element, the Exchange is proposing to define the term "covered person" in Rule 1240(a)(5) as any person registered pursuant to proposed Rule 1210, including any person who is permissively registered pursuant to proposed Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed Rule 1210.09. In addition, consistent with proposed Rule 1210.09, proposed Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, the Exchange is proposing to add a rule to address the impact of failing to complete the Regulatory Element on a registered person's

⁷⁸ Proposed Rule 1240 also differs slightly from FINRA Rule 1240 in that it omits references to certain registration categories which the Exchange does not recognize as well as an internal cross reference to FINRA Rule 4517.

⁷⁴ These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

activities and compensation. Specifically, proposed Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, like the FINRA rule, the proposed rule provides that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.

2. Firm Element

The Exchange believes that training in ethics and professional responsibility should apply to all covered registered persons. Therefore, proposed Rule 1240(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements, would also require that a firm's training program cover training in ethics and professional responsibility.

P. Electronic Filing Rules

Existing Rule 313, Supplementary Material .01–.03 requires each individual required to register to electronically file a Uniform Application for Securities Industry Registration (“Form U4”) through the Central Registration Depository system (“Web CRD”) operated by the Financial Industry Regulatory Authority, Incorporated (“FINRA”) and to electronically submit to Web CRD any required amendments to Form U4. Similarly, any member that discharges or terminates the employment or retention of an individual required to register must comply with certain termination filing requirements which include the filing of a Form U5. Form U4 and U5 electronic filing requirements applicable to options principals and representatives, as well as Form U5 requirement applicable to members upon termination of employment of any of their registered persons, are found in Rules 601, Registration of Options Principals, 602, Registration of Representatives, and 603, Termination of Registered Persons.

The Exchange is proposing to delete existing Rule 313, Supplementary Material .01–.03 and the electronic filing requirements of rules 601, 602 and 603, and to replace them with new Rule 1250, Electronic Filing Requirements for Uniform Forms which will consolidate Form U4 and U5 electronic filing

requirements in a single location.⁷⁹ The new rule provides that all forms required to be filed under the Exchange's registration rules including the Rule 1200 series shall be filed through an electronic process or such other process as the Exchange may prescribe to the Central Registration Depository. It also would impose certain new requirements.

Under Rule 1250(b) members would be required to designate registered principal(s) or corporate officer(s) who are responsible for supervising a firm's electronic filings. The registered principal(s) or corporate officer(s) who has or have the responsibility to review and approve the forms filed pursuant to the rule would be required to acknowledge, electronically, that he is filing this information on behalf of the member and the member's associated persons. Under Rule 1250, Supplementary Material .01, the registered principal(s) or corporate officer(s) could delegate filing responsibilities to an associated person (who need not be registered) but could not delegate any of the supervision, review, and approval responsibilities mandated in Rule 1250(b). The registered principal(s) or corporate officer(s) would be required to take reasonable and appropriate action to ensure that all delegated electronic filing functions were properly executed and supervised.

Under Rule 1250(c)(1), initial and transfer electronic Form U4 filings and any amendments to the disclosure information on Form U4 must be based on a manually signed Form U4 provided to the member or applicant for membership by the person on whose behalf the Form U4 is being filed. As part of the member's recordkeeping requirements, it would be required to retain the person's manually signed Form U4 or amendments to the disclosure information on Form U4 in accordance with Rule 17a-4(e)(1) under the Act and make them available promptly upon regulatory request. An applicant for membership must also retain every manually signed Form U4 it receives during the application process and make them available promptly upon regulatory request. Rule 1250(c)(2) and Supplementary Material .03 and .04 provide for the electronic filing of Form U4 amendments without the individual's manual signature, subject to certain safeguards and procedures.

Rule 1250(d) provides that upon filing an electronic Form U4 on behalf of a

person applying for registration, a member must promptly submit fingerprint information for that person and that the Exchange may make a registration effective pending receipt of the fingerprint information. It further provides that if a member fails to submit the fingerprint information within 30 days after filing of an electronic Form U4, the person's registration will be deemed inactive, requiring the person to immediately cease all activities requiring registration or performing any duties and functioning in any capacity requiring registration. Under the rule the Exchange must administratively terminate a registration that is inactive for a period of two years. A person whose registration is administratively terminated could reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of proposed Exchange Rule 1220. Upon application and a showing of good cause, the Exchange could extend the 30-day period.

Rule 1250(e) would require initial filings and amendments of Form U5 to be submitted electronically. As part of the member's recordkeeping requirements, it would be required to retain such records for a period of not less than three years, the first two years in an easily accessible place, in accordance with Rule 17a-4 under the Act, and to make such records available promptly upon regulatory request.

Finally, under proposed Rule 1250, Supplementary Material .02, a member could enter into an agreement with a third party pursuant to which the third party agrees to file the required forms electronically on behalf of the member and the member's associated persons. Notwithstanding the existence of such an agreement, the member would remain responsible for complying with the requirements of the Rule.

Q. Other Rules

As noted above, the Exchange is proposing minor conforming amendments to Rule 208, Regulatory Fees or Charges, as well as to Chapter 90, Code of Procedure. In both cases, the amendments delete citations to rules proposed to be deleted or cite the relevant portions of the new 1200 Series. Chapter 90 would delete references to Exchange Rule 313, proposed to be deleted herein, and to BX Rule 1070, proposed to be deleted in SR-BX-2018-047.⁸⁰

⁷⁹ Proposed Rule 1250 is based upon current Nasdaq Rule 1140.

⁸⁰ See Securities Exchange Act Release No. 83703 (July 25, 2018), 83 FR 36992 (July 31, 2018) (SR-ISE-2018-59), adding Chapter 90. Chapter 90

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing examinations that currently have limited utility. In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the securities business. The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

The Exchange believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule

change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

The extension of the Securities Trader registration requirement to developers of algorithmic trading strategies requires associated persons primarily responsible for the design, development or significant modification of an algorithmic trading strategy or responsible for the day-to-day supervision or direction of such activities to register and meet a minimum standard of knowledge regarding the securities rules and regulations applicable to the member employing the algorithmic trading strategy. This minimum standard of knowledge is identical to the standard of knowledge currently applicable to traditional securities traders. The Exchange believes that improved education of firm personnel may reduce the potential for problematic market conduct and manipulative trading activity.

Finally, the proposed rule change makes organizational changes to the Exchange's registration and qualification rules to align them with registration and qualification rules of the Nasdaq Affiliated Exchanges, in order to prevent unnecessary regulatory burdens and to promote efficient administration of the rules. The change also makes minor updates and corrections to the Exchange's rules which improve readability.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to ensure that all associated persons of members engaged in a securities business are, and will continue to be, properly trained and qualified to perform their functions, will be supervised, and can be identified by regulators. The proposed new 1200 Series of rules, which are similar in many respects to the registration-related requirements adopted by FINRA effective October 1, 2018, should enhance the ability of member firms to comply with the Exchange's rules as well as with the Federal securities laws. Additionally, as described above, the Exchange intends the amendments described herein to eliminate inconsistent registration-related

requirements across the Nasdaq Affiliated Exchanges, thereby promoting uniformity of regulation across markets. The new 1200 Series should in fact remove administrative burdens that currently exist for members seeking to register associated persons on multiple Nasdaq Affiliated Exchanges featuring varying registration-related requirements. Additionally, all similarly-situated associated persons of members will be treated similarly under the new 1200 Series in terms of standards of training, experience and competence for persons associated with Exchange members.

With respect to registration of developers of algorithmic trading strategies in particular, the Exchange recognizes that the proposal would impose costs on member firms employing associated persons engaged in the activity subject to the registration requirement. Specifically, among other things, additional associated persons would be required to become registered under the proposal, and the firm would need to establish policies and procedures to monitor compliance with the proposed requirement on an ongoing basis. However, given the prevalence and importance of algorithmic trading strategies in today's markets, the Exchange believes that associated persons engaged in the activities covered by this proposal must meet a minimum standard of knowledge regarding the applicable securities rules and regulations. To mitigate the costs imposed on member firms, the proposed rule change limits the scope of registration requirement by excluding technological or development support personnel who are not primarily responsible for the covered activities. It also excludes supervisors who are not responsible for the "day-to-day" supervision or direction of the covered activities.

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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of

incorporates into the ISE rules by reference Series 9000 of the BX rules. Chapter 90 states that references in the BX Rule 9000 Series to "Rule 1070" shall be read to refer to the Supplementary Material to ISE Rule 306. As noted above, both the BX and the ISE rules are proposed to be deleted.

⁸¹ 15 U.S.C. 78f(b).

⁸² 15 U.S.C. 78f(b)(5).

investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-4(f)(6)(iii)⁸³ 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 on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.⁸⁴ The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.⁸⁵

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)⁸⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an email to rule-comments@sec.gov. Please include File Number SR-ISE-2018-82 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2018-82. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2018-82 and should be submitted on or before November 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁷

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-22294 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange

Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Form TH SEC File No. 270-377, OMB Control No. 3235-0425

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form TH (17 CFR 239.65, 249.447, 269.10 and 274.404) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) and the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) is used by registrants to notify the Commission that an electronic filer is relying on the temporary hardship exemption for the filing of a document in paper form that would otherwise be required to be filed electronically as required by Rule 201(a) of Regulation S-T. (17 CFR. 232.201(a)). Form TH is a public document and is filed on occasion. Form TH must be filed every time an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of a required electronic filing. Approximately 5 registrants file Form TH and it takes an estimated 0.33 hours per response for a total annual burden of 2 hours (0.33 hours per response × 5 responses).

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 control number.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Lindsay.M.Abate@omb.eop.gov; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

⁸³ 17 CFR 240.19b-4(f)(6)(iii).

⁸⁴ See *supra* note 5.

⁸⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸⁶ 15 U.S.C. 78s(b)(2)(B).

⁸⁷ 17 CFR 200.30-3(a)(12).

Dated: October 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22290 Filed 10–12–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84385; File No. SR–MRX–2018–31]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend, Reorganize and Enhance Its Membership, Registration and Qualification Rules and To Make Conforming Changes to Certain Other Rules

October 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 27, 2018, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend, reorganize and enhance its membership, registration and qualification rules and to make conforming changes to certain other rules.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqmrxcchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. In general, the current rules require that persons engaged in a member’s securities business who are to function as representatives or principals register with the Exchange in each category of registration appropriate to their functions by passing one or more qualification examinations³ and exempt specified associated persons from the registration requirements.⁴ They also prescribe ongoing continuing education requirements for registered persons.⁵ The Exchange now proposes to amend, reorganize and enhance its rules regarding registration, qualification examinations and continuing education, as described below.

Recently, the Commission approved a Financial Industry Regulatory Authority (“FINRA”) proposed rule change consolidating and adopting NASD and Incorporated NYSE rules relating to qualification and registration requirements into the Consolidated FINRA Rulebook,⁶ restructuring the FINRA representative-level qualification examinations, creating a general knowledge examination and specialized knowledge examinations, allowing permissive registration, establishing an examination waiver process for persons working for a financial services affiliate of a member, and amending certain continuing education (“CE”) requirements (collectively, the “FINRA Rule Changes”).⁷ The FINRA Rule

³ See, e.g., MRX Rule 306, Registration Requirements, Section (a)(1).

⁴ See, e.g., MRX Rule 306, Registration Requirements, Section (a)(2).

⁵ See ISE Rule 604, Continuing Education for Registered Persons, incorporated by reference into the MRX rules as explained below.

⁶ The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) rules incorporated from the New York Stock Exchange (“NYSE”) (the “Incorporated NYSE rules”). While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE.

⁷ See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007). See also FINRA Regulatory Notice 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education

Changes will become effective on October 1, 2018.

The Exchange now proposes to amend, reorganize and enhance its own membership, registration and qualification requirements rules in part in response to the FINRA Rule Changes, and also in order to conform its rules to those of its affiliated exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Nasdaq-affiliated exchanges including MRX. Last, the Exchange proposes to enhance its registration rules by adding a new registration requirement for developers of algorithmic trading systems similar to a requirement adopted by FINRA pursuant to a 2016 FINRA proposed rule change.⁸

As part of this proposed rule change, current Rule 306, Registration Requirements, is proposed to be deleted.⁹ Additionally, as part of a parallel ISE filing that proposes to adopt the same registration, qualification examinations and continuing education rule changes proposed herein, Nasdaq ISE, LLC (“ISE”) is proposing to amend ISE Rules 601, Registration of Options Principals, 602, Registration of Representatives, 603, Termination of Registered Persons, and 604, Continuing Education for Registered Persons. The Exchange’s own Chapter 6, Doing Business with the Public, incorporates by reference the ISE rules that are set forth in Chapter 6 of the ISE rulebook, including ISE Rules 601, 602, 603 and 604, such that the proposed changes to

Requirements) (October 2017). FINRA articulated its belief that the proposed rule change would streamline, and bring consistency and uniformity to, its registration rules, which would, in turn, assist FINRA members and their associated persons in complying with the rules and improve regulatory efficiency. FINRA also determined to enhance the overall efficiency of its representative-level examinations program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations, and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public. FINRA amended certain aspects of its continuing education rule, including by codifying existing guidance regarding the effect of failing to complete the Regulatory Element on a registered person’s activities and compensation.

⁸ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR–FINRA–2016–007). In its proposed rule change FINRA addressed the increasing significance of algorithmic trading strategies by amending its rules to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

⁹ Conforming changes are proposed to Rules 100, Definitions, and to Chapter 90, Code of Procedure.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

these ISE rules will apply automatically to the Exchange's own rules.¹⁰ Citations herein to Rules 601, 602, 603, 604 and other Chapter 6 rules will be preceded by the term "ISE Rule" to reflect the Exchange's incorporation by reference of those rules.

The Exchange, like ISE, is proposing to adopt a new 1200 Series of rules captioned Registration, Qualification and Continuing Education, generally conforming to and based upon FINRA's new 1200 Series of rules resulting from the FINRA Rule Changes but with a number of Exchange-specific variations.¹¹ The 1200 Series would replace Exchange Rule 306 and portions of ISE Rules 601, 602 and 604. MRX's intent is to adopt the same rule changes that ISE is proposing in SR-ISE-2018-82 resulting in the same new 1200 Series of rules on both exchanges, and ultimately the same changes to ISE Rules 601, 602 and 604 on both exchanges through the Exchange's incorporation by reference of those rules. The proposed new 1200 Series is also being proposed for adoption by MRX's affiliated exchanges, in order to facilitate compliance with membership, registration and qualification regulatory requirements by members of two or more of those affiliated exchanges.¹² In the new 1200 Series the Exchange would, among other things, recognize an additional associated person registration category, recognize a new general knowledge examination, permit the maintenance of permissive registrations, and require Securities Trader registration of developers of algorithmic trading strategies consistent with a comparable existing FINRA registration requirement.¹³

¹⁰ See SR-ISE-2018-82.

¹¹ The proposed 1200 Series of Rules would consist of Rule 1210, Registration Requirements; Rule 1220, Registration Categories; Rule 1230, Associated Persons Exempt from Registration; Rule 1240, Continuing Education Requirements; and Rule 1250, Electronic Filing Requirements for Uniform Forms.

¹² The Exchange's other four affiliated exchanges, The Nasdaq Stock Market LLC ("Nasdaq"), Nasdaq BX, Inc. ("BX"), Nasdaq PHLX LLC ("PHLX"), and Nasdaq GEMX, LLC ("GEMX") (together with MRX and ISE, the "Nasdaq Affiliated Exchanges") are also submitting proposed rule changes to adopt the 1200 Series of rules. See SR-NASDAQ-2018-078, SR-BX-2018-047, SR-PHLX-2018-61, and SR-GEMX-2018-33. Additionally, the Exchange recently added a shell structure to its rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of the other Nasdaq Affiliated Exchanges. See Securities Exchange Act Release No. 82172 (November 29, 2017), 82 FR 57495 (December 5, 2017) (SR-MRX-2017-26). Ultimately, the Exchange intends to submit another proposed rule change to transfer the 1200 Series of rules into the new shell structure.

¹³ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007). In its

The proposed rule change would become operative October 1, 2018 with the exception of the new registration requirement for developers of algorithmic trading strategies which would become operative April 1, 2019.

Proposed Rules

A. Registration Requirements (Proposed Rule 1210)

Exchange Rule 306(a) currently requires individual associated persons engaged or to be engaged in the securities business of a member to be registered with the Exchange in the category of registration appropriate to the function to be performed as prescribed by the Exchange. The Exchange is proposing to delete this language and to adopt in its place Exchange Rule 1210.¹⁴

Proposed Rule 1210 provides that each person engaged in the securities business of a member must register with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed Rule 1220, unless exempt from registration pursuant to proposed Rule 1230.¹⁵ Proposed Exchange Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the

proposed rule change FINRA addressed the increasing significance of algorithmic trading strategies by amending its rules to require registration, as Securities Traders, of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities.

¹⁴ In general the 1200 Series would conform the Exchange's rules to FINRA's rules as revised in the FINRA Rule Changes, with modifications tailored to the business of the Exchange and of the other Nasdaq Affiliated Exchanges. However, the Exchange also proposes to adopt Rule 1210, Supplementary Material .12, which is not based upon a FINRA rule but instead on current Nasdaq Rule 1031(c), (d) and (e), which Nasdaq is proposing in SR-Nasdaq-2018-078 to relocate to Rule 1210, Supplementary Material .12 in the Nasdaq rulebook. These provisions govern the process for applying for registration and amending the registration application, as well as for notifying the Exchange of termination of the member's association with a person registered with the Exchange. The Exchange proposes to adopt Rule 1210, Supplementary Material .12, in order to have uniform processes and requirements in this area across the Nasdaq Affiliated Exchanges.

¹⁵ Because the Exchange's proposed registration rules focus solely on securities trading activity, the proposed rules differ from the FINRA Rule Changes by omitting references to investment banking in proposed Rules 1210, 1210.03, 1210.10, 1220(a)(1), 1220(a)(2)(B), 1220(b), and 1240(b)(1), and also by omitting as unnecessary from Rule 1220(a)(10) a limitation on the qualification of a General Securities Sales Supervisor to supervise the origination and structuring of an underwriting.

person is registered, unless otherwise stated in the rules.

B. Minimum Number of Registered Principals (Proposed Rule 1210.01)

Existing Rule 306.07 requires members to register with the Exchange as a principal each individual acting in any of the following capacities: (i) Officer; (ii) partner; (iii) director; (iv) supervisor of proprietary trading, market-making or brokerage activities; and/or (v) supervisor of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities. Members must register with the Exchange at least two individuals acting in one or more of these heightened capacities (the "two-principal requirement"). The Exchange may waive this requirement if a member demonstrates conclusively that only one individual acting in one or more of these capacities should be required to register. Further, a member that conducts proprietary trading only and has 25 or fewer registered persons is only required to have one officer or partner who is registered in this capacity.¹⁶

The Exchange is proposing to delete these requirements and in their place to adopt new Rule 1210.01. The new rule would provide firms that limit the scope of their business with flexibility in satisfying the two-principal requirement. In particular, proposed Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities.¹⁷ For instance, if a firm's business is limited to securities trading, the firm may have two Securities Trader Principals, instead of two General Securities Principals. Additionally, Exchange Rule 1210.01 provides that any member with only one associated person is excluded from the two principal requirement. Proposed Rule 1210.01 would provide that existing members as well as new applicants may request a waiver of the two-principal requirement, consistent with current Exchange Rule 306.07. Finally, the

¹⁶ Rule 306, Supplementary Material .07, describes when a member is considered to be conducting only proprietary trading of the member. Because the Exchange is proposing to delete Rule 306 in its entirety, Rule 306, Supplementary Material .07 would be reworded and relocated to Rule 100(a), Definitions, as a provision defining the term "proprietary trading" for purposes of Rule 1210.

¹⁷ The principal registration categories are described in greater detail below.

Exchange is proposing to include a provision currently found in current Rule 306 permitting a proprietary trading firm with 25 or fewer registered representatives to have just one registered principal. The FINRA Rule Changes do not include this provision.¹⁸

C. Permissive Registrations (Proposed Rule 1210.02)

Current Rule 306(a)(1) prohibits members from maintaining a registration with the Exchange for any person (1) who is no longer active in the member's securities business; (2) who is no longer functioning in the registered capacity; or (3) where the sole purpose is to avoid an examination requirement. It further prohibits a member from making an application for the registration of any person where there is no intent to employ that person in the member's securities business. A member may, however, maintain or make application for the registration of an individual who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member, or a person who performs administrative support functions for registered personnel, or a person engaged in the securities business of a foreign securities affiliate or subsidiary of the member.

The Exchange is proposing to replace this provision with new Rule 1210.02. The Exchange is also proposing to expand the scope of permissive registrations and to clarify a member's obligations regarding individuals who are maintaining such registrations.

Specifically, proposed Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities

Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, [sic] as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed Rule 1210.02 allows an individual engaged in the securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

The Exchange is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all Exchange rules, to the extent relevant to their activities. For instance, an individual working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of rules relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the Exchange's supervision rules, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions.¹⁹ With respect to an

individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a nonregistered person. Members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.²⁰

D. Qualification Examinations and Waivers of Examinations (Proposed Rule 1210.03)

Current Rule 306(a)(1) provides that before a registration can become effective, the individual associated person shall submit the appropriate application for registration, pass a qualification examination appropriate to the category of registration as prescribed by the Exchange and submit any required registration and examination fees. The Exchange is proposing to replace this rule language with new Rule 1210.03, Qualification Examinations and Waivers of Examinations.

As part of the FINRA Rule Changes, FINRA has adopted a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the Securities Industry Essentials Exam or "SIE") and a specialized knowledge examination appropriate to their job functions at the firm with which they are associating. Therefore, proposed Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed Rule 1220. Proposed Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed Rule 1220.

²⁰ In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

¹⁸ The Exchange is not proposing provisions comparable to the new FINRA Rule 1210.01 requirements that all FINRA members are required to have a Principal Financial Officer and a Principal Operations Officer, because it believes that its proposed Rule 1220(a)(4), Financial and Operations Principal, which requires member firms operating pursuant to certain provisions of SEC rules to designate at least one Financial and Operations Principal, is sufficient. Further, the Exchange is not adopting the FINRA Rule 1210.01 requirements that (1) a member engaged in investment banking activities have an Investment Banking Principal, (2) a member engaged in research activities have a Research Principal, or (3) a member engaged in options activities with the public have a Registered Options Principal. The Exchange does not recognize the Investment Banking Principal or the Research Principal registration categories, and the Registered Options Principal registration requirement is set forth in Rule 1210.08 and its inclusion is therefore unnecessary in Rule 1210.01.

¹⁹ The FINRA Proposed Rules at Rule 1210.02 cite FINRA's own supervision rule, by number. Because the 1200 Series of rules is intended to apply to the Exchange as well as to its affiliates which have different supervision rules, proposed Rule 1210.02 refers generally to the supervision rules rather than identifying them by number.

Further, proposed 1210.03 provides that if the job functions of a registered representative, other than an individual registered as an Order Processing Assistant Representative, change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.²¹ Thus under the proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of exam questions they would be required to answer because the SIE content would be tested only once.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the operative date of the proposed rule change, a previously unregistered individual registering as a Securities Trader for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Securities Trader may engage under current Exchange Rules.

Individuals who are registered on the operative date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements.

²¹ The exception for Order Processing Assistant Representatives and Foreign Associates was adopted by FINRA in FINRA Rule 1210.03, and is included in proposed Exchange Rule 1210.03 without the reference to Foreign Associates which is a registration category the Nasdaq Affiliated Exchanges do not recognize. FINRA has stated that the SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. Proposed Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed Rule 1210.03 also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA has stated its belief that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed Rule 1210.03, passing the SIE alone would not qualify them for registration with the Exchange. Rather, to be eligible for registration with the Exchange, an individual would be required to pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

Individuals who had been registered within the past two years prior to the operative date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they reregister with the Exchange within two years from the date of their last registration.

Further, registered representatives, other than an individual registered as an Order Processing Assistant Representative, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the operative date of the proposed rule change, they could do so by taking only the appropriate specialized knowledge examination.²² However, with respect to an individual who is not registered on the operative date of the proposed rule change but was registered within the past two years prior to the operative date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register within four years from the date of the individual's last registration.²³

In addition, individuals, with the exception of Order Processing Assistant Representatives, who had been registered as representatives two or more years, but less than four years, prior to the operative date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the operative date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated. Similar to the current process for registration, firms would continue to use the CRD

²² Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

²³ As discussed below, the Exchange is proposing a four-year expiration period for the SIE.

system to request registrations for representatives. An individual would be able to schedule both the SIE and specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Finally, under current Rule 306.05, the Exchange may, in exceptional cases and where good cause is shown, waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. The Exchange is proposing to replace Rule 306.05 with proposed Rule 1210.03 with changes which track FINRA Rule 1210.03. The proposed rule provides that the Exchange will only consider examination waiver requests submitted by a firm for individuals associated with the firm who are seeking registration in a representative- or principal-level registration category. Moreover, proposed Rule 1210.03 states that the Exchange will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed Rule 1210.04)

The Exchange is proposing to adopt new Rule 1210.04, which provides that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a period of 120 calendar days prior to passing an appropriate principal qualification examination, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation and has fulfilled all prerequisite registration, fee and examination requirements prior to designation as principal. These requirements apply to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.²⁴ Similarly, the rule would permit a member to designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for a period of 120 calendar days prior to passing an

²⁴ In this regard, the Exchange notes that qualifying as a registered representative is currently a prerequisite to qualifying as a principal on the Exchange except with respect to the Financial and Operations Principal registration category.

appropriate qualification examination as specified under Rule 1220.²⁵

This provision, which has no counterpart in the Exchange's current rules, is intended to provide flexibility to members in meeting their principal requirements on a temporary basis.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualification examination, FINRA's Sanction Guidelines recommend a bar.²⁶

Effective October 1, 2018 FINRA has codified the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA also adopted Rules of Conduct for taking the SIE for associated persons and non-associated persons who take the SIE.

The Exchange proposes to adopt its own version of Rule 1210.05, which would provide that associated persons taking the SIE are subject to the SIE Rules of Conduct, and that associated persons taking any representative or principal examination are subject to the Rules of Conduct for representative and principal examinations. Under the proposed rule, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of Exchange rules requiring observance of high standards of commercial honor or just and equitable principles of trade, such as Exchange Rule 400.²⁷ Further, if the Exchange

determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by the Exchange.

Proposed Rule 1210.05 also states that the Exchange considers all of the qualification examinations' content to be highly confidential. The removal of examination content from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification examination or any other use that would compromise the effectiveness of the examinations and the use in any manner and at any time of the questions or answers to the examinations would be prohibited and would be deemed to be a violation of Exchange rules requiring observance of high standards of commercial honor or just and equitable principles of trade. Finally, proposed Rule 1210.05 would prohibit an applicant from receiving assistance while taking the examination, and require the applicant to certify that no assistance was given to or received by him or her during the examination.²⁸

G. Waiting Periods for Retaking a Failed Examination (Proposed Rule 1210.06)

The Exchange proposes to adopt new Rule 1210.06, which provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination.²⁹ Proposed Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations.³⁰

obligations as members under Rule 400. FINRA Rule 1210.05 cites FINRA Rule 2010, which is a comparable rule.

²⁸ The Exchange is not adopting portions of FINRA's Rule 1210.05 which apply to non-associated persons, over whom the Exchange would in any event have no jurisdiction.

²⁹ Proposed Rule 1210.06 has no counterpart in existing Exchange rules.

³⁰ FINRA Rule 1210.06 requires individuals taking the SIE who are not associated persons to agree to be subject to the same waiting periods for retaking the SIE. The Exchange is not including this language in proposed Rule 1210.06, as the Exchange will not apply the 1200 Series of rules in any event to individuals who are not associated persons of members.

H. CE Requirements (Proposed Rule 1210.07)

Pursuant to current Exchange Rule 306.04, each individual required to register under Rule 306 is required to satisfy the continuing education requirements set forth in ISE Rule 604, Continuing Education for Registered Persons, or any other applicable continuing education requirements as prescribed by the Exchange. Under ISE Rule 604 the CE requirements applicable to registered persons consist of a Regulatory Element³¹ and a Firm Element.³² The Regulatory Element applies to registered persons and must be completed within prescribed time frames.³³ For purposes of the Regulatory Element, a "registered person" is defined as any person registered or required to be registered with the Exchange under the Exchange's rules.³⁴ The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term "covered registered persons" is defined in the current rule as any registered person who has a Series 57 registration or who has direct contact with customers in the conduct of the member's securities sales and trading activities, and the immediate supervisors of such persons.³⁵

The Exchange proposes to delete Rule 306.04. The CE requirements set forth in Rule 306.04 have been reorganized and renumbered, and are now proposed to be adopted as new Rule 1240. The Exchange believes that all registered persons, regardless of their activities,

³¹ See ISE Rule 604(a).

³² See ISE Rule 604(c).

³³ Pursuant to ISE Rule 604(a), each registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. Unless otherwise determined by the Exchange, a registered person who has not completed the Regulatory Element program within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under Rule ISE Rule 604(a) must cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of the Exchange's rules. The Exchange may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

³⁴ See ISE Rule 604.01.

³⁵ See ISE Rule 604(c)(1).

²⁵ Proposed Rule 1210.04 omits FINRA Rule 1210.04's reference to Foreign Associates, which is a registration category not recognized by the Nasdaq Affiliated Exchanges, but otherwise tracks the language of FINRA Rule 1210.04.

²⁶ See SR-FINRA-2017-007, pp. 26-27.

²⁷ Exchange Rule 400 prohibits members from engaging in acts or practices inconsistent with just and equitable principles of trade. Persons associated with members have the same duties and

should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, the Exchange is proposing Rule 1210.07, to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed new Rule 1240, discussed below.³⁶ Individuals who have passed the SIE but not a representative or principal-level examination and do not hold a registered position would not be subject to any CE requirements. Consistent with current practice, proposed Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

I. Lapse of Registration and Expiration of SIE (Proposed Rule 1210.08)

Existing Rule 306(e) states that any person whose registration has been revoked by the Exchange as a disciplinary sanction or whose most recent registration has been terminated for two or more years immediately preceding the date of receipt by the Exchange of a new application shall be required to pass a qualification examination appropriate to the category of registration as prescribed by the Exchange. The two year period is calculated from the termination date to the date the Exchange receives a new application for registration. The Exchange is proposing to delete existing Rule 306(e), and to replace it with Rule 1210.08, Lapse of Registration and Expiration of SIE.

Proposed Rule 1210.08 contains language comparable to that of existing Rule 306(e) but also clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by the Exchange if that application does not result in a registration. Proposed Rule 1210.08 also sets forth the expiration period of the SIE. Based on the content covered on the SIE, the Exchange is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a

subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become an associated person of a firm, pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the operative date of the proposed rule change would have up to four years to re-associate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two year expiration period as is the case today.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed Rule 1210.09)

The Exchange is proposing Rule 1210.09 to provide a new process whereby individuals who would be working for a financial services industry affiliate of a member³⁷ would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate (“FSA”) waiver.³⁸ The purpose of the FSA waiver is to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they may gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based

on the FSA criteria, the member with which the individual is registered would notify the Exchange of the FSA designation. The member would concurrently file a full Form U5 terminating the individual’s registration with the firm, which would also terminate the individual’s other SRO and state registrations.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member.³⁹ An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation⁴⁰ provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.⁴¹

³⁹ For purposes of this requirement, a five year period of registration with the Exchange, with FINRA or with another self-regulatory organization would be sufficient.

⁴⁰ Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

⁴¹ The following examples illustrate this point: *Example 1.* Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A’s financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A’s financial services affiliate for three years, the individual directly joins Firm B’s financial services affiliate for three years. Firm B then submits a waiver request to register the individual. *Example 2.* Same as Example 1, but the individual directly joins Firm B after working for Firm A’s financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time. *Example 3.* Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A’s financial services affiliate for three years. Firm A then submits a waiver request to reregister the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual rejoins Firm A’s financial services affiliate for two years, after which the individual directly joins Firm B’s financial services affiliate for one year. Firm B then submits a waiver request to register the individual. *Example 4.* Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A’s financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

³⁷ Proposed Rule 1210.09 defines a “financial services industry affiliate of a member” as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, Commodity Futures Trading Commission (“CFTC”), state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

³⁸ There is no counterpart to proposed Rule 1210.09 in the Exchange’s existing rules. FINRA Rule 1210.09 was recently adopted as a new waiver process for FINRA registrants, as part of the FINRA Rule Changes.

³⁶ Current Rule 306.04 would be deleted.

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (*i.e.*, the individual would have the standard two-year period after termination to re-register without having to retake an examination). The Exchange is making corresponding changes in proposed Rule 1240 (currently ISE Rule 604, Continuing Education for Registered Persons).

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request to the Exchange,⁴² similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. The Exchange would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. The Exchange would summarily grant the request if the following conditions are met:

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member;

(3) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5;

(4) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

(5) The individual has complied with the Regulatory Element of CE; and

(6) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on

the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.⁴³ An individual who has been designated as an FSA-eligible person by a member would not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed Rule 1210.10)

The Exchange is proposing to adopt new Rule 1210.10, Status of Persons Serving in the Armed Forces of the United States.⁴⁴ Rule 1210.10(a) would permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be placed, after proper notification to the Exchange, on inactive status. The registered person would not need to be re-registered by such member upon his or her return to active employment with the member.

The registered person would remain eligible to receive transaction-related compensation, including continuing commissions, and the employing member could allow the registered person to enter into an arrangement with another registered person of the member to take over and service the person's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, because such persons would be inactive, they could not perform any of the functions and responsibilities performed by a registered person, nor would they be required to complete either the continuing education Regulatory Element or Firm Element set forth in

proposed Rule 1240 during the pendency of such inactive status.⁴⁵

Pursuant to proposed Exchange Rule 1210.10(b), a member that is a sole proprietor who temporarily closes his or her business by reason of volunteering for or being called into active duty in the Armed Forces of the United States, shall be placed, after proper notification to the Exchange, on inactive status while the member remains on active military duty, would not be required to pay dues or assessments during the pendency of such inactive status and would not be required to pay an admission fee upon return to active participation in the securities business. This relief would be available only to a sole proprietor member and only while the person remains on active military duty, and the sole proprietor would be required to promptly notify the Exchange of his or her return to active participation in the securities business.

If a person who was formerly registered with a member volunteers for or is called into active duty in the Armed Forces of the United States at any time within two years after the date the person ceased to be registered with a member, the Exchange shall defer the lapse of registration requirements set forth in proposed Rule 1210.08 (*i.e.*, toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (*i.e.*, toll the four-year expiration period for the SIE). The Exchange would defer the lapse of registration requirements and the SIE commencing on the date the person begins actively serving in the Armed Forces of the United States, provided that the Exchange is properly notified of the person's period of active military service within 90 days following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral will terminate 90 days following the person's completion of active service in the Armed Forces of the United States. Accordingly, if such person does not re-register with a member within 90 days following his or her completion of active service in the Armed Forces of

⁴² The Exchange would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

⁴³ For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

⁴⁴ There is no counterpart to proposed Rule 1210.10 in the Exchange's existing rules.

⁴⁵ The relief provided in Rule 1210.10(a) would be available to a registered person during the period that such person remains registered with the member with which he or she was registered at the beginning of active duty in the Armed Forces of the United States, regardless of whether the person returns to active employment with another member upon completion of his or her active duty. The relief would apply only to a person registered with a member and only while the person remains on active military duty. Further, the member with which such person is registered would be required to promptly notify the Exchange of such person's return to active employment with the member.

the United States, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE shall consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08 reduced by the period of time between the person's termination of registration and beginning of active service in the Armed Forces of the United States.

Finally, under proposed Rule 1210.10(c), if a person placed on inactive status while serving in the Armed Forces of the United States ceases to be registered with a member, the Exchange would defer the lapse of registration requirements set forth in Rule 1210.08 (*i.e.*, toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (*i.e.*, toll the four-year expiration period for the SIE) during the pendency of his or her active service in the Armed Forces of the United States. The Exchange would defer the lapse of registration requirements based on existing information in the CRD system, provided that the Exchange is properly notified of the person's period of active military service within two years following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral would terminate 90 days following the person's completion of active service in the Armed Forces of the United States. Accordingly, if such person did not re-register with a member within 90 days following completion of active service, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE would consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08.⁴⁶

⁴⁶ Proposed Rule 1210.10 tracks FINRA Rule 1210.10 except for the statement that inactive registered persons are not to be included within the definition of "Personnel" for purposes of dues or assessments as provided in Article VI of the FINRA By-Laws. Instead, proposed Rule 1210.10 includes language from existing Nasdaq IM-1002-2 stating that inactive persons under the rule are not included within the scope of fees, if any, charged by the Exchange with respect to registered persons.

L. Impermissible Registrations (Proposed Rule 1210.11)

Existing Rule 306(a)(1) prohibits a member from maintaining a representative or principal registration with the Exchange for any person who is no longer active in the member's securities business, who is no longer functioning in the registered capacity, or where the sole purpose is to avoid an examination requirement. The rule also prohibits a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its securities business. These prohibitions do not apply to the current permissive registration categories identified in Rule 306(a)(1).

In light of proposed Rule 1210.02, Permissive Registrations, discussed above, the Exchange is proposing to delete these provisions of Rule 306(a)(1) and instead adopt Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is consistent with the requirements of proposed Rule 1210.⁴⁷

M. Registration Categories (Proposed Rule 1220)

The Exchange is proposing to adopt new and revised registration category rules and related definitions in proposed Rule 1220, Registration Categories.⁴⁸

1. Definition of Principal (Proposed Rule 1220(a)(1))

The Exchange's registration rules currently do not include a definition of the term "principal." Rather than employing a defined term, the Exchange's principal registration requirement directly identifies the types of persons who would be encompassed within the term "principal" if that term were defined.⁴⁹ The Exchange is now

⁴⁷ As discussed above, the Exchange is also proposing Rule 1210, Supplementary Material .12, Application for Registration and Jurisdiction, which is not included in FINRA Rule 1210. Proposed Exchange Rule 1210, Supplementary Material .12, is based upon portions of existing Nasdaq Rule 1031.

⁴⁸ For ease of reference, the Exchange proposes to adopt as Rule 1220, Supplementary Material .07, in chart form, a Summary of Qualification Requirements for each of the Exchange's permitted registration categories discussed below.

⁴⁹ Pursuant to existing Rule 306.07 each member must register with the Exchange each individual acting as an officer, partner, director, supervisor of proprietary trading, market-making or brokerage activities, and/or supervisor of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities. This requirement is consistent with FINRA's current registration requirement for principals (NASD Rule 1021).

proposing to adopt a definition of "principal" in Rule 1220(a)(1).

Under proposed Rule 1220(a)(1) a "principal" would be defined as any person associated with a member, including, but not limited to, sole proprietor, officer, partner, manager of office of supervisory jurisdiction, director or other person occupying a similar status or performing similar functions, who is actively engaged in the management of the member's securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions. Such persons would include, among other persons, a member's chief executive officer and chief financial officer (or equivalent officers). A "principal" would also include any other person associated with a member who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under Exchange rules. The term "actively engaged in the management of the member's securities business" would include the management of, and the implementation of corporate policies related to, such business, as well as managerial decision-making authority with respect to the member's securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.

2. General Securities Principal (Proposed Rule 1220(a)(2))

The Exchange currently does not impose a General Securities Principal registration obligation. The Exchange is now proposing to adopt new Rule 1220(a)(2), which establishes an obligation to register as a General Securities Principal, but with certain exceptions.⁵⁰

Proposed Rule 1220(a)(2)(A) states that each principal as defined in proposed Rule 1220(a)(1) is required to register with the Exchange as a General Securities Principal, except that if a principal's activities are limited to the functions of a Compliance Official, a Financial and Operations Principal, a Securities Trader Principal a Securities Trader Compliance Officer, or a Registered Options Principal, then the principal shall appropriately register in one or more of these categories.⁵¹

⁵⁰ There is no counterpart to proposed Rule 1220(a)(2) in the Exchange's existing rules.

⁵¹ The Exchange is proposing to recognize the General Securities Principal and the Compliance

Proposed Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she would be required to register as a General Securities Sales Supervisor or as a Registered Options Principal.⁵²

Proposed Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. Proposed Rule 1220(a)(2)(B) provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration on the Exchange in lieu of the General Securities Representative prerequisite registration and individuals who had been registered as such within the past two years prior to the operative date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.⁵³

Proposed Rule 1220(a)(2)(B) requires all other individuals registering as General Securities Principals after October 1, 2018, to first become registered as a General Securities Representative pursuant to Rule 1220(b)(2). The Exchange is not adopting the FINRA Rule 1220(a)(2)(B) language permitting an individual registering as a General Securities Principal after October 1, 2018 to register as a General Securities Sales Supervisor and to pass the General Securities Principal Sales Supervisor Module qualification examination. The Exchange believes that individuals registering as General Securities Principals should be required to demonstrate their competence for that role by passing the General Securities Principal qualification examination.⁵⁴

Official registration categories for the first time in this proposed rule change.

⁵² The Exchange's proposed Rule 1220(a)(2)(A) deviates somewhat from the counterpart FINRA rule in that it does not offer various limited registration categories provided for in FINRA's new Rule 1220(a)(2)(A). It therefore proposes to reserve Rules 1220(a)(2)(A)(ii) and (iv).

⁵³ The Exchange itself does not recognize the Corporate Securities Representative registration category, but understands that FINRA and Nasdaq currently accept Corporate Securities Representative registration as a prerequisite to General Securities Principal registration.

⁵⁴ Proposed Rule 1220(a)(2) generally tracks FINRA Rule 1220(a)(2), except that it omits references to a number of registration categories which FINRA recognizes but that the Exchange

3. Compliance Official (Proposed Rule 1220(a)(3))

Existing Rule 306(c) requires each member to designate a Chief Compliance Officer on Schedule A of Form BD, and requires individuals designated as a Chief Compliance Officer to register with the Exchange and pass the appropriate heightened qualification examination(s) as prescribed by the Exchange.⁵⁵ Current Rule 306.08(a)(3) provides that an individual associated person who is a Chief Compliance Officer (or performs similar functions) for a member that engages in proprietary trading, market-making or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader Compliance Officer (CT) in WebCRD and to satisfy the prerequisite registration and qualification requirements.⁵⁶

The Exchange is proposing to delete Rules 306(c) and 306.08(a)(3) and to adopt Rule 1220(a)(3), Compliance Official, in their place. Proposed Rule 1220(a)(3) provides that each person designated as a Chief Compliance Officer on Schedule A of Form BD shall be required to register with the Exchange as a General Securities

does not, and it includes a reference to the Securities Trader Compliance Officer category which the Exchange proposes to recognize, but which FINRA does not. Additionally, proposed Rule 1220(a)(2)(A)(i) extends that provision's exception to the General Securities Principal registration requirement to certain principals whose activities are "limited to" (rather than "include") the functions of a more limited principal. The Exchange believes that activities "limited to" expresses the intent of that exception more accurately than activities that "include." Finally, proposed Rule 1220(a)(2)(B) specifies that registration as a Corporate Securities Representative must be with the Exchange in order to fulfill the Corporate Securities Representative registration prerequisite for General Securities Principal registration pursuant to that rule.

⁵⁵ Rule 306(c) further provides that a person who has been designated as a Chief Compliance Officer on Schedule A of Form BD for at least two years immediately prior to January 1, 2002, and who has not been subject within the last ten years to any statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension; or the imposition of a fine of \$5,000 or more for a violation of any provision of any securities law or regulation, or any agreement with, rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding shall be required to register in the category of registration appropriate to the function to be performed as prescribed by the Exchange, but shall be exempt from the requirement to pass the heightened qualification examination as prescribed by the Exchange.

⁵⁶ Rule 306.08(b) establishes the Series 14 as the appropriate qualification examination for a Securities Trader Compliance Officer, but also permits General Securities Principal Registration (GP) or Securities Trader Principal (TP) (Series 24) as alternative acceptable qualifications.

Principal, provided that such person may instead register as a Compliance Official if his or her duties do not include supervision of trading. All individuals registering as Compliance Official would be required, prior to or concurrent with such registration, to pass the Compliance Official qualification examination. An individual designated as a Chief Compliance Officer on Schedule A of Form BD of a member that is engaged in limited securities business could be registered in a principal category under Rule 1220(a) that corresponds to the limited scope of the member's business.

Additionally, Rule 1220(a)(3) would provide that an individual designated as a Chief Compliance Officer on Schedule A of Form BD may register and qualify as a Securities Trader Compliance Officer if, with respect to transactions in equity, preferred or convertible debt securities, or options such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities other than a person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with a member. All individuals registering as Securities Trader Compliance Officers would be required to first become registered pursuant to paragraph (b)(4) as a Securities Trader, and to pass the Compliance Official qualification exam.⁵⁷

4. Financial and Operations Principal (Proposed Rule 1220(a)(4))

Existing Rule 306(b) provides that each member subject to Exchange Act Rule 15c3-1 must designate a Financial/Operations Principal. It specifies that the duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the member complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission

⁵⁷ Proposed Rule 1220(a)(3) differs from FINRA Rule 1220(a)(3), Compliance Officer. The Exchange does not recognize the Compliance Officer registration category. Similarly, FINRA does not recognize the Compliance Official or the Securities Trader Compliance Officer registration categories which the Exchange proposes to recognize. However, FINRA Rule 1220(a)(3), like proposed Rule 1220(a)(3), offers an exception pursuant to which a Chief Compliance Officer designated on Schedule A of Form BD may register in a principal category that corresponds to the limited scope of the member's business.

of financial reports and the maintenance of books and records. It requires [sic] Financial/Operations Principal to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). The rule provides that each Financial/Operations Principal designated by a trading member shall be registered in that capacity with the Exchange as prescribed by the Exchange, and that a Financial/Operations Principal of a member may be a full-time employee, a part-time employee or independent contractor of the member.

The Exchange is proposing to delete Rule 306(b) and to adopt in its place Rule 1220(a)(4). Under the new rule, every member of the Exchange that is operating pursuant to the provisions of SEC Rule 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate at least one Financial and Operations Principal who shall be responsible for performing the duties described in subparagraph (B) of that rule. In addition, each person associated with a member who performs such duties shall be required to register as a Financial and Operations Principal with the Exchange.⁵⁸

Subparagraph (B) defines the term Financial and Operations Principal as a person associated with a member whose duties include (i) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body, (ii) final preparation of such reports, (iii) supervision of individuals who assist in the preparation of such reports, (iv) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived, (v) supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act, (vi) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations and (vii) any other

⁵⁸ FINRA Rule 1220(a)(4) differs from proposed Rule 1220(a)(4) in that it includes an Introducing Broker-Dealer Financial and Operations Principal registration requirement. Additionally, proposed Rule 1220(a)(4) contains a requirement, which the FINRA rule does not, that each person associated with a member who performs the duties of a Financial and Operations Principal must register as such with the Exchange. Further, as discussed above, the Exchange is not adopting a Principal Financial Officer or Principal Operations Officer requirement like FINRA Rule 1220(a)(4)(B), as it believes the Financial and Operations Principal requirement is sufficient. Finally, proposed Rule 1220(a)(4)(B)(v) and (vi) contain minor wording variations from the FINRA rule.

matter involving the financial and operational management of the member.

Subparagraph (C) would require all individuals registering as a Financial and Operations Principal to pass the Financial and Operations Principal qualification examination before such registration may become effective. Finally, subparagraph (D) would prohibit a person registered solely as a Financial and Operations Principal from functioning in a principal capacity with responsibility over any area of business activity not described in subparagraph (2) of the rule.

5. Investment Banking Principal (Proposed Rule 1220(a)(5))

The Exchange does not recognize the Investment Banking Principal registration category and is therefore reserving Rule 1220(a)(5), retaining the caption solely to facilitate comparison with FINRA's rules.

6. Research Principal (Proposed Rule 1220(a)(6))

The Exchange does not recognize the Research Principal registration category and is therefore reserving Rule 1220(a)(6), retaining the caption solely to facilitate comparison with FINRA's rules.

7. Securities Trader Principal (Proposed Rule 1220(a)(7))

Existing Rule 306.08(a)(2) provides that an individual associated person who (i) supervises or monitors proprietary trading, market-making and/or brokerage activities for broker-dealers; (ii) supervises or trains those engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer, with respect to those activities; and/or (iii) is an officer, partner or director of a member is required to register and qualify as a Securities Trader Principal (TP) in WebCRD and to satisfy the prerequisite registration and qualification requirements. Further, current Rule 306.08(b) specifies that the Series 24 is the appropriate qualification examination, and that General Securities Sales Supervision Registration and General Securities Principal—Sales Supervisor Module Registration (Series 9/10 and Series 23) is an alternative acceptable qualification. Finally, current Rule 306.08(a)(2) provides that Securities Trader Principals' (TP) supervisory authority is limited to supervision of the securities trading functions of members and of officers, partners, and directors of a member.

The Exchange is proposing to delete Rules 306.08(a)(2) and related portions

of Rule 306.08(b) (a summary chart) and to adopt in their place Rule 1220(a)(7), Securities Trader Principal. Proposed Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed Rule 1220(b)(4)⁵⁹ register as a Securities Trader Principal. The proposed rule requires individuals registering as Securities Trader Principals to be registered as Securities Traders and to pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed Rule 1220(a)(8))

The Exchange is proposing to adopt Rule 1220(a)(8), Registered Options Principal, which would require under its section (a)(8)(A) that each member that is engaged in transactions in options with the public to [sic] have at least one Registered Options Principal.⁶⁰

In addition, each principal as defined in Rule 1220(a)(1) who is responsible for supervising a member's options sales practices with the public would be required to register with the Exchange as a Registered Options Principal, subject to the following exception. If a principal's options activities are limited solely to those activities that may be supervised by a General Securities Sales Supervisor, then such person may register as a General Securities Sales Supervisor pursuant to paragraph (a)(10) of the Rule in lieu of registering as a Registered Options Principal.⁶¹

⁵⁹ Proposed Rule 1220(b)(4), discussed below, provides for representative-level registration in the "Securities Trader" category.

⁶⁰ Proposed Rule 1220(a)(8) differs from FINRA Rule 1220(a)(8) in that it omits certain references to other specific FINRA rules.

⁶¹ Current ISE Rule 601(a) provides that no member shall be approved to transact options business with the public until those associated persons who are designated as Options Principals have been approved by and registered with the Exchange, and that persons engaged in the supervision of options sales practices or a person to whom the designated general partner or executive officer (pursuant to ISE Rule 609) or another Registered Options Principal delegates the authority to supervise options sales practices shall be designated as Options Principals. ISE Rule 601(e) provides that individuals who are delegated responsibility pursuant to ISE Rule 609 for the acceptance of discretionary accounts, for approving exceptions to a member's criteria or standards for uncovered options accounts, and for approval of communications, shall be designated as Options Principals and are required to qualify as an Options Principal by passing the Registered Options Principal Qualification Examination (Series 4). The foregoing provisions of ISE Rule 601 are specific to conducting an options business with the public and are not proposed to be amended by ISE. However, ISE Rule 601(b) and (c) contain provisions regarding submission of Forms U4 and U5 to WebCRD that are duplicative of the proposed 1200 Series of rules, in particular proposed Rules 1210.12, Application

Pursuant to proposed Rule 1220(a)(8)(B), subject to the lapse of registration provisions in Rule 1210.08, each person registered with the Exchange as a Registered Options Principal on October 1, 2018 and each person who was registered as a Registered Options Principal within two years prior to October 1, 2018 would be qualified to register as a Registered Options Principal without passing any additional qualification examinations. All other individuals registering as Registered Options Principals after October 1, 2018 would, prior to or concurrent with such registration, be required to become registered pursuant to Rule 1220(b)(2) as a General Securities Representative and pass the Registered Options Principal qualification examination.⁶²

9. Government Securities Principal (Rule 1220(a)(9))

The Exchange does not recognize the Government Securities Principal registration category and is therefore reserving Rule 1220(a)(9), retaining the caption solely to facilitate comparison with FINRA's rules.

for Registration and Jurisdiction, and 1250, Electronic Filing Requirements for Electronic Forms, and ISE is therefore proposing to delete them. Current ISE Rule 601(d) provides that individuals engaged in the supervision of options sales practices and designated as Options Principals are required to qualify as an Options Principal by passing the Registered Options Principals Qualification Examination (Series 4) or the Sales Supervisor Qualification Examination (Series 9/10), and is proposed to be deleted in view of proposed Rule 1220(a)(8)(A). Exchange Rule 306(d), which merely serves as a cross-reference to ISE Rules 601 and 602, is unnecessary and is therefore proposed to be deleted with the rest of Rule 306.

⁶² Although the Exchange does not currently list security futures products, it is also proposing to adopt Rule 1220, Supplementary Material .02, which provides that each person who is registered with the Exchange as a Registered Options Principal, General Securities Representative, Options Representative or General Securities Sales Supervisor shall be eligible to engage in security futures activities as a principal provided that such individual completes a Firm Element program as set forth in proposed Rule 1240 that addresses security futures products before such person engages in security futures activities. Unlike FINRA Rule 1220.02, proposed Exchange Rule 1220.02 omits references to United Kingdom Securities Representatives and Canada Securities Representatives, which are registration categories the Exchange does not recognize. In addition, the Exchange is also proposing to adopt Rule 1220, Supplementary Material .03 which requires notification to the Exchange in the event a member's sole Registered Options Principal is terminated, resigns, becomes incapacitated or is otherwise unable to perform the duties of a Registered Options Principal, and imposes certain restrictions on the member's options business in that event.

10. General Securities Sales Supervisor (Proposed Rules 1220(a)(10) and 1220.04)

The Exchange is proposing to adopt new Rule 1220(a)(10), General Securities Sales Supervisor, as well as new Rule 1220, Supplementary Material .04, which explains the purpose of the General Securities Sales Supervisor registration category.⁶³ Proposed Rule 1220(a)(10) provides that each principal, as defined in Rule 1220(a)(1), may register with the Exchange as a General Securities Sales Supervisor if his or her supervisory responsibilities in the securities business of a member are limited to the securities sales activities of the member, including the approval of customer accounts, training of sales and sales supervisory personnel and the maintenance of records of original entry or ledger accounts of the member required to be maintained in branch offices by the Exchange Act's record-keeping rules.

A person registered solely as a General Securities Sales Supervisor would not be qualified to perform any of the following activities: Supervision of market making commitments, supervision of the custody of broker-dealer or customer funds or securities for purposes of SEA Rule 15c3-3, or supervision of overall compliance with financial responsibility rules for broker-dealers promulgated pursuant to the provisions of the Exchange Act.⁶⁴

Each person seeking to register as a General Securities Sales Supervisor would be required, prior to or concurrent with such registration, to become registered pursuant to Rule 1220(b)(2) of the rule as a General Securities Representative and pass the General Securities Sales Supervisor qualification examinations.⁶⁵

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Rules 1220(a)(11) and (a)(12))

The Exchange does not recognize the Investment Company and Variable Contracts Products Principal and the Direct Participation Programs Principal

⁶³ Proposed Rule 1220(a)(10) has no counterpart in the Exchange's current rules.

⁶⁴ Rule 1220(a)(10), however, omits the FINRA Rule 1220(a)(10) prohibition against supervision of the origination and structuring of underwritings as unnecessary, as this kind activity does not fall within the scope of "securities trading" covered by the Exchange's new 1200 Series of rules.

⁶⁵ Unlike FINRA Rule 1220.04, proposed Exchange Rule 1220.04 refers to "multiple exchanges" rather than listing the various exchanges where a sales principal might be required to qualify in the absence of the General Securities Sales Supervisor registration category. It also omits FINRA internal cross-references.

registration categories and is reserving Rule 1220(a)(11) and (a)(12), retaining the captions solely to facilitate comparison with FINRA's rules.

12. Private Securities Offerings Principal (Rule 1220(a)(13))

The Exchange does not recognize the Private Securities Offerings Principal registration category and is reserving Rule 1220(a)(13), retaining the caption solely to facilitate comparison with FINRA's rules.

13. Supervisory Analyst (Rule 1220(a)(14))

The Exchange does not recognize the Supervisory Analyst registration category and is reserving Rule 1220(a)(14), retaining the caption solely to facilitate comparison with FINRA's rules.

14. Definition of Representative (Proposed Rule 1220(b)(1))

Exchange rules currently do not define the term "representative" although ISE Rule 602(b) states that persons who perform duties for the member which are customarily performed by sales representatives or branch office managers shall be designated as representatives of the member.

ISE is proposing to delete ISE Rule 602(b). The Exchange proposes to adopt a definition of "representative" in proposed Rule 1220(b)(1). Proposed 1220(b)(1) would define the term representative as any person associated with a member, including assistant officers other than principals, who is engaged in the member's securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

15. General Securities Representative (Proposed Rule 1220(b)(2))

The Exchange proposes to adopt new Rule 1220(b)(2), General Securities Representative. Proposed Rule 1220(b)(2)(A) states that each representative as defined in proposed Rule 1220(b)(1) is required to register with the Exchange as a General Securities Representative, subject to the exception that if a representative's activities include the functions of a Securities Trader, as specified in Rule 1220(b)(2), then such person shall appropriately register as a Securities Trader.⁶⁶

⁶⁶ Current ISE Rule 602(a) and (b) provide that no member shall be approved to transact business with the public until those persons associated with it

Continued

Further, consistent with the proposed restructuring of the representative-level examinations, proposed Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination except that individuals registered as a General Securities Representative within two years prior to October 1, 2018 would be qualified to register as General Securities Representatives without passing any additional qualification examinations.⁶⁷

In addition, the Exchange is proposing to adopt Rule 1220.01 to provide individuals who are associated persons of firms and who hold foreign registrations an alternative, more flexible, process to obtain an Exchange representative-level registration. The Exchange believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain an Exchange representative-level registration.

who are designated representatives have been approved by and registered with the Exchange, and that persons who perform duties for the member which are customarily performed by sales representatives or branch office managers shall be designated as Representatives of the member. Further, ISE Rule 602(d) provides that a person accepting orders from non-member customers (unless such customer is a broker-dealer registered with the Commission) is required to register with the Exchange and to be qualified by passing the General Securities Registered Representative Examination (Series 7). The foregoing provisions of current ISE Rule 602 are specific to conducting an options business with the public, and ISE is not proposing to amend them. However, ISE Rule 602(c) contains provisions regarding the submission of Form U4 through WebCRD and the necessity of completing a qualification examination that are duplicative of the proposed 1200 Series of rules, in particular proposed Rules 1210.12, Application for Registration and Jurisdiction, and 1250, Electronic Filing Requirements for Electronic Forms. ISE is therefore proposing to delete these provisions.

⁶⁷ Proposed Rule 1220(b)(2)(B) differs from FINRA Rule 1220(b)(2)(B) in that it omits references to various registration categories which FINRA recognizes but which the Exchange does not propose to recognize.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

Operations Professional, Investment Banking Representative, Research Analyst, Investment Company and Variable Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative. The Exchange does not recognize these registration categories for its associated persons. The Exchange is therefore reserving Rules 1220(b)(3)—Operations Professional, and related Rule 1220.05, Scope of Operations Professional Requirement; 1220(b)(5)—Investment Banking Representative; 1220(b)(6)—Research Analyst; 1220(b)(7)—Investment Company and Variable Products Representative; 1220(b)(8)—Direct Participation Programs Representative; and 1220(b)(9)—Private Securities Offerings Representative, retaining the captions for each of them solely to facilitate comparison with FINRA's rules.

Securities Trader—Proposed Rule 1220(b)(4). Pursuant to current Exchange Rule 306, Supplementary Material .08, an individual associated person who is engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader (TD).

The Exchange now proposes to delete that section of Exchange Rule 306, Supplementary Material .08, and to replace it with proposed Rule 1220(b)(4).⁶⁸ Rule 1220(b)(4) would require each representative as defined in Rule 1220(b)(1) of the Rule to register with the Exchange as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities, or options such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities other than a person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment

⁶⁸ Proposed Rule 1220(b)(4)(A) differs from FINRA Rule 1220(b)(4)(A) in that it applies to trading on the Exchange while the FINRA rule is limited to the specified trading which is "effected otherwise than on a securities exchange." Additionally, the FINRA rule does not specifically extend to options trading.

Company Act and that controls, is controlled by, or is under common control with a member. The revised definition of Securities Trader is consistent with the Securities Trader definition in the Nasdaq rules.⁶⁹ As a result of the revised rule, additional types of activity on the Exchange would fall within the Securities Trader registration category, including engaging in customer business. Rule 1220(b)(4) would require individuals registering as Securities Traders to pass the SIE as well as the Securities Trader qualification exam.

Additionally, proposed Rule 1220(b)(4)(A) would require each person associated with a member who is: (i) primarily responsible for the design, development or significant modification of an algorithmic trading strategy relating to equity, preferred or convertible debt securities or options; or (ii) responsible for the day-to-day supervision or direction of such activities to register with the Exchange as a Securities Trader.⁷⁰

For purposes of this proposed new registration requirement an "algorithmic trading strategy" is an automated system that generates or routes orders (or order-related messages) but does not include an automated system that solely routes orders received in their entirety to a market center. The proposed registration requirement applies to orders and order related messages whether ultimately routed or sent to be routed to an exchange or over the counter. An order router alone would not constitute an algorithmic trading strategy. However, an order router that performs any additional functions would be considered an algorithmic trading strategy. An algorithm that solely generates trading ideas or investment allocations—including an automated investment service that constructs portfolio recommendations—but that is not equipped to automatically generate orders and order-related messages to effectuate such trading ideas into the market—whether independently or via a linked router—would not constitute an algorithmic trading strategy.⁷¹

⁶⁹ See current Nasdaq Rule 1032(f), Securities Trader.

⁷⁰ As noted above, this new registration requirement was recently added to the FINRA rulebook. The Exchange has determined to add a parallel requirement to its own rules, but also to add options to the scope of products within the proposed rule's coverage. See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

⁷¹ See Securities Exchange Act Release No. 77551 (April 7, 2016), 81 FR 21914 (April 13, 2016) (Order Approving File No. SR-FINRA-2016-007).

The associated persons covered by the expanded registration requirement would be required to pass the requisite qualification examination and be subject to the same continuing education requirements that are applicable to individual Securities Traders. The Exchange believes that potentially problematic conduct stemming from algorithmic trading strategies—such as failure to check for order accuracy, inappropriate levels of messaging traffic, and inadequate risk management controls—could be reduced or prevented, in part, through improved education regarding securities regulations for the specified individuals involved in the algorithm design and development process.

The proposal is intended to ensure the registration of one or more associated persons that possesses knowledge of, and responsibility for, both the design of the intended trading strategy and the technological implementation of the strategy, sufficient to evaluate whether the resulting product is designed to achieve regulatory compliance in addition to business objectives. For example, a lead developer who liaises with a head trader regarding the head trader's desired algorithmic trading strategy and is primarily responsible for the supervision of the development of the algorithm to meet such objectives must be registered under the proposal as the associated person primarily responsible for the development of the algorithmic trading strategy and supervising or directing the team of developers. Individuals under the lead developer's supervision would not be required to register under the proposal if they are not primarily responsible for the development of the algorithmic trading strategy or are not responsible for the day-to-day supervision or direction of others on the team. Under this scenario, the person on the business side that is primarily responsible for the design of the algorithmic trading strategy, as communicated to the lead developer, also would be required to register. In the event of a significant modification to the algorithm, members, likewise, would be required to ensure that the associated person primarily responsible for the significant modification (or the associated person supervising or directing such activity), is registered as a Securities Trader.

A member employing an algorithm is responsible for the algorithm's activities whether the algorithm is designed or developed in house or by a third-party. Thus, in all cases, robust supervisory procedures, both before and after deployment of an algorithmic trading

strategy, are a key component in protecting against problematic behavior stemming from algorithmic trading. In addition, associated persons responsible for monitoring or reviewing the performance of an algorithmic trading strategy would be required to be registered, and a member's trading activity must always be supervised by an appropriately registered person. Therefore, even where a firm purchases an algorithm off-the-shelf and does not significantly modify the algorithm, the associated person responsible for monitoring or reviewing the performance of the algorithm would be required to be registered.

Pursuant to proposed Rule 1220(b)(4)(B) each person registered as a Securities Trader on October 1, 2018 and each person who was registered as a Securities Trader within two years prior to October 1, 2018 would be qualified to register as a Securities Trader without passing any additional qualification examinations. All other individuals registering as Securities Traders after October 1, 2018 would be required, prior to or concurrent with such registration, to pass the SIE and the Securities Trader qualification examination.

17. Eliminated Registration Categories (Proposed Rule 1220.06)

Proposed Rule 1220.06 has no practical relevance to MRX, but is included because all the Nasdaq Affiliated Exchanges, including Nasdaq and BX, are also proposing to adopt the new 1200 Series, on a uniform basis. Proposed Rule 1220.06 will be relevant to Nasdaq and BX which, unlike MRX, are proposing to eliminate a number of existing registration categories that are not currently recognized by the Exchange.⁷²

Proposed Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered with the Exchange in any capacity recognized by the Exchange immediately prior to October 1, 2018, and each person who was registered with the Exchange in such categories within two years prior to October 1, 2018, shall be eligible to maintain such registrations with the Exchange. However, if individuals registered in such categories terminate their registration with the Exchange and the registration remains terminated for two or more years, they would not be able to re-register in that category. In addition, proposed Rule 1220.06 would include the current restrictions to which

⁷² See SR-NASDAQ-2018-078 and SR-BX-2018-047.

Order Processing Assistant Representatives are subject under Nasdaq rules.⁷³ As stated above, Rule 1220.06 would have no application to the Exchange.

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed Rule 1220(a)(2) (relating to General Securities Principals), and in proposed Rule 1220.06 (relating to the eliminated registration categories), the Exchange is proposing to include grandfathering provisions in proposed Rule 1220(a)(8) (Registered Options Principal), 1220(b)(2) (General Securities Representative), and 1220(b)(4) (Securities Trader). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered in specified registration categories on the operative date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the operative date of the proposed rule change would be qualified to register in the proposed corresponding registration categories without having to take any additional examinations.

N. Associated Persons Exempt From Registration (Proposed Rules 1230 and 1230.01)

Existing Rule 306(a)(2) currently provides that the following persons associated with a member are not required to register:

- (A) individual associated persons whose functions are solely and exclusively clerical or ministerial;
- (B) individual associated persons who are not actively engaged in the securities business;
- (C) individual associated persons whose functions are related solely and exclusively to the Member's need for nominal corporate officers or for capital participation;
- (D) individual associated persons whose functions are related solely and exclusively to:
 - (i) transactions in commodities;
 - (ii) transactions in security futures; and/or
 - (iii) effecting transactions on the floor of another national securities exchange and who are registered as floor members with such exchange.

Rule 306(a)(2) is not meant to provide an exclusive or exhaustive list of

⁷³ See Nasdaq Rule 1042. Proposed Exchange Rule 1220.06 omits references to a number of registration categories it does not propose to recognize, but which FINRA refers to in its own Rule 1220.06.

exemptions from registration.

Associated persons may otherwise be exempt from registration based on their activities and functions.

The Exchange is proposing to adopt Rule 306(a)(2) as Rule 1230 subject to certain changes. As noted above, Rule 306(a)(2)(B) exempts from registration those associated persons who are not actively engaged in the securities business. Rule 306(a)(2)(C) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.⁷⁴ The Exchange believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. The Exchange does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated persons whose functions are related only to a member's need for capital participation is consistent with this analytical framework.⁷⁵ The Exchange therefore is proposing to delete these exemptions. Rule 306(a)(2) further exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of another national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration categories other than the floor member category, proposed Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of another national securities exchange, provided they are appropriately registered with such exchange.⁷⁶ Additionally, the Exchange proposes to add Section 3 of Rule 1230, pursuant to which persons associated

with a member that are not citizens, nationals, or residents of the United States or any of its territories or possessions, that will conduct all of their securities activities in areas outside the jurisdiction of the United States, and that will not engage in any securities activities with or for any citizen, national or resident of the United States need not register with the Exchange.⁷⁷

The Exchange proposes to adopt Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

O. Changes to Continuing Education Requirements (Proposed Rule 1240)

As described above, existing ISE Rule 604, Continuing Education for Registered Persons, includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. ISE proposes to reorganize and renumber the CE requirements set forth in ISE Rule 604. This rule, as reorganized and renumbered, is now proposed to be adopted by the Exchange with amendments as new Rule 1240.⁷⁸

1. Regulatory Element

The Exchange is proposing to replace the term "registered person" with the term "covered person" and make

⁷⁷ Individuals described by Section 3 of Rule 1230 who are associated with FINRA members may be registered with FINRA as Foreign Associates pursuant to FINRA Rule 1220.06. FINRA is eliminating this registration category effective October 1, 2018, and the Exchange has never recognized it.

⁷⁸ Proposed Rule 1240 also differs slightly from FINRA Rule 1240 in that it omits references to certain registration categories which the Exchange does not recognize as well as an internal cross reference to FINRA Rule 4517.

conforming changes to proposed Rule 1240(a). For purposes of the Regulatory Element, the Exchange is proposing to define the term "covered person" in Rule 1240(a)(5) as any person registered pursuant to proposed Rule 1210, including any person who is permissively registered pursuant to proposed Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed Rule 1210.09. In addition, consistent with proposed Rule 1210.09, proposed Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, the Exchange is proposing to add a rule to address the impact of failing to complete the Regulatory Element on a registered person's activities and compensation. Specifically, proposed Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, like the FINRA rule, the proposed rule provides that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.

2. Firm Element

The Exchange believes that training in ethics and professional responsibility should apply to all covered registered persons. Therefore, proposed Rule 1240(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements, would also require that a firm's training program cover training in ethics and professional responsibility.

P. Electronic Filing Rules

Existing Rule 306, Supplementary Material .01-.03 requires each

⁷⁴ These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

⁷⁵ The Exchange also proposes to delete Rule 306.06 which specifies circumstances in which the Exchange considers an associated person of a member to be engaged in the securities business of a member. The Exchange believes these determinations may be made on case by case basis, depending upon facts and circumstances.

⁷⁶ Proposed Rule 1230 differs from FINRA Rule 1230 in that it contains a number of additional exemptions, based upon current Nasdaq Rule 1060(a), which are not included in FINRA Rule 1230.

individual required to register to electronically file a Uniform Application for Securities Industry Registration (“Form U4”) through the Central Registration Depository system (“Web CRD”) operated by the Financial Industry Regulatory Authority, Incorporated (“FINRA”) and to electronically submit to Web CRD any required amendments to Form U4. Similarly, any member that discharges or terminates the employment or retention of an individual required to register must comply with certain termination filing requirements which include the filing of a Form U5. Form U4 and U5 electronic filing requirements applicable to options principals and representatives, as well as Form U5 requirement applicable to members upon termination of employment of any of their registered persons, are found in ISE Rules 601, Registration of Options Principals, 602, Registration of Representatives, and 603, Termination of Registered Persons.

The Exchange is proposing to delete existing Rule 306, Supplementary Material .01–.03. ISE is proposing to delete the electronic filing requirements of ISE Rules 601, 602 and 603. The Exchange proposes to replace these deleted rules and rule sections with new Rule 1250, Electronic Filing Requirements for Uniform Forms which will consolidate Form U4 and U5 electronic filing requirements in a single location.⁷⁹ The new rule provides that all forms required to be filed under the Exchange’s registration rules including the Rule 1200 series shall be filed through an electronic process or such other process as the Exchange may prescribe to the Central Registration Depository. It also would impose certain new requirements.

Under Rule 1250(b) members would be required to designate registered principal(s) or corporate officer(s) who are responsible for supervising a firm’s electronic filings. The registered principal(s) or corporate officer(s) who has or have the responsibility to review and approve the forms filed pursuant to the rule would be required to acknowledge, electronically, that he is filing this information on behalf of the member and the member’s associated persons. Under Rule 1250, Supplementary Material .01, the registered principal(s) or corporate officer(s) could delegate filing responsibilities to an associated person (who need not be registered) but could not delegate any of the supervision, review, and approval responsibilities

mandated in Rule 1250(b). The registered principal(s) or corporate officer(s) would be required to take reasonable and appropriate action to ensure that all delegated electronic filing functions were properly executed and supervised.

Under Rule 1250(c)(1), initial and transfer electronic Form U4 filings and any amendments to the disclosure information on Form U4 must be based on a manually signed Form U4 provided to the member or applicant for membership by the person on whose behalf the Form U4 is being filed. As part of the member’s recordkeeping requirements, it would be required to retain the person’s manually signed Form U4 or amendments to the disclosure information on Form U4 in accordance with Rule 17a–4(e)(1) under the Act and make them available promptly upon regulatory request. An applicant for membership must also retain every manually signed Form U4 it receives during the application process and make them available promptly upon regulatory request. Rule 1250(c)(2) and Supplementary Material .03 and 04 provide for the electronic filing of Form U4 amendments without the individual’s manual signature, subject to certain safeguards and procedures.

Rule 1250(d) provides that upon filing an electronic Form U4 on behalf of a person applying for registration, a member must promptly submit fingerprint information for that person and that the Exchange may make a registration effective pending receipt of the fingerprint information. It further provides that if a member fails to submit the fingerprint information within 30 days after filing of an electronic Form U4, the person’s registration will be deemed inactive, requiring the person to immediately cease all activities requiring registration or performing any duties and functioning in any capacity requiring registration. Under the rule the Exchange must administratively terminate a registration that is inactive for a period of two years. A person whose registration is administratively terminated could reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of proposed Exchange Rule 1220. Upon application and a showing of good cause, the Exchange could extend the 30-day period.

Rule 1250(e) would require initial filings and amendments of Form U5 to be submitted electronically. As part of the member’s recordkeeping requirements, it would be required to

retain such records for a period of not less than three years, the first two years in an easily accessible place, in accordance with Rule 17a–4 under the Act, and to make such records available promptly upon regulatory request.

Finally, under proposed Rule 1250, Supplementary Material .02, a member could enter into an agreement with a third party pursuant to which the third party agrees to file the required forms electronically on behalf of the member and the member’s associated persons. Notwithstanding the existence of such an agreement, the member would remain responsible for complying with the requirements of the Rule.

Q. Other Rules

As noted above, the Exchange is proposing minor conforming amendments to Rule 208, Regulatory Fees or Charges, as well as to Chapter 90, Code of Procedure. In both cases, the amendments delete citations to rules proposed to be deleted or cite the relevant portions of the new 1200 Series. Chapter 90 would delete references to Exchange Rule 306, proposed to be deleted herein, and to BX Rule 1070, proposed to be deleted in SR–BX–2018–047.⁸⁰

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing

⁸⁰ See Securities Exchange Act Release No. 83705 (July 25, 2018), 83 FR 37020 (July 31, 2018) (SR–MRX–2018–23), adding Chapter 90. Chapter 90 incorporates into the MRX rules by reference Series 9000 of the BX rules. Chapter 90 currently states that references in the BX Rule 9000 Series to “Rule 1070” shall be read to refer to the Supplementary Material to MRX Rule 306. As noted above, both the BX and the MRX rules are proposed to be deleted.

⁸¹ 15 U.S.C. 78f(b).

⁸² 15 U.S.C. 78f(b)(5).

⁷⁹ Proposed Rule 1250 is based upon current Nasdaq Rule 1140.

examinations that currently have limited utility. In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the securities business. The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

The Exchange believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

The extension of the Securities Trader registration requirement to developers of algorithmic trading strategies requires associated persons primarily responsible for the design, development or significant modification of an algorithmic trading strategy or responsible for the day-to-day supervision or direction of such activities to register and meet a minimum standard of knowledge regarding the securities rules and regulations applicable to the member employing the algorithmic trading strategy. This minimum standard of knowledge is identical to the standard of knowledge currently applicable to traditional securities traders. The Exchange believes that improved education of firm personnel may reduce the potential for problematic market conduct and manipulative trading activity.

Finally, the proposed rule change makes organizational changes to the Exchange's registration and qualification rules to align them with

registration and qualification rules of the Nasdaq Affiliated Exchanges, in order to prevent unnecessary regulatory burdens and to promote efficient administration of the rules. The change also makes minor updates and corrections to the Exchange's rules which improve readability.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change is designed to ensure that all associated persons of members engaged in a securities business are, and will continue to be, properly trained and qualified to perform their functions, will be supervised, and can be identified by regulators. The proposed new 1200 Series of rules, which are similar in many respects to the registration-related requirements adopted by FINRA effective October 1, 2018, should enhance the ability of member firms to comply with the Exchange's rules as well as with the Federal securities laws. Additionally, as described above, the Exchange intends the amendments described herein to eliminate inconsistent registration-related requirements across the Nasdaq Affiliated Exchanges, thereby promoting uniformity of regulation across markets. The new 1200 Series should in fact remove administrative burdens that currently exist for members seeking to register associated persons on multiple Nasdaq Affiliated Exchanges featuring varying registration-related requirements. Additionally, all similarly-situated associated persons of members will be treated similarly under the new 1200 Series in terms of standards of training, experience and competence for persons associated with Exchange members.

With respect to registration of developers of algorithmic trading strategies in particular, the Exchange recognizes that the proposal would impose costs on member firms employing associated persons engaged in the activity subject to the registration requirement. Specifically, among other things, additional associated persons would be required to become registered under the proposal, and the firm would need to establish policies and procedures to monitor compliance with the proposed requirement on an ongoing basis. However, given the prevalence and importance of algorithmic trading strategies in today's markets, the Exchange believes that associated

persons engaged in the activities covered by this proposal must meet a minimum standard of knowledge regarding the applicable securities rules and regulations. To mitigate the costs imposed on member firms, the proposed rule change limits the scope of registration requirement by excluding technological or development support personnel who are not primarily responsible for the covered activities. It also excludes supervisors who are not responsible for the "day-to-day" supervision or direction of the covered activities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸³ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸⁴

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-4(f)(6)(iii)⁸⁵ 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 on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.⁸⁶ The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the

⁸³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

⁸⁵ 17 CFR 240.19b-4(f)(6)(iii).

⁸⁶ See *supra* note 7.

protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.⁸⁷

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MRX-2018-31 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-MRX-2018-31. 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-MRX-2018-31, and should be submitted on or before November 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁸

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-22292 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84383; File No. SR-NYSEArca-2018-60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the First Trust Long Duration Opportunities ETF Under NYSE Arca Rule 8.600-E

October 9, 2018.

On August 17, 2018, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the First Trust Long Duration Opportunities ETF pursuant to NYSE Arca Rule 8.600-E. The proposed rule change was published for comment in the **Federal Register** on August 30, 2018.³ The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its

reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is October 14, 2018. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates November 28, 2018 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEArca-2018-60).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-22296 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84387; File No. SR-PEARL-2018-21]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule

October 9, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 28, 2018, MIAX PEARL, LLC ("MIAX PEARL" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁸⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83936 (August 24, 2018), 83 FR 44312.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAx PEARL Fee Schedule (the “Fee Schedule”).

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAx PEARL’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to decrease the “Taker” fee in Tier 1 assessable to Priority Customers³ orders for options in the symbol SPY.

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member⁴ on MIAx PEARL in the relevant, respective origin type (not including Excluded Contracts)⁵ expressed as a percentage of TCv.⁶ In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (“Tier”) has been reached

by the Member. The Exchange aggregates the volume of Members and their Affiliates.⁷ Members that place resting liquidity, *i.e.*, orders resting on the book of the MIAx PEARL System,⁸ are paid the specified “maker” rebate (each a “Maker”), and Members that execute against resting liquidity are assessed the specified “taker” fee (each a “Taker”). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program⁹ (“Penny classes”) than for order executions in standard option classes which are not in the Penny Pilot Program (“Non-Penny classes”), where Members are assessed higher transaction fees and receive higher rebates. Transaction rebates and fees in Section (1)(a) of the Fee Schedule are currently assessed for Priority Customer orders according to the following table:

Origin/Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
		Maker	Taker*	SPY taker	QQQ, IWM, VXX taker	Maker	Taker
Priority Customer:							
1	0.00%–0.10%	(\$0.25)	\$0.48	\$0.44	\$0.47	(\$0.85)	\$0.87
2	Above 0.10%–0.35%.	(0.40)	0.46	0.43	0.46	(0.95)	0.86
3	Above 0.35%–0.50%.	(0.45)	0.44	0.42	0.44	(1.00)	0.85
4	Above 0.50%–0.75%.	(0.52)	0.44	0.41	0.43	(1.03)	0.84
5	Above 0.75%–1.25%.	(0.53)	0.44	0.40	0.42	(1.04)	0.84
6	Above 1.25%	(0.53)	0.43	0.38	0.40	(1.04)	0.84

*For all Penny Classes other than SPY, QQQ, IWM, and VXX.

³ “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Exchange Rule 100, including Interpretations and Policies .01.

⁴ “Member” means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” Members are deemed “members” under the Exchange Act. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁵ “Excluded Contracts” means any contracts routed to an away market for execution. See the Definitions Section of the Fee Schedule.

⁶ “TCV” means total consolidated volume calculated as the total national volume in those classes listed on MIAx PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an “Exchange System Disruption” (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined

in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAx PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term “Exchange System Disruption” and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating

volume for the threshold tiers in the Fee Schedule. See the Definitions Section of the Fee Schedule.

⁷ “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAx PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM” is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAx PEARL Market Maker) that has been appointed by a MIAx PEARL Market Maker, pursuant to the process described in the Fee Schedule. See the Definitions Section of the Fee Schedule.

⁸ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁹ See Securities Exchange Act Release No. 79778 (January 12, 2017), 82 FR 6662 (January 19, 2017) (SR-PEARL-2016-01).

The Exchange currently charges Taker fees for orders for options in the symbol SPY corresponding to the Tiers and volume thresholds which are applicable to Priority Customer orders. The Exchange currently charges a Taker fee in Tier 1 of \$0.44 for Priority Customer orders for options in the symbol SPY.

The Exchange proposes to decrease the Taker fee for Priority Customer orders for options in the symbol SPY in Tier 1 from \$0.44 to \$0.43. The purpose of decreasing the Taker fee for Priority Customer orders for options in the symbol SPY to \$0.43 in Tier 1 is for business and competitive reasons to encourage greater volume on the Exchange of Priority Customer orders by offering a lower rate in Tier 1. The Exchange believes that reducing the Taker fee for Priority Customer orders for options in the symbol SPY to \$0.43 per contract fee in Tier 1 will incentivize Members to execute more volume on the Exchange in Priority Customer orders due to favorable pricing for this liquidity type in Tier 1. There are no other changes proposed to the fee table.

The proposed change is scheduled to become operative October 1, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹¹ in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,¹² in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed Taker fee decrease for Priority Customer orders for options in the symbol SPY in Tier 1 is reasonable, equitable, and not unfairly discriminatory, since it is intended to incentivize order flow to be sent to the Exchange for execution in an actively traded options class. SPY options are the most actively traded class. The Exchange therefore believes that incentivizing Members will benefit all

market participants through increased liquidity, tighter markets and order interaction.

Furthermore, the proposed decrease to the Taker fee for Priority Customer orders for options in the symbol SPY in Tier 1 promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest because the proposed decrease in the fee will encourage Members to send more Priority Customer orders to the Exchange since they will be assessed a reduced Taker fee in Tier 1. To the extent that Priority Customer order flow in the symbol SPY is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed Taker fee decrease is intended to encourage execution of more volume on the Exchange. The decrease in the Taker fee for Priority Customer orders of options in the symbol SPY should enable the Exchange to attract and compete for order flow with other exchanges which assess higher Taker fees in that symbol. Further, the Exchange believes that the proposed decrease in the Taker fee in Tier 1 for Priority Customer orders for options in the symbol SPY creates further opportunities for bringing additional liquidity to the market.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,¹³ and Rule 19b-4(f)(2)¹⁴ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-PEARL-2018-21 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-PEARL-2018-21. 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

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(1) and (b)(5).

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

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-PEARL-2018-21, and should be submitted on or before November 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-22293 Filed 10-12-18; 8:45 am]

BILLING CODE 8011-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA-2018-0055]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes an extension and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore,

MD 21235, Fax: 410-966-2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov*, referencing Docket ID Number [SSA-2018-0055].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than December 14, 2018. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Pain Report Child—20 CFR 404.1512 and 416.912—0960-0540. Before SSA can make a disability determination for a child, we require evidence from Supplemental Security Income (SSI) applicants or claimants to prove their disability. Form SSA-3371-BK provides disability interviewers, and SSI applicants or claimants in self-help situations, with a convenient way to record information about claimants’ pain or other symptoms. The State disability determination services adjudicators and administrative law judges then use the information from Form SSA-3371-BK to assess the effects of symptoms on function for purposes of determining disability under the Social Security Act (Act). The respondents are applicants for, or claimants of, SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-3371	250,000	1	15	62,500

2. Internet Request for Replacement of Forms SSA-1099/SSA-1042S—20 CFR 401.45—0960-0583. Title II beneficiaries use Forms SSA-1099 and SSA-1042S, Social Security Benefit Statement, to determine if their Social Security benefits are taxable, and the amount they need to report to the Internal Revenue Service. In cases where the original forms are unavailable

(e.g., lost, stolen, mutilated), an individual may use SSA’s automated telephone application to request a replacement SSA-1099 and SSA-1042S. SSA uses the information from the automated telephone requests to verify the identity of the requestor and to provide replacement copies of the forms. SSA accepts information in other ways, however; The automated

telephone options reduce requests to the National 800 Number Network (N8NN) and visits to local Social Security field offices (FO). The respondents are Title II beneficiaries who wish to request a replacement SSA-1099 or SSA-1042S via telephone.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Automated Telephone Requestors	238,286	1	2	7,943
N8NN	458,442	1	3	22,922
Calls to local FOs	870,811	1	3	43,541
Other (program service centers)	69,207	1	3	3,460

¹⁵ 17 CFR 200.30-3(a)(12).

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Totals	1,636,746	.....	.....	77,866

3. *Protecting the Public and Our Personnel to Ensure Operational Effectiveness (RIN 0960-AH35), Regulation 3729I—20 CFR 422.905, 422.906—0960-0796.* SSA published regulations for the process we follow when we restrict individuals from receiving in-person services in our field offices and provide them, instead, with alternative services. We published these rules to create a safer environment for our personnel and members of the public who use our facilities, while ensuring we continue to serve the American people with as little disruption to our operations as possible. Under our regulations at 20 CFR 422.905, an individual for whom we restrict access to our facilities has the opportunity to appeal our decision within 60 days of the date of the

restrictive access and alternative service notice. To appeal, restricted individuals must submit a written request stating why they believe SSA should rescind the restriction and allow them to conduct business with us on a face-to-face basis in one of our offices. There is no printed form for this request; rather, restricted individuals create their own written statement of appeal, and submit it to a sole decision-maker in the regional office of the region where the restriction originated. The individuals may also provide additional documentation to support their appeal. Under 20 CFR 422.906, if the individual does not appeal the decision within the 60 days; if we restricted the individual prior to the effective date of this regulation; or if the appeal results in a denial, the individual has another

opportunity to request review of the restriction after a three-year period. To submit this request for review, restricted individuals may re-submit a written appeal of the decision. The same criteria apply as for the original appeal: (1) It must be in writing; (2) it must go to a sole decision-maker in the regional office of the region where the restriction originated for review; and (3) it may accompany supporting documentation. We make this periodic review available to all restricted individuals once every three years. Respondents for this collection are individuals appealing their restrictions from in-person services at SSA field offices.

Type of Request: Extension of an OMB-approved information collection.

Regulation section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
20 CFR 422.905	75	1	15	19
20 CFR 422.906	75	1	20	25
Totals	150	.....	.....	44

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than November 14, 2018. Individuals can obtain copies of the OMB clearance

packages by writing to *OR.Reports.Clearance@ssa.gov*.
 1. *Application for Supplemental Security Income—20 CFR 416.207 and 416.305—416.335, Subpart C—0960-0229.* The SSI program provides aged, blind, and disabled individuals who have little or no income, with funds for food, clothing, and shelter. Individuals complete Form SSA-8000-BK to apply for SSI. SSA uses the information from

Form SSA-8000-BK, and its electronic Intranet counterpart, the SSI Claim System, to: (1) Determine whether SSI claimants meet all statutory and regulatory eligibility requirements; and (2) calculate SSI payment amounts. The respondents are applicants for SSI or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSI Claim System	1,212,512	1	35	707,299
SSA-8000 (Paper Form)	20,941	1	41	14,310
Totals	1,233,453	.....	.....	721,609

2. *Statement of Household Expenses and Contributions—20 CFR 416.1130—416.1148—0960-0456.* SSA bases eligibility for SSI on the needs of the recipient. In part, we assess need by determining the amount of income a recipient receives. This income includes

in-kind support and maintenance in the form of food and shelter owners provide. SSA uses Form SSA-8011-F3 to determine whether the claimant or recipient receives in-kind support and maintenance. This is necessary to determine: (1) The claimant's or

recipient's eligibility for SSI, and (2) the SSI payment amount. SSA only uses this form in cases where SSA needs the householder's (head of household) corroboration of in-kind support and maintenance. The SSA-8011-F3 provides information, which could

affect SSI eligibility and payment amount. The claim specialist collects the information on Form SSA-8011-F3 through telephone contact with the respondent, or through face-to-face interviews. The claims specialist records the information in our electronic SSI Claims System. When we

use this procedure we do not use a paper Form SSA-8011-F3, and we do not need a wet signature, rather we require verbal attestation. However, when we use a paper form, we ensure the appropriate person, *i.e.*, the householder signs the form, and then the claims specialist documents the

information in the SSI Claims System; faxes the form into the appropriate electronic folder; and shreds the form. Respondents are householders of homes in which an SSI applicant or recipient resides.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-8011-F3 (Paper Version)	8,233	1	15	2,058
SSA-8011-F3 (SSI Claims System)	417,025	1	15	104,256
Totals	425,258	.....	.....	106,314

3. Integrated Registration Services (IRES) System—20 CFR 401.45—0960-0626. The IRES System verifies the identity of individuals, businesses, organizations, entities, and government agencies seeking to use SSA's secured internet and telephone applications. Individuals need this verification to electronically request and exchange

business data with SSA. Requestors provide SSA with the information needed to establish their identities. Once SSA verifies identity, the IRES system issues the requestor a user identification number and a password to conduct business with SSA. Respondents are employers; employees; third party submitters of wage data

business entities providing taxpayer identification information; appointed representatives; representative payees; and data exchange partners conducting business in support of SSA programs.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
IRES Internet Registrations	611,296	1	5	50,941
IRES Internet Requestors	15,692,525	1	2	523,084
IRES CS (CSA) Registrations	20,621	1	11	3,781
Totals	16,324,442	.....	.....	577,806

4. Credit Card Payment Form—0960-0648. SSA uses Form SSA-1414 to process: (1) Credit card payments from former employees and vendors with outstanding debts to the agency; (2) advance payments for reimbursable

agreements; and (3) credit card payments for all Freedom of Information Act (FOIA) requests requiring payment. The respondents are former employees and vendors who have outstanding debts to the agency; entities who have

reimbursable agreements with SSA; and individuals who request information through FOIA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-1414	6,000	1	2	200

5. Request for Reinstatement (Title II)—20 CFR 404.1592b—404.1592f—0960-0742. SSA allows certain previously entitled disability beneficiaries to request expedited reinstatement (EXR) of benefits under Title II of the Act when their medical condition no longer permits them to

perform substantial gainful activity. SSA uses Form SSA-371 to obtain: (1) A signed statement from individuals requesting an EXR of their Title II disability benefits; and (2) proof the requestors meet the EXR requirements. SSA maintains the form in the disability folder of the applicant to demonstrate

the requestors' awareness of the EXR requirements, and their choice to request EXR. Respondents are applicants for EXR of Title II disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-371	10,000	1	2	333

6. *Important Information About Your Appeal, Waiver Rights, and Repayment Options—20 CFR 404.502–521—0960–0779.* When SSA overpays beneficiaries, the agency informs them of the following rights: (1) The right to reconsideration of the overpayment determination; (2) the right to request a waiver of recovery and the automatic scheduling of a personal conference if

SSA cannot approve a request for waiver; and (3) the availability of a different rate of withholding when SSA proposes the full withholding rate. SSA uses Form SSA-3105, Important Information About Your Appeal, Waiver Rights, and Repayment Options, to explain these rights to overpaid individuals and allow them to notify SSA of their decision(s) regarding these

rights. The respondents are overpaid current, or former, beneficiaries requesting a waiver of recovery for the overpayment; reconsideration of the fact of the overpayment; or a lesser rate of withholding of the overpayment.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-3105 Paper form	500,000	1	15	125,000
Debt Management System	200,000	1	15	50,000
Totals	700,000	.....	.....	175,000

7. *Promoting Readiness of Minors in SSI (PROMISE) Evaluation—0960–0799.*

Background

The Promoting Readiness of Minors in SSI (PROMISE) demonstration pursues positive outcomes for children with disabilities who receive SSI and their families by reducing dependency on SSI. The Department of Education (ED) awarded six cooperative agreements to states to improve the provision and coordination of services and support for children with disabilities who receive SSI and their families to achieve improved education and employment outcomes. ED awarded PROMISE funds to five single-state projects, and to one six-state consortium.¹ With support from ED, the Department of Labor (DOL), and the Department of Health and Human Services (HHS), SSA is evaluating the six PROMISE projects. SSA contracted with Mathematica Policy Research to conduct the evaluation. Under PROMISE, targeted outcomes for youth include an enhanced sense of self determination; achievement of secondary and post-secondary educational credentials; an attainment of early work experiences culminating with competitive employment in an integrated setting; and long-term reduction in reliance on SSI. Outcomes of interest for families

include heightened expectations for and support of the long-term self-sufficiency of their youth; parent or guardian attainment of education and training credentials; and increases in earnings and total income. To achieve these outcomes, we expect the PROMISE projects to make better use of existing resources by improving service coordination among multiple state and local agencies and programs.

ED, SSA, DOL, and HHS intend the PROMISE projects to address key limitations in the existing service system for youth with disabilities. By intervening early in the lives of these young people, at ages 14–16, the projects engage the youth and their families well before critical decisions regarding the age 18 redetermination are upon them. We expect the required partnerships among the various state and Federal agencies that serve youth with disabilities to result in improved integration of services and fewer dropped handoffs as youth move from one agency to another. By requiring the programs to engage and serve families and provide youth with paid work experiences, the initiative is mandating the adoption of critical best practices in promoting the independence of youth with disabilities.

Project Description

SSA is requesting clearance for the collection of data needed to implement and evaluate PROMISE. The evaluation provides empirical evidence on the impact of the intervention for youth and

their families in several critical areas, including: (1) Improved educational attainment; (2) increased employment skills, experience, and earnings; and (3) long-term reduction in use of public benefits. We base the PROMISE evaluation on a rigorous design that entails the random assignment of approximately 2,000 youth in each of the six projects to treatment or control groups (12,000 total). The PROMISE projects provide enhanced services for youth in the treatment groups; whereas youth in the control groups are eligible only for those services already available in their communities independent of the interventions.

The evaluation assesses the effect of PROMISE services on educational attainment, employment, earnings, and reduced receipt of disability payments. The three components of this evaluation include:

- *The process analysis*, which documents program models, assesses the relationships among the partner organizations, documents whether the grantees implemented the programs as planned, identifies features of the programs that may account for their impacts on youth and families, and identifies lessons for future programs with similar objectives.

- *The impact analysis*, which determines whether youth and families in the treatment groups receive more services than their counterparts in the control groups. It also determines whether treatment group members have better results than control group

¹ The six-state consortium project goes by the name Achieving Success by Promoting Readiness for Education and Employment (ASPIRE) rather than by PROMISE.

members with respect to the targeted outcomes noted above.

- *The cost-benefit analysis*, which assesses whether the benefits of PROMISE, including increases in employment and reductions in benefit receipt, are large enough to justify its costs. We conduct this assessment from a range of perspectives, including those of the participants, state and Federal governments, SSA, and society as a whole.

SSA planned several data collection efforts for the evaluation. These include: (1) Follow-up interviews with youth and their parent or guardian 18 months and 5 years (60 months) after enrollment; (2) phone and in-person interviews with local program administrators, program supervisors, and service delivery staff at two points in time over the course of the demonstration; (3) two rounds of focus groups with participating youth in the treatment group; (4) two rounds of focus

groups with parents or guardians of participating youth; (5) staff activity logs which provide data on aspects of service delivery; and (6) collection of administrative data.

At this time, SSA requests clearance for the 5-year (60-month) survey interviews. The respondents are the youth and their parents participating in the PROMISE demonstration.

Type of Request: Revision of an OMB-approved Information Collection.

TIME BURDEN ON RESPONDENTS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
2019: 60-Month Survey Interviews				
Parent Interview—telephone (using electronic assisted capturing)	1,095	1	32	584
Youth Interview—telephone (using electronic assisted capturing)	1,110	1	38	703
Parent Interview—Self-Administered Questionnaire	22	1	18	7
Youth Interview—Self-Administered Questionnaire	23	1	18	7
Totals	2,250	.....	.....	1,301
2020: 60-Month Survey Interviews				
Parent Interview—telephone (using electronic assisted capturing)	5,127	1	32	2,734
Youth Interview—telephone (using electronic assisted capturing)	5,169	1	38	3,274
Parent Interview—Self-Administered Questionnaire	105	1	18	32
Youth Interview—Self-Administered Questionnaire	105	1	18	32
Totals	10,506	.....	.....	6,072
2021: 60-Month Survey Interviews				
Parent Interview—telephone (using electronic assisted capturing)	2,656	1	32	1,417
Youth Interview—telephone (using electronic assisted capturing)	2,671	1	38	1,692
Parent Interview—Self-Administered Questionnaire	54	1	18	16
Youth Interview—Self-Administered Questionnaire	55	1	18	17
Totals	5,436	.....	.....	3,142
Grand Totals				
Parent Interview—telephone (using electronic assisted capturing)	8,878	1	32	4,735
Youth Interview—telephone (using electronic assisted capturing)	8,950	1	38	5,669
Parent Interview—Self-Administered Questionnaire	181	1	18	55
Youth Interview—Self-Administered Questionnaire	183	1	18	56
Totals	18,192	.....	.....	10,515

Dated: October 10, 2018.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2018-22339 Filed 10-12-18; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

[Public Notice: 10576]

30-Day Notice of Proposed Information Collection: Petition To Classify Special Immigrant Under INA 203(b)(4) as Employee or Former Employee of the U.S. Government Abroad

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to November 14, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email:* oir_submission@omb.eop.gov. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

- *Fax:* 202-395-5806. Attention: Desk Officer for Department of State.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Petition to Classify Special Immigrant Under INA 203(b)(4) as Employee or Former Employee of the U.S. Government Abroad.

- *OMB Control Number:* 1405-0082.

- *Type of Request:* Extension of a Currently Approved Collection.

- *Originating Office:* CA/VO/L/R.

- *Form Number:* DS-1884.

- *Respondents:* Aliens petitioning for immigrant visas under INA 203(b)(4) as a special immigrant described in INA section 101(a)(27)(D).

- *Estimated Number of Respondents:* 75.

- *Estimated Number of Responses:* 75.

- *Average Time per Response:* 10 minutes.

- *Total Estimated Burden Time:* 12.5 hours.

- *Frequency:* Once per petition.

- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

DS-1884 solicits information from petitioners claiming employment-based immigrant visa preference under section

203(b)(4) of the Immigration and Nationality Act on the basis of qualification as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act. A petitioner may file the DS-1884 petition within one year of notification by the Department of State that the Secretary has approved a recommendation that such special immigrant status be accorded to the alien. DS-1884 solicits information that will assist the consular officer in ensuring that the petitioner is statutorily qualified to receive such status, including meeting the years of service and exceptional service requirements.

Methodology

The form can be obtained from posts abroad or through the Department's website. The application available on the Department's website allows an applicant to complete the application electronically and then print the application and submit it to post.

Edward J. Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2018-22398 Filed 10-12-18; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 10585]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: “Gauguin: A Spiritual Journey” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition “Gauguin: A Spiritual Journey,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Fine Arts Museums of San Francisco, de Young Museum, San Francisco, California, from on or about November 17, 2018, until on or about April 7, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State,

L/PD, SA-5, Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 236-15 of September 28, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary, for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018-22349 Filed 10-12-18; 8:45 am]

BILLING CODE 4710-05-P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: August 1–31, 2018.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; email: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Cabot Oil & Gas Corporation, Pad ID: BurkeG P1, ABR-201808001; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

2. Cabot Oil & Gas Corporation, Pad ID: HauserJ P1, ABR-201808002; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to

5.0000 mgd; Approval Date: August 15, 2018.

3. Chief Oil & Gas, LLC, Pad ID: Rogers Drilling Pad, ABR–201401006.R1; Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: August 15, 2018.

4. Cabot Oil & Gas Corporation, Pad ID: BiniewiczS P1, ABR–201308001.R1; Gibson and Harford Townships, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

5. Cabot Oil & Gas Corporation, Pad ID: KeevesJ P1, ABR–201308003.R1; Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

6. Cabot Oil & Gas Corporation, Pad ID: BennettC P1, ABR–201308008.R1; Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

7. Cabot Oil & Gas Corporation, Pad ID: MarchoW&M P1, ABR–201308009.R1; Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

8. Cabot Oil & Gas Corporation, Pad ID: MeadB P1, ABR–201308013.R1; Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

9. Cabot Oil & Gas Corporation, Pad ID: PayneD P1, ABR–201308014.R1; Harford Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 15, 2018.

10. Range Resources—Appalachia, LLC, Pad ID: Laurel Hill 9H–11H, ABR–201308010.R1; Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: August 16, 2018.

11. Range Resources—Appalachia, LLC, Pad ID: Dog Run HC Unit 4H–6H, ABR–201308011.R1; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: August 16, 2018.

12. SWN Production Company, LLC, Pad ID: Heckman Hiduk (Pad GS), ABR–201310003.R1; Herrick and Stevens Townships, Bradford County, Pa.;

Consumptive Use of Up to 4.9990 mgd; Approval Date: August 28, 2018.

13. Repsol Oil & Gas USA, LLC, Pad ID: DCNR 594 (02 207), ABR–201808003; Bloss and Liberty Townships, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 28, 2018.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: October 10, 2018.

Stephanie L. Richardson,
Secretary to the Commission.

[FR Doc. 2018–22402 Filed 10–12–18; 8:45 am]

BILLING CODE 7040–01–P

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket Numbers USTR–2017–0009, USTR–2013–0013, USTR–2013–0009, USTR–2013–0011, USTR–2013–0004, USTR–2015–0018, USTR–2013–0007, USTR–2013–0014, and USTR–2013–0021]

Generalized System of Preferences (GSP): Notice Regarding a Hearing for Ongoing Country Practice Reviews of Bolivia, Ecuador, Georgia, Indonesia, Iraq, Thailand, and Uzbekistan and for the Ongoing Country Designation Review of Laos

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of public hearing and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is announcing a hearing for the open country practice reviews for which USTR has not held hearings in 2018 regarding compliance with the GSP eligibility criteria of Bolivia, Ecuador, Georgia, Indonesia, Iraq, Thailand, and Uzbekistan. This review will focus on whether: (1) Bolivia, Georgia, Iraq, Thailand, and Uzbekistan are meeting the GSP eligibility criterion requiring that a GSP beneficiary country afford workers internationally recognized worker rights; (2) Ecuador is meeting the GSP eligibility criterion requiring a GSP beneficiary country to act in good faith in recognizing as binding or in enforcing applicable arbitral awards; and (3) Indonesia and Uzbekistan are meeting the GSP eligibility criterion requiring a

GSP beneficiary to provide adequate protection of intellectual property rights. In addition, USTR is announcing a hearing for the ongoing country designation review of Laos. This review will focus on whether Laos meets all the GSP eligibility criteria and should be newly designated as a GSP beneficiary. This notice includes the schedule for submission of public comments and a public hearing.

DATES: November 13, 2018 at midnight EDT: Deadline for submission of comments, pre-hearing briefs, and requests to appear at the November 29, 2018 public hearing. November 29, 2018: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) will convene a public hearing on the GSP country practice reviews of Bolivia, Ecuador, Georgia, Indonesia, Iraq, Thailand, and Uzbekistan and the country designation review of Laos in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, beginning at 10:00 a.m. December 17, 2018 at midnight EDT: Deadline for submission of post-hearing briefs.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments below using the docket number for the appropriate individual country review. For alternatives to on-line submissions, please contact Lauren Gamache at 202–395–2974 or gsp@ustr.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lauren Gamache, Director for GSP, at (202) 395–2974 or gsp@ustr.eop.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 as amended (19 U.S.C. 2461–2467), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

The GSP Subcommittee of the TPSC will hold a hearing on November 29, 2018 for the following cases:

Country	Basis for petition	Petitioner	Docket No.
Bolivia	worker rights and child labor	USTR	USTR–2017–0009
Ecuador	arbitral awards	Chevron Corporation	USTR–2013–0013
Georgia	worker rights	AFL-CIO	USTR–2013–0009
Indonesia	intellectual property rights	International Intellectual Property Alliance (IIPA).	USTR–2013–0011
Iraq	worker rights	AFL-CIO	USTR–2013–0004
Laos	eligibility	Laos	USTR–2013–0021

Country	Basis for petition	Petitioner	Docket No.
Thailand	worker rights	AFL-CIO	USTR-2015-0018
Uzbekistan	worker rights and child labor	ILRF	USTR-2013-0007
Uzbekistan	intellectual property rights	IIPA	USTR-2013-0014

B. Notice of Public Hearing

The GSP Subcommittee will hold a hearing on November 29, 2018, beginning at 10:00 a.m., to receive information regarding the country practice reviews of Bolivia, Ecuador, Georgia, Indonesia, Iraq, Thailand, and Uzbekistan, and the country designation review of Laos. The hearing will be held in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, and will be open to the public and to the press. A transcript of the hearing will be available on www.regulations.gov within approximately two weeks after the date of the hearing. All interested parties wishing to make an oral presentation at the hearing must submit, following the Requirements for Submissions below, the name, address, telephone number, and email address, if available, of the witness(es) representing their organization by midnight on November 13, 2018.

Requests to present oral testimony must be accompanied by a written brief or summary statement, in English. The GSP Subcommittee will limit oral testimony to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. The GSP Subcommittee will accept post-hearing briefs or statements if they conform to the requirements set out below and are submitted in English, by midnight on December 17, 2018.

Parties not wishing to appear at the public hearing may submit pre-hearing and post-hearing briefs or comments by these deadlines. In order to be assured of consideration, you must submit all post-hearing briefs or statements by the December 17, 2018 deadline to the relevant docket listed below via www.regulations.gov.

C. Requirements for Submissions

Submissions in response to this notice (including requests to testify, written comments, and pre-hearing and post-hearing briefs) must be submitted by the applicable deadlines set forth in this notice. All submissions must be made in English and submitted electronically via <http://www.regulations.gov>, using the appropriate docket number. We will not accept hand-delivered submissions. To make a submission using <http://www.regulations.gov>, enter the appropriate docket number in the

“search for” field on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “notice” under “document type” in the “filter results by” section on the left side of the screen and click on the link entitled “comment now.” The www.regulations.gov website offers the option of providing comments by filling in a “type comment” field or by attaching a document using the “upload file(s)” field. The GSP Subcommittee prefers that submissions be provided in an attached document and, in such cases, that parties note “see attached” in the “type comment” field on the online submission form. Include the following bold and underlined text at the beginning of the submission, or on the first page (if an attachment): (1) “[Insert Country] Country Practice Review”; (2) the subject matter; and (3) whether the document is a “Written Comment,” “Notice of Intent to Testify,” “Pre-hearing brief,” or a “Post-hearing brief.” Submissions should not exceed thirty single-spaced, standard letter-size pages in twelve-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Each submitter will receive a tracking number upon completion of the submissions procedure at <http://www.regulations.gov>. The tracking number is your confirmation that the submission was received into www.regulations.gov. We are not able to provide technical assistance for the www.regulations.gov website. We may not consider submissions that are not made in accordance with these instructions. If you are unable to provide submissions as requested, please contact Lauren Gamache at 202-395-2974 or gsp@ustr.eop.gov to arrange for an alternative method of transmission.

D. Business Confidential Submissions

If a submission contains business confidential information (BCI), you must certify that the information is business confidential and that you would not customarily release the information to the public. You must clearly indicate that information is BCI by marking “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding

page that contains BCI, and indicating, via brackets, the specific information that is BCI. Additionally, you should include “Business Confidential” in the “type comment” field. For any submission containing BCI, you also must submit a separate non-confidential version (*i.e.*, not as part of the same submission with the confidential version), indicating where you have redacted BCI. We will post the non-confidential version in the docket for public inspection.

E. Public Viewing of Review Submissions

We will post all submissions other than BCI for public viewing in the appropriate docket number at <http://www.regulations.gov> upon completion of processing, usually within two weeks of the relevant due date or date of the submission.

Erland Herfindahl,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences, Office of the U.S. Trade Representative.

[FR Doc. 2018-22374 Filed 10-12-18; 8:45 am]

BILLING CODE 3290-F9-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

NextGen Advisory Committee (NAC); Meeting

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

ACTION: Notice of NextGen Advisory Committee (NAC) public meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the NAC.

DATES: The meeting will be held on October 31, 2018, starting at 8:30 a.m. Eastern Standard Time. Arrange oral presentations by October 16, 2018.

ADDRESSES: The meeting will take place at The MITRE Corporation, Building 1, MITRE 1 Conference Center, 7525 Colshire Dr., Tysons, VA 22102.

FOR FURTHER INFORMATION CONTACT: Greg Schwab, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591, telephone (202) 267-1201, email gregory.schwab@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., App. 2), we are giving notice of a meeting of the NAC taking place on October 31, 2018.

The Draft Agenda Includes

1. Official Statement of Designated Federal Official
2. NAC Chairman's Report
 - a. June 27, 2018 Meeting Summary [Approval]
3. FAA Report
4. Working Group Updates
 - a. NextGen Priorities Joint Implementation Rolling Plan Recommendation [Approval]
5. Any Other Business

The agenda will be published on the FAA Meeting web page (https://www.faa.gov/about/office_org/headquarters_offices/ang/nac/) once it is finalized.

Attendance is open to the interested public but limited to the space available. Please confirm your attendance by email to NACRegistration@Concept-Solutions.com no later than October 16, 2018. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. For Foreign National attendees, please also provide your country of citizenship, date of birth, and passport or diplomatic identification number with expiration date.

Upon arrival at the MITRE 1 Conference Center, all attendees must show photo identification that match the pre-registration name, specifically, government-issued photo identification (e.g., U.S. driver's license; passport for non-U.S. citizens; federal government identification card). Directions to MITRE 1 may be found at the following link: <https://www.mitre.org/sites/default/files/pdf/mclean-campus-map.pdf>.

With the approval of the NAC Chairman, members of the public may present oral statements at the meeting. The public must arrange by October 16, 2018, to present oral statements at the meeting. Additionally, if the statement pertains to the topic of the meeting and is approved, there will be a time limit of 2 minutes in order to accommodate other speakers and a full agenda. Members of the public may present a written statement to the committee at any time.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral

interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on October 10, 2018.

Tiffany Ottilia McCoy,

NextGen Office of Collaboration and Messaging, ANG-M, Office of the Assistant Administrator for NextGen, Federal Aviation Administration.

[FR Doc. 2018-22334 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Research, Engineering & Development Advisory Committee meeting.

DATES: The meeting will be held on November 14, 2018-9:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Chinita A. Roundtree-Coleman at (609) 485-7149 or website at chinita.roundtree-coleman@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Research, Engineering and Development (RE&D) Advisory Committee.

Agenda

The meeting agenda will include receiving guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy from the Committee.

Public Participation

Attendance is open to the interested public but seating is limited. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, present statements, or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members

of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on October 9, 2018.

Chinita A. Roundtree-Coleman,
Computer Specialist.

[FR Doc. 2018-22382 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2017-0091]

Pipeline Safety: Request for Special Permit; Hilcorp Alaska, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request for special permit, seeking relief from compliance with certain requirements in the Federal Pipeline Safety Regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by November 14, 2018.

ADDRESSES: Comments should reference the docket number for the specific special permit request and may be submitted in the following ways:

- *E-Gov website:* <http://www.Regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive

confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at <http://www.Regulations.gov>.

Note: There is a privacy statement published on <http://www.Regulations.gov>. Comments, including any personal information provided, are posted without changes or edits to <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202-366-0113, or email at kay.mciver@dot.gov.

Technical: Mr. Joshua Johnson by telephone at 816-329-3825, or email at joshua.johnson@dot.gov.

SUPPLEMENTARY INFORMATION:

PHMSA received a special permit request from Hilcorp Alaska, LLC (Hilcorp) to deviate from the Federal Pipeline Safety Regulations (PSRs) in 49 CFR 195.563 and 195.573 for the design, construction, and operation and maintenance (O&M) of the proposed Liberty Pipeline. The PSRs require hazardous liquid (HL) pipeline operators to have cathodic protection to prevent external corrosion and to monitor the level of external corrosion control to ensure adequate protection from pipeline metal loss. Whereas Hilcorp is seeking a waiver from §§ 195.563 and 195.573, PHMSA proposes that Hilcorp conduct alternative integrity measures to maintain safety through the implementation of proposed special permit conditions.

The proposed Liberty Pipeline will originate on Liberty Drilling and Production Island (LDPI), an artificial island located in Foggy Island Bay of the Beaufort Sea Outer Continental Shelf and State of Alaska waters. The Liberty Pipeline consists of 7.2 miles of 12.75-inch diameter HL interstate pipeline (carrier pipeline) and will transport crude oil. The submerged portion of the Liberty Pipeline will utilize a pipe-in-pipe design (12.75-inch diameter carrier pipe installed within 16-inch casing pipe). The maximum water depth along the route is 19 feet at LDPI. The special permit request is for approximately 5.7 miles of the carrier pipeline located offshore in the Beaufort Sea.

The 5.7 miles of offshore carrier pipe will be installed in 16-inch casing pipe (pipe-in-pipe) to protect against crude oil spills from any leaks or other failures of the carrier pipeline. The pipe-in-pipe will be designed and constructed and O&M procedures will be implemented to prevent, monitor, and mitigate the creation of a corrosive environment and stresses that might occur through the

operational life of the Liberty Pipeline. The pipe-in-pipe will be designed and operated as secondary containment against carrier pipeline crude oil in the segment located in offshore waters. The purpose of the special permit, with its implemented conditions, is to assure safety and environmental protection in lieu of compliance with §§ 195.563 and 195.573.

The maximum operating pressure of the carrier pipeline will be 1,480 pounds per square inch gauge (psig). The Liberty Pipeline will transport crude oil to and through the Badami and Endicott Pipelines and then to the Trans Alaska Pipeline System (TAPS). The TAPS will transport the Liberty Pipeline crude oil to a terminal in Valdez, Alaska, where tankers will then transport crude oil to the West Coast. The Liberty Pipeline will be installed in a remote area of Alaska that is not populated, in an area where federally listed threatened and/or endangered species exist and that is identified as an unusually sensitive area. Pipelines in such areas must be operated in compliance with the pipeline integrity management provisions as specified in 49 CFR 195.6, 195.450, and 195.452.

The proposed special permit and Draft Environmental Assessment (DEA) for the Liberty Pipeline are available in Docket No. PHMSA-2017-0091 at <http://www.Regulations.gov> for public review and comment. We invite interested persons to review and submit comments on the special permit request, DEA, and other background materials in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny a request.

Issued in Washington, DC, on October 9, 2018, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2018-22299 Filed 10-12-18; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Implementation of Certain Sanctions Imposed on Two Persons by the Secretary of State Pursuant to the Countering America's Adversaries Through Sanctions Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is taking action to implement certain of the sanctions imposed on two persons by the Secretary of State pursuant to the Countering America's Adversaries Through Sanctions Act (Pub. L. 115-44). **DATES:** See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (<http://www.treasury.gov/ofac>).

Background: Section 231 of the Countering America's Adversaries Through Sanctions Act requires the Secretary of State, pursuant to authority delegated by the President, to impose or waive sanctions on persons he determines have knowingly engaged in a significant transaction with a person that is part of, or operates for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation. Pursuant to Executive Order 13849 of September 20, 2018, "Authorizing the Implementation of Certain Sanctions Set Forth in the Countering America's Adversaries Through Sanctions Act" (the "Order"), the Secretary of the Treasury is responsible for implementing certain of the sanctions imposed set forth in Section 235 of CAATSA when those sanctions are selected for imposition by the President, Secretary of State, or the Secretary of the Treasury. The Secretary of the Treasury is responsible for

implementing the following sanctions under CAATSA: (i) Prohibiting any United States financial institution from making loans or providing credits to the sanctioned person totaling more than \$10,000,000 in any 12-month period, unless the person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities; (ii) prohibiting any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest; (iii) prohibiting any transfers of credit or payments between financial institutions, or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction

of the United States and involve any interest of the sanctioned person; (iv) blocking all property and interests in property of the sanctioned person that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, and providing that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; (v) prohibiting any United States person from investing in or purchasing significant amounts of equity or debt instruments of the sanctioned person; or (vi) imposing on the principal executive officer or officers of the sanctioned person, or on persons performing

similar functions and with similar authorities as such officer or officers, the sanctions described in (i)–(v).

The Secretary of State has imposed CAATSA sanctions on two persons. This action, published today in the **Federal Register** by the Department of State, provides the names of the persons subject to sanctions, as well as a complete list of the sanctions imposed on each person. Accordingly, the Director of OFAC, acting pursuant to delegated authority, has taken the actions described below to implement those sanctions set forth in Section 235 of CAATSA and the Order with respect to the persons listed below.

Entities

1. EQUIPMENT DEVELOPMENT DEPARTMENT (Chinese Simplified: 装备发展部) (f.k.a. GENERAL ARMAMENT DEPARTMENT), China; CAATSA Section 235
Information: EXPORT SANCTIONS Sec. 235(a)(2); alt. CAATSA Section 235
Information: FOREIGN EXCHANGE. Sec 235(a)(7); alt. CAATSA Section 235
Information: BANKING TRANSACTIONS. Sec 235(a)(8); alt. CAATSA Section 235
Information: SANCTIONS ON PRINCIPAL EXECUTIVE OFFICERS. Sec 235(a)(12); alt. CAATSA Section 235
Information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec 235(a)(9) [CAATSA - RUSSIA].

Individuals

1. LI, Shangfu (Chinese Simplified: 李尚福); DOB 01 Feb 1958 to 28 Feb 1958; POB Chengdu, Sichuan Province, China; citizen China; Gender Male; CAATSA Section 235
Information: FOREIGN EXCHANGE. Sec 235(a)(7); alt. CAATSA Section 235
Information: BANKING TRANSACTIONS. Sec 235(a)(8); alt. CAATSA Section 235
Information: EXCLUSION OF CORPORATE OFFICERS. Sec 235(a)(11); alt. CAATSA Section 235
Information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec 235(a)(9); Director of Equipment Development Department (individual) [CAATSA - RUSSIA] (Linked To: EQUIPMENT DEVELOPMENT DEPARTMENT).

The Director of OFAC has: (a) Blocked 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 United States person, including any overseas branch, and which may not be transferred, paid, exported, withdrawn, or otherwise dealt in, of Equipment Development Department and Li Shangfu; (b) prohibited any transfers of

credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involved any interest of Equipment Development Department and Li Shangfu; and (c) prohibited any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Equipment

Development Department and Li Shangfu have any interest. These persons have been added to OFAC's List of Specially Designated Nationals and Blocked Persons and include the identifying tag "CAATSA—RUSSIA."

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2018-21131 Filed 10-12-18; 8:45 am]

BILLING CODE 4810-AL-P



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Part II

Environmental Protection Agency

40 CFR Part 60

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

[EPA-HQ-OAR-2017-0483; FRL-9984-43-OAR]

RIN 2060-AT54

Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: This action proposes reconsideration amendments to the new source performance standards (NSPS) at 40 Code of Federal Regulations (CFR) part 60, subpart OOOOa (2016 NSPS OOOOa). The Environmental Protection Agency (EPA) received petitions for reconsideration on the 2016 NSPS OOOOa. In 2017, the EPA granted reconsideration on the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification of closed vent systems by a professional engineer based on specific objections to these requirements. This action proposes amendments and clarifications as a result of reconsideration of these issues. The proposed amendments also address other issues raised for reconsideration and make technical corrections and amendments to further clarify the rule.

DATES:

Comments. Comments must be received on or before December 17, 2018. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before December 17, 2018.

Public Hearing. EPA is planning to hold at least one public hearing in response to this proposed action. Information about the hearing, including location, date, and time, along with instructions on how to register to speak at the hearing, will be published in a second **Federal Register** notice.

ADDRESSES:

Comments. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2017-0483, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. (See **SUPPLEMENTARY INFORMATION** for detail about how the EPA treats submitted comments.) *Regulations.gov*

is our preferred method of receiving comments. However, other submission methods are accepted:

- *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2017-0483 in the subject line of the message.
- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2017-0483.
- *Mail:* To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2017-0483, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Karen Marsh, Sector Policies and Programs Division (E143-05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1065; fax number: (919) 541-0516; and email address: marsh.karen@epa.gov. For information about the applicability of the new source performance standard (NSPS) to a particular entity, contact Ms. Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564-7042; and email address: mia.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2017-0483. All documents in the docket are listed in *Regulations.gov*. Although listed, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public

Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2017-0483. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. This type of information should be submitted by mail as discussed in the **SUPPLEMENTARY INFORMATION** section of this preamble.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov> website allows you to submit your comments anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or

viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2017-0483.

Preamble Acronyms and Abbreviations. A number of acronyms and abbreviations are used in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined:

AMEL Alternative Means of Emission Limitation
 AVO Auditory, Visual, and Olfactory
 BOE Barrels of Oil Equivalent
 BSER Best System of Emissions Reduction
 CAA Clean Air Act
 CBI Confidential Business Information
 CFR Code of Federal Regulations
 CO₂ Eq. Carbon dioxide equivalent
 CVS Closed Vent System
 EPA Environmental Protection Agency
 FTE Full Time Equivalent
 GHG Greenhouse Gases
 GHGRP Greenhouse Gas Reporting Program
 LDAR Leak Detection and Repair
 NDE No Detectable Emissions
 NEMS National Energy Modeling System
 NSPS New Source Performance Standards
 NTTAA National Technology Transfer and Advancement Act
 OGI Optical Gas Imaging

OMB Office of Management and Budget
 PE Professional Engineer
 PRA Paperwork Reduction Act
 PRV Pressure Relief Valve
 REC Reduced Emissions Completion
 RFA Regulatory Flexibility Act
 RIA Regulatory Impact Analysis
 TSD Technical Support Document
 UMRA Unfunded Mandates Reform Act
 VOC Volatile Organic Compounds
 VRU Vapor Recovery Unit

Organization of This Document. The information presented in this preamble is presented as follows:

- I. Executive Summary
 - A. Purpose of the Regulatory Action
 - B. Summary of the Major Provisions of the Regulatory Action
 - C. Costs and Benefits
- II. General Information
 - A. Does this action apply to me?
 - B. What should I consider as I prepare my comments to the EPA?
 - C. How do I obtain a copy of this document and other related information?
- III. Background
- IV. Legal Authority
- V. The Proposed Action
- VI. Discussion of Provisions Subject to Reconsideration
 - A. Pneumatic Pumps
 - B. Fugitive Emissions From Well Sites and Compressor Stations
 - C. Professional Engineer Certifications
 - D. Alternative Means of Emission Limitation (AMEL)
 - E. Other Reconsideration Issues Being Addressed
- VII. Implementation Improvements
 - A. Reciprocating Compressors
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 - C. Definition of Certifying Official
 - D. Equipment in VOC Service Less Than 300 Hours/Year
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 - F. Technical Corrections and Clarifications
- VIII. Impacts of This Proposed Rule
 - A. What are the air impacts?
 - B. What are the energy impacts?
 - C. What are the compliance cost savings?
 - D. What are the economic and employment impacts?
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- IX. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
 - C. Paperwork Reduction Act (PRA)
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 - E. Unfunded Mandates Reform Act (UMRA)
 - F. Executive Order 13132: Federalism
 - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use
 J. National Technology Transfer and Advancement Act (NTTAA)
 K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. Executive Summary

A. Purpose of the Regulatory Action

The purpose of this action is to propose amendments to the NSPS for the oil and natural gas source category based on our reconsideration of those standards. On June 3, 2016, the EPA published a final rule titled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Final Rule," at 81 FR 35824 ("2016 NSPS OOOOa"). The 2016 NSPS OOOOa established NSPS for emissions of greenhouse gases (GHG), in the form of limitations on methane, and volatile organic compounds (VOC) from the oil and natural gas sector.¹ Following promulgation of the final rule, the Administrator received petitions for reconsideration of several provisions of the 2016 NSPS OOOOa.² The EPA granted reconsideration on three issues: (1) Fugitive emissions requirements, (2) well site pneumatic pump standards, and (3) the requirements for certification of closed vent systems by a professional engineer based on specific objections to these requirements. This action addresses those specific issues raised for reconsideration, and addresses other implementation issues and technical corrections identified after promulgation of the rule.

B. Summary of Major Provisions of the Regulatory Action

The EPA proposes amendments and clarifications related to specific issues for which reconsideration was granted: Fugitive emissions requirements, well site pneumatic pump standards, the requirements for certification of closed vent systems, and the alternative means of emissions limitations (AMEL) provisions. The EPA also proposes additional amendments to clarify and streamline implementation of the rule. These proposed clarifications include the following provisions: Well completions (location of a separator during flowback, screenouts and coil tubing cleanouts), onshore natural gas processing plants (definition of capital expenditure and monitoring), storage vessels (maximum average daily throughput), and general clarifications (certifying official and recordkeeping

¹ Docket ID No. EPA-HQ-OAR-2010-0505.

² Copies of the petitions are provided in Docket ID No. EPA-HQ-OAR-2017-0483.

and reporting). Lastly, in addition to the proposed revisions addressing reconsideration and implementation issues, the EPA is proposing technical corrections of inadvertent errors in the final rule.

Fugitive emissions requirements. The EPA is proposing several revisions to the requirements for the collection of fugitive emissions components located at well sites and the collection of fugitive emissions components located at compressor stations. First, the EPA is proposing to revise the monitoring frequencies: (1) Annual monitoring for non-low production well sites, (2) biennial (once every other year) monitoring for low production well sites, (3) co-proposing semiannual and annual monitoring for compressor stations, and (4) annual monitoring for compressor stations located on the Alaska North Slope. Additionally, the EPA is proposing that monitoring would no longer be required when all major production and processing equipment is removed from a well site such that it becomes a wellhead only well site. Consistent with the amendments promulgated on March 12, 2018,³ the EPA is proposing separate initial monitoring requirements for compressor stations located on the Alaska North Slope. These compressor stations would be required to conduct initial monitoring within 6 months or by June 30, whichever is later, for compressor stations that startup between September and March or within 60 days for compressor stations that startup between April and August.

In addition to the proposed amendments related to the monitoring frequencies, the EPA is proposing various amendments to other requirements in the fugitive emissions monitoring program. The EPA is proposing to clarify that a modification has occurred at a well site that is a separate tank battery when a well that sends production to that tank battery has been modified. Given the proposed changes to monitoring frequencies, the EPA is proposing to remove the existing low temperature waiver for compressor stations.

Several definitions related to fugitive emissions are included in this proposal. First, the EPA is proposing to add definitions for the terms “first attempt at repair” and “repaired” specific to the fugitive emissions requirements. Further, the EPA is proposing that a first attempt at repair must be completed within 30 days of identifying a component with fugitive emissions, with final repair completed within 60

days. The proposed definition of “repaired” includes a requirement to verify the fugitive emissions are repaired before the repair is completed. We are also proposing revisions to the definition of “well site” to include exclusions for third party equipment located downstream of the custody meter assembly and saltwater disposal facilities. Finally, we are proposing specific changes to the fugitive emissions monitoring plan, including alternative requirements to the site plan and observation path.

Pneumatic pumps. The EPA is proposing to expand the technical infeasibility provision to all well sites by eliminating the categorical distinction between greenfield sites and non-greenfield sites (and the categorical restriction of the technical infeasibility provision to existing sites) for the pneumatic pump requirements. The proposal would avoid the potential of requiring a greenfield site to control the pneumatic pump emissions should it be technically infeasible to do so, while having no impact on the compliance obligations of other greenfield sites that do not have this issue.

Professional Engineer (PE) certifications. The EPA is proposing to amend the certification requirements for closed vent system (CVS) design and technical infeasibility for pneumatic pumps by allowing certification by either a PE or an in-house engineer with expertise on the design and operation of the CVS or pneumatic pump.

Alternative means of emission limitation (AMEL). The 2016 NSPS OOOOa contains provisions for owners and operators to request an AMEL for specific work practice standards in the rule, covering well completions, reciprocating compressors, and the collection of fugitive emissions components located at well sites and compressor stations. An owner or operator can request an AMEL by submitting data that demonstrate the alternative will achieve at least equivalent emission reductions as the requirements in the rule, among other requirements such as initial and on-going compliance monitoring. The specific requirements for this request are outlined in 40 CFR 60.5398a. For the 2016 NSPS OOOOa, these alternatives could be based on emerging technologies (e.g., for fugitive emissions, technologies other than OGI or Method 21) or requirements under state or local programs. The EPA is proposing to amend the language in 40 CFR 60.5398a for incorporation of emerging technologies, and to add a separate section at 40 CFR 60.5399a to take into account existing state programs.

Location of a Separator During Flowback. The 2016 NSPS OOOOa requires the owner or operator to have a separator onsite during the entirety of the flowback period. The EPA is proposing to amend 40 CFR 60.5375a(a)(1)(iii) to clarify that the separator may be located at the well site or near to the well site so that it is able to commence separation flowback, as required by the rule. This proposed revision is being made to alleviate the potential interpretation that the separator must be located on the well site, which was not the intent of the rule.

Screenouts and Coil Tubing Cleanouts. Petitioners requested clarification as to whether screenouts and coil tubing cleanouts are regulated as part of flowback. Based on the EPA’s reassessment of this issue, the EPA is correcting previous guidance on this issue to acknowledge that screenouts and coil tubing cleanouts are not a part of flowback; rather, they are functional processes that allow for flowback to begin. To clarify this point, the EPA is proposing to revise the definition of flowback to expressly exclude these processes to avoid any future confusion. In addition, the EPA is proposing definitions for these processes (i.e., plug drill-outs, flowback routed through permanent separators).

Capital Expenditure. The EPA is proposing to correct the definition of “capital expenditure” promulgated at 40 CFR 60.5430a by replacing the reference to the year 2011 with the year 2015 in the formula in paragraph (2) of the definition. The promulgated definition is relevant to the equipment leaks standards for onshore natural gas processing plants that were originally promulgated in 1985 in 40 CFR part 60, subpart KKK, updated in 2012 in 40 CFR part 60, subpart OOOO, and carried over in 2016 in 40 CFR part 60, subpart OOOOa. The EPA is, therefore, amending the definition to address an inadvertent mathematical issue for affected facilities constructed in 2015 while leaving the calculation method intact for other affected facilities.

Maximum Average Daily Throughput. Pursuant to 40 CFR 60.5365a(e), owners and operators must calculate potential emissions from storage vessels in order to determine if control requirements apply. This calculation is based on the “maximum average daily throughput”. This value was intended to represent the maximum of the average daily production rates in the first 30-day period to each individual storage vessel. In order to address petitioner requests for clarification, the EPA is proposing to further clarify in this notice when and

³ 83 FR 10628.

how daily production may be averaged in determining daily throughput. The EPA is proposing to revise the definition to clarify that the maximum average daily throughput refers to the maximum average daily throughput for an individual storage vessel over the days that production is routed to that storage vessel during the 30-day evaluation period.

Certifying Official. The EPA is proposing to amend this definition to remove the reference to permits to clarify that the requirements of the NSPS are not associated with a permitting program.

Onshore Natural Gas Processing Plant Monitoring Exemption. The EPA is proposing to amend the requirements for equipment leaks at onshore natural gas processing plants. Specifically, the EPA is proposing to include an exemption from monitoring for certain equipment that an owner or operator designates as being in VOC service less than 300 hr/yr.

Recordkeeping and Reporting Requirements. The EPA is proposing to streamline certain reporting and recordkeeping requirements to reduce burden on the regulated industry. The proposed changes can be seen in section 60.5420a.

C. Costs and Benefits

The EPA has projected the cost savings, emissions changes, and forgone benefits that may result from this proposed action. The projected cost savings and forgone benefits are presented in the RIA supporting this proposal. The RIA focuses on the elements of the proposal—the provisions related to fugitive emissions requirements and certification by a professional engineer—that are likely to result in quantifiable cost or emissions changes compared to a baseline that includes the 2016 NSPS OOOOa requirements.

The effects of this proposed regulation are estimated for all sources that are projected to change compliance

activities under this proposed rule for the analysis years 2019 through 2025. The RIA also presents the present value (PV) and equivalent annualized value (EAV) of costs, benefits and net benefits of the proposed action in 2016 dollars. Cost savings include the forgone value associated with the decrease in natural gas recovery as a result of this proposed action.

A summary of the key results of the co-proposed option under semiannual monitoring at compressor stations presented as shown in the RIA can be found in Table 1. Table 1 presents the PV and EAV, estimated using discount rates of 7 and 3 percent, of the changes in benefits, costs, and net benefits, as well as the change in emissions under the co-proposed option. In the following tables, the EPA refers to the cost savings as the “benefits” of this proposed action and the forgone benefits as the “costs” of this proposed action. The net benefits are the benefits (cost savings) minus the costs (forgone benefits).⁴

TABLE 1—COST SAVINGS, FORGONE BENEFITS AND INCREASE IN EMISSIONS OF THE CO-PROPOSED OPTION 3 (SEMIANNUAL MONITORING) COMPARED TO THE 2018 BASELINE, 2019 THROUGH 2025
[Millions 2016\$]

	7%		3%	
	Present value	Equivalent annualized value	Present value	Equivalent annualized value
Benefits (Total Cost Savings)	\$380	\$66	\$484	\$75
<i>Cost Savings</i>	429	74	546	85
<i>Forgone Value of Product Recovery</i>	48	8.4	62	9.6
Costs (Forgone Domestic Climate Benefits) ¹	13.5	2.3	54	8.3
Net Benefits ²	367	64	431	67
Emissions	Total Change			
Methane (short tons)	380,000			
VOC	100,000			
HAP	3,800			
Methane (million metric tons CO ₂ E)	8.5			

¹ The forgone benefits estimates are calculated using estimates of the social cost of methane (SC-CH₄). SC-CH₄ values represent only a partial accounting of domestic climate impacts from methane emissions. See section 3.3 of the RIA for more discussion.
² Estimates may not sum due to independent rounding.

The estimated costs (forgone benefits) include the monetized climate effects of the projected increase in methane emissions under the proposal. The EPA also expects there will be increases in VOC and HAP emissions under the proposal. While the EPA expects that the forgone VOC emission reductions may also degrade air quality and adversely affect health and welfare effects associated with exposure to ozone, PM_{2.5}, and HAP, data limitations

prevent the EPA from quantifying forgone VOC-related health benefits.

Compared to the estimated cost savings of the co-proposed option under semiannual fugitive emissions monitoring at compressor stations, the co-proposed option assuming annual monitoring results in greater cost savings, as well as greater total emissions. Assuming a 7 percent discount rate, and including the forgone value of product recovery, the present value of the total cost savings from 2019

through 2025 are about \$43 million greater under the co-proposed option assuming annual monitoring than under the co-proposed option assuming semiannual monitoring. This is associated with an increase in the equivalent annualized value of total cost savings of about \$7.5 million per year in comparison to the co-proposed option under semiannual monitoring.

Decreasing fugitive emissions monitoring frequency at compressor stations from semiannual to annual also

⁴ For information on the cost savings and forgone emission reductions associated with the co-

proposed option assuming annual fugitives

monitoring at compressor stations, see section 2 of the RIA.

results in a greater increase in total emissions. Over 2019 through 2025, the increase in fugitive emissions under the co-proposed option assuming annual monitoring are about 100,000 short tons greater for methane, 24,000 tons greater for VOC, and 890 tons greater for HAP

than those under the co-proposed option assuming semiannual fugitive emissions monitoring. A summary of the cost savings and forgone emission reductions associated with the co-proposed option of annual fugitive emissions monitoring at compressor

stations is located in section 2.5.2 of the RIA.

II. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

TABLE 2—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Category	NAICS code ¹	Examples of regulated entities
Industry	211120 211130 221210 486110 486210	Crude Petroleum Extraction. Natural Gas Extraction. Natural Gas Distribution. Pipeline Distribution of Crude Oil. Pipeline Transportation of Natural Gas.
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in the final rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section, your air permitting authority, or your EPA Regional representative listed in 40 CFR 60.4 (General Provisions).

B. What should I consider as I prepare my comments to the EPA?

We seek comment only on the aspects of the proposed NSPS for the oil and natural gas sector specifically identified in this notice. We are not opening for reconsideration any other provisions of the NSPS at this time.

Do not submit information containing CBI to the EPA through <https://www.regulations.gov> or email. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID Number EPA–HQ–OAR–2017–0483. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific

information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. How do I obtain a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of the proposed action is available on the internet. Following signature by the Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry>. Additional information is also available at the same website.

III. Background

On June 3, 2016, the EPA published a final rule titled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Final Rule,” at 81 FR 35824 (“2016 NSPS OOOOa”). The 2016 NSPS OOOOa established NSPS for greenhouse gas and volatile organic compound (VOC) emissions from the oil and natural gas sector. For further information on the 2016 NSPS OOOOa, see 81 FR 35824 (June 3, 2016) and associated Docket ID No. EPA–HQ–OAR–2010–0505. Following promulgation of the final rule, the Administrator received petitions for reconsideration of several provisions of the 2016 NSPS OOOOa. Copies of the petitions are provided in rulemaking docket EPA–HQ–OAR–2017–0483. A number of states and industry

associations sought judicial review of the rule, and the litigation is currently being held in abeyance.

In a letter to petitioners dated April 18, 2017, the EPA granted reconsideration of the fugitive emissions requirements at well sites and compressor stations.⁵ In a subsequent notice, the EPA granted reconsideration of two additional issues: Well site pneumatic pump standards and the requirements for certification of closed vent systems (CVS) by a professional engineer.⁶ This action proposes amendments and clarifications to address these issues, and grants reconsideration and proposes amendments to address several additional reconsideration issues, detailed in Section VII below. In addition, since the publication of the 2016 NSPS OOOOa, the EPA has received numerous questions relative to the implementation of the 2016 NSPS OOOOa requirements. This action also addresses these broad implementation issues that have been brought to the EPA’s attention. The EPA is addressing these issues at the same time to provide clarity and certainty for the public and the regulated community with regard to these requirements.

IV. Legal Authority

This action, which proposes certain amendments to the 2016 NSPS OOOOa, is based on the same legal authorities as those for the promulgation of that rule. The EPA promulgated the 2016 NSPS OOOOa pursuant to its standard setting authority under section 111(b)(1)(B) of the Clean Air Act (CAA) and in accordance with the rulemaking

⁵ See Docket ID No. EPA–HQ–OAR–2010–0505–7730.

⁶ 82 FR 25730.

procedures in section 307(d) of the CAA. Section 111(b)(1)(B) requires the EPA to issue “standards of performance” for new sources in a category listed by the Administrator based on a finding that this category of stationary sources causes or contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. CAA Section 111(a)(1) defines “a standard of performance” as “a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirement) the Administrator determines has been adequately demonstrated.” This definition makes clear that the standard of performance must be based on controls that constitute “the best system of emission reduction . . . adequately demonstrated.” The standard that the EPA develops, based on the best system of emission reduction (BSER), is commonly a numerical emissions limit, expressed as a performance level (e.g., a rate-based standard). However, CAA section 111(h)(1) authorizes the Administrator to promulgate a work practice standard or other requirements, which reflects the best technological system of continuous emission reduction, if it is not feasible to prescribe or enforce an emissions standard. This action includes proposed amendments to the fugitive emissions standards for well sites and compressor stations, which are work practice standards promulgated pursuant to CAA section 111(h)(1)(A). 81 FR 35829.

The proposed amendments in this notice result from the EPA’s reconsideration of various aspects of the 2016 NSPS OOOOa. Agencies have inherent authority to reconsider past decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by a reasoned explanation. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (“*State Farm*”). “The power to decide in the first instance carries with it the power to reconsider.” *Trujillo v. Gen. Elec. Co.*, 621 F.2d 1084, 1086 (10th Cir. 1980); see also, *United Gas Improvement Co. v. Callery Properties, Inc.*, 382 U.S. 223, 229 (1965); *Mazaleski v. Treusdell*, 562 F.2d 701, 720 (D.C. Cir. 1977).

V. The Proposed Action

In this action, we are proposing amendments and clarifications on the following set of issues as a result of reconsideration: (1) Pneumatic pump requirements; (2) fugitive emissions requirements at well sites and compressor stations; (3) professional engineering certification for CVS design and pneumatic pump technical infeasibility; and (4) alternative means of emissions limitations. In addition, we are proposing amendments to a number of other aspects of 2016 NSPS OOOOa, including well completion requirements and requirements at onshore natural gas processing plants. This action also addresses broad implementation issues that have been brought to the EPA’s attention. Finally, we are proposing to correct technical errors that were inadvertently included in the final rule.

This document is limited to the specific issues identified in this notice. We will not respond to any comments addressing any other provisions of the 2016 NSPS OOOOa.

VI. Discussion of Provisions Subject to Reconsideration

As summarized above, the EPA is proposing to address a number of issues that have been raised by different stakeholders through several administrative petitions for reconsideration of the 2016 NSPS OOOOa. The following sections present the issues raised by the petitioners that the EPA is addressing in this action and how the EPA proposes to resolve the issues.

A. Pneumatic Pumps

The 2016 NSPS OOOOa includes a technical infeasibility provision from the well site pneumatic pump requirements for circumstances such as insufficient pressure or control device capacity. 81 FR 35850. This provision was categorically unavailable for pneumatic pumps at greenfield sites (defined as a site, other than a natural gas processing plant, which is entirely new construction). *Id.* Petitioners stated that the term greenfield site was inadequately defined. For example, one petitioner questioned whether the term “new” as used in this definition is synonymous to how that term is defined in section 111 of the CAA. Additional questions included whether a greenfield remains forever a greenfield, considering that site designs may change by the time that a new control or pump is installed (which may be years later). Petitioners also objected to the EPA’s assumption that the technical infeasibility encountered at existing

well sites can be addressed when “new” sites are developed.

We previously concluded that circumstances, such as insufficient pressure or control device capacity, that could otherwise make control of a pneumatic pump technically infeasible at an existing location could be addressed in the design and construction of a new site and therefore new sites were categorically ineligible for the technical feasibility provision. 81 FR 35850. However, petitioners have raised the concern that even at a greenfield site, there may be unique process or control design requirements that may not be compatible with controlling pneumatic pump emissions. Petitioners contend that such circumstances include the following:

- A new site design may require only a high-pressure flare to control emergency and maintenance blowdowns, and it is not feasible for a low pressure pneumatic pump discharge to be routed to such a flare; and

- A new site design may require only a small boiler or process heater, but such boiler or process heater could be insufficient to control pneumatic pumps emissions and routing pneumatic pump emissions to the boiler or process heater could result in safety trips and burner flame instability.

The EPA solicits comment on whether the scenarios described above present circumstances where control of a pneumatic pump may be technically infeasible despite the site being newly designed and constructed, as well as other examples of technical infeasibility for a greenfield site. While the additional cost in the design and construction of a new site for selecting a control device that can control additional pneumatic pump emissions (e.g., selecting a flare or slightly larger boiler that can accommodate such flows) in many cases will not be high, the scenarios raised in petitions for reconsideration suggest that there might be cases of technical infeasibility at a greenfield site despite design and construction choices. We are therefore proposing to expand the technical infeasibility provision to all well sites by eliminating the categorical distinction between greenfield sites and non-greenfield sites (and the categorical restriction of the technical infeasibility provision to existing sites) for the pneumatic pump requirements. The proposal would avoid the potential of requiring a greenfield site to control the pneumatic pump emissions should it be technically infeasible to do so, while having no impact on the compliance obligations of other greenfield sites that

do not have this issue. We solicit comment on this proposal. In addition, we solicit comment on site and control configurations that could present technical infeasibility scenarios at a new construction site. We also solicit comment on cost information related to the additional costs related to selecting a control that can accommodate pneumatic pump emissions in addition to the control's primary purpose at a new construction site.

B. Fugitive Emissions From Well Sites and Compressor Stations

1. Monitoring Frequency

Monitoring Frequency for Well Sites. The 2016 NSPS OOOOa requires initial monitoring within 60 days of the startup of production and subsequent semiannual monitoring of the collection of fugitive emissions components located at all well sites. We received petitions requesting changes to several aspects of fugitive monitoring frequencies to provide: (1) A pathway to less frequent monitoring, (2) an exemption for low production well sites, and (3) an exemption for well sites located on the Alaskan North Slope. As discussed in detail in the following subsections, the EPA is proposing the following amendments to the fugitive emissions monitoring frequency for the collection of fugitive emissions components located at well sites:

- Annual monitoring would be required at well sites with average combined oil and natural gas production for the wells at the site greater than or equal to 15 barrels of oil equivalent (boe) per day averaged over the first 30 days of production (“non-low production well sites”);
- Biennial monitoring (once every other year) would be required for well sites with average combined oil and natural gas production for the wells at the site less than 15 boe per day averaged over the first 30 days of production (“low production well sites”); and
- Monitoring may be stopped once all major production and processing equipment is removed from a well site such that it contains only one or more wellheads.

Non-low Production Well Sites. The 2016 NSPS OOOOa requires initial and semiannual fugitive emissions monitoring using optical gas imaging (OGI) for the collection of fugitive emissions components located at well sites. In the 2016 NSPS OOOOa preamble, the EPA stated that “both semiannual and annual monitoring remain cost-effective for reducing GHG (in the form of methane) and VOC

emissions.” 81 FR 35855. Several petitioners requested that the EPA reconsider the frequency of monitoring,⁷ with one petitioner asserting that the EPA’s cost-effectiveness analysis is not accurate and should be revised.⁸ In response, the EPA has reviewed the data provided by the petitioner, as well as other data that have become available since promulgation of the 2016 NSPS OOOOa. Based on this review, we have updated our model plant analysis. Although under the updated analysis, semiannual monitoring may appear to be cost-effective, we have identified several areas of our analysis that indicate we may have overestimated the emission reductions and, therefore, the cost effectiveness, due to gaps in available data and factors that may bias the analysis towards overestimation of reductions. Therefore, the semiannual monitoring may not be as cost-effective as presented, and the EPA is proposing to revise the monitoring frequency to require annual fugitive emissions monitoring at non-low production well sites. Provided below is a detailed discussion of (1) how we revised the model plant analysis based on our review of the data; and (2) areas of our analysis that indicate we may have overestimated the emission reductions and in turn the cost effectiveness of the monitoring frequencies analyzed.

First, the EPA reviewed the available information and determined several updates were necessary to the non-low production well site model plants. As described in the TSD, the EPA evaluated the cost-effectiveness of the fugitive emissions monitoring program using model plants that represent average equipment and fugitive emissions component counts per well site.⁹ We updated the model plants based on updates in the Greenhouse Gas Inventory (GHGI) program for major equipment counts at well sites. Specifically, the number of meters/piping decreased from 3 to 2 for the gas well site and oil with associated gas well site model plants. No changes were made to the oil well site model plant as a result of updates in the GHGI. The petitioner provided information that included counts for major production and processing equipment located at well sites.¹⁰ For example, the data

included the count of separators per well site and demonstrated that, on average, there are 3 separators per natural gas well site and oil well site. In comparison, the EPA model plants include 2 separators per natural gas well site and 1 separator per oil well site. While similar differences were observed for other types of major production and processing equipment, we maintained the estimates derived from the GHGI because the data included in the GHGI is the most up-to-date information available and the petitioner was not able to provide information on when the fugitive emissions monitoring occurred at the well sites presented in their data set.

In addition to updates made based on updates to the GHGI, we also added one controlled storage vessel per model plant and an emissions factor for pressure relief devices (PRDs), such as thief hatches and pressure relief valves (PRVs) from these controlled storage vessels because controlled storage vessels that are not affected facilities subject to the requirements in 40 CFR 60.5395a are considered fugitive emissions components. In evaluating the quantity of fugitive emissions from storage vessels, we considered data indicating that the frequency of fugitive emissions from controlled storage vessels may be much higher than that for other fugitive emissions components.¹¹ For purposes of the model plant, we are adding one controlled storage vessel with one PRD. We recognize that many well sites may have more controlled storage vessels, suggesting that we should add more than one controlled storage vessel to the model plant, while other well sites may not have any controlled storage vessels that are subject to fugitive emissions monitoring. The data provided by the petitioner¹² did not include the number of storage vessels at natural gas well sites, but included an estimated average of 7 storage vessels per oil well site. However, the data was not provided in a form sufficient to indicate whether these storage vessels are controlled or subject to fugitive emissions monitoring. Therefore, we did not incorporate any information from the petitioner related to storage vessel counts at well sites. We are soliciting comment on our assumption of one controlled storage vessel per well site subject to fugitive emissions requirements and data to further refine the model plant with

⁷ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

⁸ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

⁹ See TSD for additional information.

¹⁰ See memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 17, 2018.

¹¹ See the TSD for additional information on the fugitive emissions from storage vessels.

¹² See memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 17, 2018.

regards to controlled storage vessel fugitive emissions.

The emissions factor used for PRDs on controlled storage vessels was derived from a study that conducted aerial surveys for emissions at oil and gas production sites located in seven basins across the United States.¹³ We did not update the average emissions factors for other fugitive emissions components based on information in this study because the study stated that emissions from individual components, such as valves, could not be identified during the surveys. In this study, helicopter-based OGI monitoring was performed at 8,220 well sites. A total of 494 fugitive emission sources were identified at 327 sites, averaging approximately 1.5 fugitive sources per site. Fugitive emissions¹⁴ from storage vessels accounted for 92 percent of the total fugitive sources, with 198 fugitive sources associated with storage vessel PRVs and 257 fugitive sources associated with thief hatches, though it was unclear from the study if all of these storage vessels were equipped with a CVS that routes emissions to a control device. The estimated detection limit for the OGI instrument observed by this study was 1 gram per second (g/s) for heavier hydrocarbons and 3 g/s for methane.¹⁵ Based on this information, we used the 1 g/s estimated emission rate in combination with the frequency of storage vessel emissions identified in the study to estimate emissions from thief hatches for purposes of the model plants. However, we acknowledge that the emissions are likely underestimated when using this information because small or medium sized emissions would not be visible during an aerial OGI survey. Additional information about the model plants and analysis is included in the Background Technical Support Document (TSD) located at Docket ID No. EPA-HQ-OAR-2017-0483.

Baseline emissions (uncontrolled) for the other fugitive emissions components were estimated using average emissions factors for oil and gas production operations, found in Table 2-4 of the *Protocol for Equipment Leak Emission*

Estimates (1995 Protocol).¹⁶ These average emissions factors are used when screening data are not available, as is the case when OGI is used as the monitoring instrument,¹⁷ and provide an average emission rate for the collection of fugitive emissions components at the site. For example, the average emissions factors can be used to estimate emissions from the collection of all valves at the site, instead of needing to estimate emissions from each individual valve and averaging the emissions across the collection of valves. The petitioner presented updated emissions factors for these fugitive emissions components.¹⁸ The petitioner attempted to create new average emissions factors by using the newly presented 0.4 percent for identified fugitive emissions and scaling the average emissions factors documented in the 1995 Protocol. However, in creating these new average emissions factors, the petitioner used correlation equations in the 1995 Protocol. These correlation equations were derived from leak studies using Method 21 of Appendix A-7 to Part 60 ("Method 21") and are based on specific leak definitions when using Method 21. The correlation equations do not apply to monitoring using OGI, as it is not possible to correlate OGI detection capabilities with a Method 21 instrument reading provided in parts per million (ppm). Correlation equations for OGI do not currently exist and would be difficult to develop because OGI either sees fugitive emissions or it does not; there is no emissions scale as there is with Method 21. As such, at best, only average factors for visualized emissions and no visualized emissions would be possible (similar to the "leak" and "no leak" factors in the 1995 Protocol specific to Method 21). In order to develop such factors, an extensive dataset of OGI data and bagging studies, similar to the studies used to develop the factors presented in the 1995 Protocol would be needed. Therefore, the approach of scaling emissions factors as presented by the petitioner for the non-storage vessel PRD fugitive emissions components does not

adequately address the differences in emissions correlations when using Method 21 and OGI, and therefore we have not evaluated the cost of control using the scaled factors presented by the petitioner. Additional information on our evaluation of the scaled emissions factors is included in the memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API*, located at Docket ID No. EPA-HQ-OAR-2017-0483. Thus, we continue to use the average emissions factors in the 1995 Protocol to calculate emissions in the model plants for the fugitive emissions components, excluding controlled storage vessel PRDs. We are soliciting comment on the use of the average emissions factors and additional information or alternative methodologies that should be considered to refine our estimates of fugitive emissions.

While updating the model plants, the EPA identified three areas of the analysis that raise concerns regarding the emissions reductions: (1) The percent emission reduction achieved by OGI, (2) the occurrence rate of fugitive emissions at different monitoring frequencies, and (3) the initial percentage of fugitive emissions components identified with fugitive emissions. As described in detail below, the EPA acknowledges that emission reductions may have been overestimated, even in our updated model plants.

First, several stakeholders have raised concerns regarding the percent emission reductions (*i.e.*, control effectiveness) of OGI monitoring at the various monitoring frequencies. In the analysis described in the TSD, the EPA estimates emission reductions of 30 percent for biennial monitoring, 40 percent for annual monitoring, 45 percent for stepped monitoring, 60 percent for semiannual monitoring, and 80 percent for quarterly monitoring.¹⁹ The estimates for annual, semiannual, and quarterly monitoring frequencies are the same as those during used for the 2016 NSPS OOOOa. Stakeholders have raised specific concerns regarding the control effectiveness values for semiannual and quarterly monitoring. One stakeholder asserts that the "EPA's leak emission reduction estimates are based on a LDAR control efficiency model with high uncertainty and biased by flawed and unrepresentative data and assumptions."²⁰ Specific concerns

¹³ Lyon, David R., et al., *Aerial Surveys of Elevated Hydrocarbon Emissions from Oil and Gas Production Sites*. Environmental Science and Technology 2016, 50, 4877-4886.

¹⁴ It was difficult for the Lyon, David R., et al., study to attribute emissions from storage vessels to specific malfunctions or normal operations. The study predicted liquid unloading events and stuck open separator dump valves would contribute less than 0.1% of the emissions detected for each event. The other 99.8% of the storage vessel emissions were not characterized by the study. See *Id.* at pages 4882-4883.

¹⁵ *Id.*

¹⁶ U.S. Environmental Protection Agency, Protocol for Equipment Leak Emission Estimates. Table 2-4. November 1995 (EPA-453/R-95-017).

¹⁷ OGI instruments that are currently widely available provide a qualitative indication of emissions and do not provide an indication of the concentration levels of fugitive emissions. However, we recognize that quantitative OGI is a new technological development that may allow estimations of mass emission rates in the future.

¹⁸ See memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 17, 2018.

¹⁹ See TSD for additional information related to OGI control effectiveness.

²⁰ See "Methane Emissions from Natural Gas Transmission and Storage Facilities: Review of

raised by this stakeholder include the comparison of OGI control effectiveness to Method 21 control effectiveness. The stakeholder noted that the EPA based the Method 21 control effectiveness evaluation on information from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) which the stakeholder suggests overestimates fugitive emissions because this data is not representative of the oil and natural gas sector. We are soliciting comment and information that would support a revision of the evaluation of the Method 21 alternative that is more representative of the oil and natural gas industry.

This stakeholder also raised concerns that the estimated control efficiency of 80 percent for quarterly monitoring is too low, suggesting 90 percent would be more appropriate for quarterly monitoring and 80 percent for annual monitoring.²¹ The stakeholder references a report by the Canadian Association of Petroleum Producers (CAPP) that estimated a net-weighted decrease of component-specific emissions factors following the implementation of best management practices, also published by CAPP.^{22 23} The EPA has reviewed this report from CAPP and the associated best management practices to determine if updates to our estimated control efficiencies for OGI are appropriate. In our analysis²⁴ of the information presented by CAPP, we are unable to conclude that annual monitoring with OGI will achieve 80 percent emission reductions because there is no information regarding the type of detection method used or repair requirement related to the facilities that provided data for the CAPP emissions factor update study. The related Best Management Practices document provides some information about the recommended frequency of

monitoring;²⁵ however, the information provided for the CAPP study does not specify what monitoring frequencies were implemented at the facilities. Therefore, the TSD continues to use 80 percent as the best estimated control effectiveness for quarterly monitoring.²⁶ While the EPA's estimated emission reductions are based on the best currently available information, there are considerable uncertainties associated with that information and the consequent reductions, and the EPA is aware there may be studies that may provide additional analysis on the effectiveness of OGI monitoring that can further refine our estimates. The EPA is requesting information on any analyses performed on the emission reductions achieved with OGI monitoring at different monitoring frequencies and the data underlying these analyses, including information on how the data was gathered, what the data represents, and how the analysis was performed.

Second, because the model plants assume that the percentage of components found with fugitive emissions is the same regardless of the monitoring frequency, we acknowledge that we may have overestimated the total number of fugitive emissions components identified during each of the more frequent monitoring cycles. The percentage of components found with fugitive emissions is similar to the occurrence rate (*i.e.*, the percentage of components not "leaking" that start to "leak" between monitoring cycles) of leak detection and repair (LDAR) programs. Appendix G of the 1995 Protocol describes how to calculate the occurrence rate.²⁷ When we have evaluated the use of Method 21 as an alternative for OGI in the fugitive emissions requirements of the 2016 NSPS OOOOa, we assumed occurrence rates that decrease with increasing monitoring frequencies, consistent with the 1995 Protocol. However, when evaluating the use of OGI, we assumed a constant percent of fugitive emissions components will be identified with fugitive emissions at each monitoring event, regardless of the number of monitoring events each year, which is counter to the 1995 Protocol and our evaluation of the Method 21 alternative. That is, the model plant analysis assumes that the same number of

components will be identified with fugitive emissions during each monitoring event, regardless of how frequently monitoring occurs. Specifically, we currently assume that 4 components will have fugitive emissions during a single annual period if monitored annually, while 8 components will have fugitive emissions during a single annual period if monitored semiannually. While there is uncertainty regarding the number of components identified with fugitive emissions, as described below, the use of a single percentage for all monitoring frequencies may overestimate the number of fugitive emissions identified during more frequent monitoring events, such as semiannual monitoring. We are soliciting information to evaluate how the percentage of fugitive emissions identified changes with frequency to revise the model plant analysis.

Finally, in addition to the uncertainty described above regarding the percentage of fugitive emissions at the various monitoring frequencies, there is concern regarding the value that the EPA uses as an initial percentage in the model plant analysis. In the analysis for the 2016 NSPS OOOOa, we assumed a value of 1.18 percent based on information used in previous rulemakings for the SOCMI.²⁸ One petitioner provided data to demonstrate lower percentages of fugitive emissions than used in our analysis. One data set included information from well sites in Colorado and the Barnett Shale region of Texas.²⁹ This information included the number of components with fugitive emissions by component type, an estimate of the total number of each component type, and an estimated percentage of fugitive emissions components identified with fugitive emissions using both OGI and Method 21. Subsequent to the submission of their petition, this petitioner also provided additional data on the initial

Available Data on Leak Emission Estimates and Mitigation Using Leak Detection and Repair," prepared for INGAA by Innovative Environmental Solutions, Inc., June 8, 2018, located at Docket ID No. EPA-HQ-OAR-2017-0473.

²¹ See memorandum *EPA Analysis of Fugitive Emissions Data Provided by INGAA* located at Docket ID No. EPA-HQ-OAR-2017-0483. August 21, 2018.

²² See "Update of Fugitive Equipment Leak Emission Factors", prepared for Canadian Association of Petroleum Producers by Clearstone Engineering, Ltd., February 2014, located at Docket ID No. EPA-HQ-OAR-2017-0483.

²³ Canadian Association of Petroleum Producers, "Best Management Practice. Management of Fugitive Emissions at Upstream Oil and Gas Facilities", January 2007.

²⁴ See memorandum *EPA Analysis of Fugitive Emissions Data Provided by INGAA* located at Docket ID No. EPA-HQ-OAR-2017-0483. August 21, 2018.

²⁵ Canadian Association of Petroleum Producers, "Best Management Practice. Management of Fugitive Emissions at Upstream Oil and Gas Facilities", January 2007.

²⁶ See TSD for more information related to OGI control effectiveness.

²⁷ U.S. Environmental Protection Agency, Protocol for Equipment Leak Emission Estimates. Appendix G. November 1995 (EPA-453/R-95-017).

²⁸ The assumption of 1.18% leak rate for OGI monitoring was obtained from Table 5 of the Uniform Standards memorandum. The 1.18% value is the baseline leak frequency for valves in gas/vapor service. None of the other baseline frequencies in this table were used because the equipment is in liquid service (*e.g.*, pumps LL, valve LL, agitators LL). There is no information on the number of leaks located at uncontrolled facilities, only average percentages of the total number of components at a facility. Therefore, our methodology was to use the 1.18% leak frequency value from the Uniform Standards memorandum and apply that value to the total number of components at the oil and natural gas model plant. (Uniform Standards Memorandum to Jodi Howard, EPA/OAQPS from Cindy Hancy, RTI International, Analysis of Emission Reduction Techniques for Equipment Leaks, December 21, 2011. EPA-HQ-OAR-2002-0037-0180).

²⁹ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

fugitive emissions percentages for well sites located in 14 states.³⁰ While the letter from the petitioner stated that on average 0.4 percent of fugitive emissions components were identified with fugitive emissions, this percentage was based on the aggregation of fugitive emissions by dividing the total number of fugitive emissions components identified with fugitive emissions by the total estimated number of fugitive emissions components monitored within the entire dataset; therefore, the 0.4 percent does not represent the average percentage of fugitive emissions components found with fugitive emissions at individual well sites, which is the information needed to evaluate fugitive emissions requirements at an individual well site. The EPA, therefore, has evaluated the data provided to determine the average percentage of fugitive emissions components identified with fugitive emissions at the individual well site level, consistent with our model plant approach and the standards for fugitive emissions in the 2016 NSPS OOOOa. Based on the EPA's analysis of the petitioner's data, the data result in an average percentage of 0.54 percent or an average of 2 components per well site with fugitive emissions during the initial monitoring survey.³¹ This contrasts with the EPA's estimate of 4 components per well site with fugitive emissions during the initial monitoring survey, or 1.18 percent, used in the 2016 NSPS OOOOa. Additional information on our evaluation of this data is included in the memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API*, located at Docket ID No. EPA-HQ-OAR-2017-0483. Based on this information, we are concerned that 1.18 percent is too high and not representative of the oil and gas sector. However, as discussed in the memorandum, the EPA has insufficient information, based on what was provided by the petitioner, to determine if the information is representative of fugitive emissions monitoring consistent with the requirements of the 2016 NSPS OOOOa. Therefore, we have not incorporated a change in the percentage value used in the model plant analysis and are soliciting more information as described later in this subsection.

³⁰ Alaska, Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, Utah, West Virginia, and Wyoming.

³¹ See memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 17, 2018.

In summary, although the EPA has incorporated several updates into the model plant analysis, the three areas described above cause concern that our analysis may still overestimate emission reductions. Based on the model plant analysis, we estimated the cost of control for each of the monitoring frequencies to determine how the changes to the model plants would affect the determination of cost-effectiveness presented in the 2016 NSPS OOOOa, noting that the revised analysis, notwithstanding its incorporation of additional information, does not address the three areas of concern described above. We applied the two approaches used in the 2016 NSPS OOOOa (single and multipollutant approaches)³² for evaluating cost-effectiveness of the semiannual and annual monitoring frequencies for the fugitive emissions program for reducing both methane and VOC emissions from non-low production well sites.³³ For purposes of this reconsideration, we examined the emission reductions and costs for the fugitive emissions monitoring requirements at non-low production well sites at semiannual, annual, and stepped (semiannual for 2 years followed by annual monitoring thereafter) monitoring frequencies. This stepped monitoring frequency was based on a suggestion from one petitioner that, at a minimum, the EPA should require semiannual monitoring at well sites for an initial period of 2 years followed by less frequent monitoring frequencies such as annual monitoring for sites that do not have a significant number of "leaking"³⁴

³² See 81 FR 56616. Under the single pollutant approach, we assign all costs to the reduction of one pollutant and zero costs for all other pollutants simultaneously reduced. Under the multipollutant approach, we allocate the annualized costs across the pollutant reductions addressed by the control option in proportion to the relative percentage reduction of each pollutant controlled. For purposes of the multipollutant approach, we assume that emissions of methane and VOC are equally controlled, therefore half of the cost is apportioned to the methane emission reductions and half of the cost is apportioned to the VOC emission reductions. In this evaluation, we examined both approaches across the range of identified monitoring frequencies: Semiannual, annual, and semiannual for 2 years followed by annual.

³³ The TSD also include an analysis of the cost of control for the stepped monitoring frequency; however, we are not considering this for proposal in this action because we do not currently have information to understand how fugitive emission percentage change over time or how long it takes to achieve the steady state percentage at non-low production well sites.

³⁴ While the petitioner used the term leaking, EPA is clarifying they were referring to fugitive emissions, and not equipment leaks such as those subject to a leak detection and repair (LDAR) program at onshore natural gas processing plants.

components.³⁵ While we have not established what would constitute an insignificant number of leaking components and the period of time before that number is reached, we have historically recognized that initial percentages of leaks are generally higher than subsequent leak percentages for the non-storage vessel PRD fugitive emissions components.³⁶ As a fugitive emissions program is implemented, leak percentages decline until they reach a "steady state." As illustrated in Figure 5-35 of the 1995 Protocol,³⁷ the highest leak percentage is identified during the first monitoring event. The leak percentage then declines over time and reaches a point of steady state where the leak percentage is lower than that identified in the first monitoring event. We therefore evaluated a stepped approach, using 2 years as the initial period (as suggested by the petitioner) before reaching the steady state. Additional information regarding the cost of control and emission reductions is available in section 2.5 of the TSD located at Docket ID No. EPA-HQ-OAR-2017-0483.

These costs of control for both the semiannual and annual monitoring frequencies may appear to be reasonable for non-low production well sites. However, as explained above regarding the three areas of concern, we acknowledge that our updated analysis may overestimate the emission reductions achieved under semiannual monitoring and the number of fugitive emissions components identified during semiannual monitoring. Therefore, we are unable to conclude that semiannual monitoring is cost effective. While we have also overestimated the cost effectiveness of the stepped approach and annual monitoring for the same reasons discussed above, the overestimate would be less compared to that for semiannual monitoring. As mentioned earlier, petitioners have requested that we consider annual monitoring, which suggests that they are able to bear such costs. In light of all these considerations, we are therefore proposing to revise the monitoring frequency for the collection of fugitive emissions components located at non-low production well sites from

³⁵ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

³⁶ See *Final Impacts Analysis for Regulatory Options for Equipment Leaks of VOC in the SOCMI*, located at Docket ID. EPA-HQ-OAR-2006-0699-0090 at p. 8.

³⁷ U.S. Environmental Protection Agency, Protocol for Equipment Leak Emission Estimates. Section 5.3 and Figure 5-35. November 1995 (EPA-453/R-95-017).

semiannual monitoring to annual monitoring.

We are soliciting comment on the proposed annual monitoring for non-low production well sites and additional information to address the uncertainties described previously. There are several well sites that have incorporated fugitive monitoring programs prior to the 2016 NSPS OOOOa for various purposes, including compliance with state or local requirements. Data from these programs could provide the information necessary to refine our model plant analysis. We are soliciting data regarding the percentage of fugitive emissions components identified with fugitive emissions at these well sites for each survey performed to understand how this percentage may change over time or based on monitoring frequency; the data should include information on when the well site began producing, the start date of the fugitive program at the well site, the frequency of monitoring, an indication of the location of the well site (*e.g.*, basin name or state), and how the surveys are performed, including the monitoring instrument used and the regulatory program followed. We are also soliciting comment and supporting data on the stepped monitoring frequency for non-low production well sites, including information to determine the appropriate period for more frequent monitoring prior to stepping down to less frequent monitoring. We further solicit comment whether, should we still lack information of the type solicited in this paragraph, the existing uncertainties and absences of information described in this notice support the monitoring frequencies proposed in this notice, the monitoring frequencies in the 2016 NSPS OOOOa, or some other result.

The EPA is soliciting information that can be used to evaluate if additional changes are necessary to the model plants. Specifically, the EPA requests information that has been collected from implementing fugitive monitoring programs, including information on leak concentrations where Method 21 has been used for monitoring. This information could also demonstrate the actual equipment counts or fugitive emissions component counts at the well site, in relation to the number of fugitive emissions identified during each monitoring survey.

Further, we are proposing that fugitive monitoring may stop when an owner or operator removes all major production and processing equipment from the well site, such that it contains only one or more wellheads. The 2016 NSPS OOOOa excludes well sites that

contain only one or more wellheads from the fugitive emissions requirements because fugitive emissions at such well sites are extremely low. 80 FR 56611. In the preamble to the 2015 NSPS OOOOa proposal, we noted that wellhead only well sites do not have ancillary equipment (such as storage vessels, closed vent systems, control devices, compressors, separators, and pneumatic controllers), thus resulting in low emissions. For the same reason, we anticipate that, when a well site becomes a wellhead only well site due to the removal of all ancillary equipment, its fugitive emissions would also be extremely low because the number of fugitive emissions components is low. This proposal uses the term “major production and processing equipment” to refer to ancillary equipment without which the fugitive emissions would be extremely low. We are, therefore, proposing to define “major production and processing equipment” as including separators, heater treaters, storage vessels, glycol dehydrators, pneumatic pumps, or pneumatic controllers. We have also evaluated the cost-effectiveness of monitoring a wellhead only well site and find it not to be cost-effective. For that analysis, we developed a model plant that contains only 2 wellheads and no major production and processing equipment. For the annual monitoring frequency, we found the cost for control was greater than \$5,000 per ton of methane reduced and greater than \$20,000 per ton of VOC reduced.³⁸ Additional discussion about this model plant and the cost of control is included in the TSD. In light of the above, because fugitive emissions are anticipated to be extremely low and control costs are estimated to be elevated, we are proposing that monitoring may discontinue when all major production and processing equipment at a well site has been removed, resulting in a wellhead only well site. We are soliciting comment on the proposed exemption and definition of major production and processing equipment for purposes of this specific proposal, including whether additional equipment should be included in this list, such as compressors and engines.

As explained above, we are proposing that monitoring is no longer required when all major production and

³⁸ We did not perform an analysis for the cost of control at a semiannual monitoring frequency for these wellhead only well sites because we determined that annual monitoring was not cost-effective. Therefore, at more frequent monitoring would also not be cost-effective because there are higher costs compared to annual monitoring.

processing equipment at a well site has been removed, resulting in a wellhead only well site. We note that if the production from this well site (with all major production and processing equipment removed), is sent to a separate tank battery for processing, that separate tank battery (which itself is a well site as defined in 40 CFR 60.5430a) is considered modified and subject to the fugitive emissions requirements. Additional discussion on this topic is included in section VI.B.2 of this preamble. We further note that the proposed monitoring exemption would not change the affected facility status of the collection of fugitive emissions components located at a well site that removes equipment to become a wellhead only well site; it would remain an affected facility. We are proposing to require that owners or operators report the following information in the next annual report following the change to a wellhead only well site: (1) A statement that the well site has removed all major production and processing equipment, (2) the final date that equipment was removed, (*i.e.*, the date that the well site began meeting the definition of a wellhead only well site), and (3) the location receiving the production from the well site. Provided the well site remains a wellhead only well site, no additional reporting related to fugitive emissions would be required. If in the future production equipment is reintroduced to the well site, the fugitive emissions requirements would restart with initial monitoring followed by the subsequent monitoring, the frequency of which would be based on the subcategory (non-low production or low production) that the well site was classified as when it first became an affected facility for fugitive emissions requirements (*e.g.* not the subcategory that the well site is classified when production equipment is reintroduced). We are soliciting comment on this proposed exemption from monitoring for well sites that become wellhead only sites, including the proposed reporting requirements and subsequent monitoring requirements should the wellhead only status of the well site later change.

Low Production Well Sites. The 2016 NSPS OOOOa requires semiannual monitoring for all well sites, regardless of the production levels for the well site. In 2015, the EPA proposed to exclude low production well sites (*i.e.*, well sites where the average combined oil and natural gas production is less than 15 boe per day averaged over the first 30 days of production) from fugitive emissions requirements. 80 FR 56639. It

was our understanding in 2015 that fugitive emissions were low at low production well sites and that these well sites were mostly owned and operated by small businesses. We were concerned about the burden on small businesses, especially with relatively low emission reduction potential. *Id.* However, in the preamble to the final 2016 NSPS OOOOa, the EPA stated that we “believe that low production well sites have the same type of equipment (e.g., separators, storage vessels) and components (e.g., valves, flanges) as well sites with production greater than 15 boe per day. Because we did not receive additional data on equipment or component counts for low production wells, we believe that a low production well model plant would have the same equipment and component counts as a non-low production well site.” 81 FR 35856. We based this conclusion on the fact that we had no data to indicate that the number and types of equipment were different at low production well sites than at non-low production well sites. Additionally, comments received on the 2015 proposal indicated that small businesses would not benefit from the proposed exemption because these types of wells would not be economical to operate and few operators, if any, would operate new low production well sites. *Id.*

In a letter dated April 18, 2017, the Administrator granted reconsideration of several aspects of the 2016 NSPS OOOOa, including applying the fugitive emissions requirements at 40 CFR 60.5397a to low production well sites.³⁹ The petitioner who raised this issue for reconsideration identified in its petition what they classified as an inconsistency between the EPA’s justification for not exempting low production well sites from the fugitive emissions requirements and the EPA’s rationale for the definition of modification for purposes of those same requirements.⁴⁰ This petitioner observed that it appeared the EPA relied on data indicating the same equipment counts were present at all well sites regardless of production levels to justify regulating fugitive emissions at low production well sites, while defining modification by events that increase production (*i.e.*, drilling a new well, hydraulic fracturing a well, or hydraulic refracturing a well), which the EPA concludes will increase emissions whether or not there is

change in component counts. The petitioner then stated that:

EPA’s rationale, that fugitive emissions are a function of the number and types of equipment, and not operating parameters such as pressure and volume, is inconsistent with EPA’s justification for what constitutes a ‘modification’ for an existing well site. EPA assumes that fracturing or refracturing an existing well will increase emissions because of the additional production, *i.e.*, the additional pressure and volume. EPA cannot ignore the laws of physics to the detriment of low production wells in one instance and then ‘honor’ them in another context to eliminate an ‘emissions increase’ requirement in the traditional definition of ‘modification.’⁴¹

As we explain in detail in section VI.B.2 related to modifications, operating pressures and volumes are one set of factors that can cause changes in the fugitive emissions at a well site. However, as described below, there is support for the petitioners’ assertion that equipment counts can vary based on the amount of production at a well site.⁴²

The petitioners noted that as production increases it is possible that additional major production and processing equipment is added to the well site to handle this increase. The inverse impact was also presented by petitioners, in that as production declines, major production and processing equipment is either disconnected or removed from the well site so it can be used somewhere else.⁴³ Additionally, the petitioners noted that operating pressures for the well site are generally affected by production, and depleted wells may not be able to provide enough pressure to meet the pressure requirements of the gas gathering system.⁴⁴ In comments submitted on the November 2017 Notice of Data Availability (“2017 NODA”), one commenter noted that the information used as the basis for the EPA’s decision to treat low production well sites the same as non-low production well sites was based on a flawed analysis of the data.⁴⁵ This commenter noted that emissions were presented in such a way as to compare the total well site emissions as a percentage of production. As noted by the commenter, this type of analysis unfairly makes it appear that low production well sites are “super-

emitters” because when emissions are compared based on a percentage of production, even small emissions can appear to be upwards of 50 percent or more of the total production for the well site. Further, one petitioner reiterated concerns about the impacts of fugitive emissions requirements on small businesses, including stating that the “marginal profitability will mean that many wells will be shut in instead of making the investment to conduct LDAR surveys.”⁴⁶ We solicit information confirming or refuting this concern including analyses of the number of wells that may be shut in as a result of requiring fugitive emissions monitoring and how these concerns may vary based on production level (presumably wells with higher production would be better able to adsorb more frequent monitoring). At a minimum, any information provided should include the costs of implementing the fugitive emissions requirements compared to the profitability of the well site over the life of the well site from first production through shut in. Further, any information provided should include information as to the length of the life of the well site, beginning at first production, and by how much that total duration would be shortened by the shut in, as well as information as to total production over the life of the well site, beginning at first production, and the amount of production that would be reduced by the shut in. If information received supports the allegation that fugitive emissions monitoring would lead to a significant number of shut-ins at a significantly earlier point in the life of the well site and with a significant loss of overall production volume, that would further support our proposals regarding monitoring frequency. However, assertions presented without supporting information will be of limited or no utility in this analysis.

In light of the comments, the petitions, and data made available after promulgation of the 2016 NSPS OOOOa, the EPA has re-examined whether fugitive emissions are different for low production well sites. Following promulgation of the 2016 NSPS OOOOa, the EPA received information from one stakeholder which contained component level emissions information for well sites in the Dallas/Fort Worth area (herein referred to as the “Fort Worth Study”).⁴⁷ The EPA evaluated

³⁹ See Docket ID No. EPA-HQ-OAR-2010-0505-7685, p. 5.

⁴⁰ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

⁴¹ See Docket ID No. EPA-HQ-OAR-2010-0505-7682, p. 12.

⁴² *Id.*

⁴³ See Docket ID No. EPA-HQ-OAR-2010-0505-12454.

⁴⁴ See Docket ID No. EPA-HQ-OAR-2010-0505-7685.

⁴⁵ “The Natural Gas Air Quality Study (Final Report),” prepared by Eastern Research Group, Inc.

³⁹ See Docket ID No. EPA-HQ-OAR-2010-0505-7730.

⁴⁰ See Docket ID No. EPA-HQ-OAR-2010-0505-7685.

the emissions calculation workbook included in Appendix 3–B of the Fort Worth Study and was able to identify 27 well sites with throughput less than 90 thousand cubic feet per day (Mcf/d), or 15 boe per day. While this throughput was the throughput reported for the prior day and not the average over the first 30 days as we are defining low production well sites in this proposed reconsideration, this information was relevant to understanding both component counts and emissions for the well sites in the study as compared to production values. As explained in the memorandum *Analysis of Low Production Well Site Fugitive Emissions from the Fort Worth Air Quality Study* (“Fort Worth Study Memo”), located at Docket ID No. EPA–HQ–OAR–2017–0483, the EPA was able to directly compare fugitive component emissions from these 27 low production well sites to the fugitive component emissions from the other approximately 300 well sites in the study. This evaluation demonstrated that average emissions across the low production well sites were lower than those at the non-low production well sites in the study. Additionally, the average equipment counts were also lower for the low production well sites than those at non-low production well sites in the study. When fugitive emissions were considered from non-tank and non-controller fugitive sources, the average methane emissions were approximately 2.5 tpy for low production well sites, and 24 tpy for non-low production well sites. When storage vessel fugitives (*e.g.*, thief hatches) were considered, average methane emissions were 13 tpy for low production well sites and 33 tpy for non-low production well sites.⁴⁸

Given this information, the EPA for this proposal has evaluated fugitive emissions from well sites by subcategorizing well sites based on production: (1) Non-low production and (2) low production. Within each of these subcategories, the EPA has modified the three model plants used in the 2016 NSPS OOOOa: Gas well site, oil well site (defined as GOR <300), and oil with associated gas well site (defined as GOR ≥300). A discussion of the non-low production well site model plants is included in the discussion above on the pathway to less frequent monitoring.

The EPA created new model plants using the component count information obtained for the low production well

sites in the Fort Worth Study in order to compare the emissions using the emissions factors used by the EPA for model plant calculations to the measured emissions from the study. For the low production gas well site model plant, we used the average equipment counts for the low production well sites in the Fort Worth Study. We then compared the corresponding average component counts (*e.g.*, valves, connectors) for this equipment in the low production gas well site to the non-low production gas well site to determine a scaling factor. This scaling factor was applied to the non-low production component counts for the oil well site and oil with associated gas well site model plants in order to evaluate these types of well sites for the low production subcategory. Additional information about the low production well site model plants and analysis is included in the TSD.

As mentioned previously, in the 2016 NSPS OOOOa the EPA did not expect production levels to affect the amount of major production and processing equipment at well sites. However, as discussed above, we have since evaluated data showing that low production wells have fewer equipment components, and therefore fewer fugitive emissions. Therefore, in this proposal, we have incorporated the new data and developed model plants for low production well sites. The estimated emissions and cost-effectiveness are different between the low production and non-low production well site model plants. For example, the estimated baseline methane emissions are 5.91 and 4.80 tpy for non-low production and low production gas well site model plants, respectively. We performed additional analysis on the emissions data presented in the Fort Worth Study to determine if there was a statistical difference between the low production and non-low production methane emissions. This analysis determined the mean methane emissions were 157 and 116 tpy for non-low production and low production well sites, respectively. Additional information on this analysis is included in the Fort Worth Study Memo located at Docket ID No. EPA–HQ–OAR–2017–0483.

In addition to the Fort Worth Study, the EPA evaluated other available information for comparing low and non-low production well sites. While we did not find the same level of detail regarding component counts to allow us to further refine the low production well site model plants, several of the studies indicated that there is a general correlation between production and

fugitive emissions, where fugitive emissions increase as production increases at the well site. Further, some studies indicated that while the number of fugitive emissions components was lower for low production well sites (contrary to our assumption in the 2016 NSPS OOOOa), a few outliers were identified suggesting that low production well sites may have the potential for fugitive emissions greater than the estimates in the model plants. Finally, the studies also indicated that storage vessel thief hatches were a large source of fugitive emissions when compared to other fugitive emissions components, such as valves and connectors. Additional information about these studies is presented in the memorandum *Low Production Well Site Fugitive Emissions* (“Low Production Memo”), located at Docket ID No. EPA–HQ–OAR–2017–0483.

In addition to the potential overestimates of emissions discussed related to non-low production well sites, our re-assessment of our 2016 analysis indicates that we may have overestimated emissions and the potential for emission reductions from low production well sites. As we have described previously, the number of each type of major production and processing equipment located at low production well sites may differ from that at non-low production well sites, and we are not certain this has been adequately taken into account with the limited data available⁴⁹ from the Fort Worth Study. The equipment that is present at a low production well site is typically designed for lower operating conditions, such as volume and pressure, therefore, the equipment may be smaller and composed of fewer fugitive emission components than those estimated in the model plants. As discussed in further detail in the TSD, we used the average major production and processing equipment counts from the Fort Worth Study as the basis for the low production model plants; however, because the Fort Worth Study does not provide component count data by equipment, we assigned the same average component counts per major equipment (*i.e.*, the same number of valves per separator as the number of valves per separator at non-low

⁴⁹ The site-specific data available in the Fort Worth Study is limited to approximately 300 natural gas well sites located near the City of Fort Worth, Texas. Most of the well sites consisted of dry gas, with no information available on oil well sites. We are uncertain the major production and processing equipment counts presented in this study are representative of well sites located in other areas of the country, and solicit information regarding operations in other areas.

July 13, 2011, available at <http://fortworthtexas.gov/gaswells/air-quality-study/final/>.

⁴⁸ See the memorandum *Analysis of Low Production Well Site Fugitive Emissions from the Fort Worth Air Quality Study*, located at Docket ID No. EPA–HQ–OAR–2017–0483.

production well sites). Therefore, there is evidence to suggest that we may have overestimated the fugitive emissions component counts for low production well sites. Additionally, the petitioners assert that the operating pressures are much lower for low production well sites than for non-low production well sites, and we do not have a mechanism to account for operating pressure changes in our model plants.⁵⁰ However, in section VI.B.2 of this preamble, we discuss comments from petitioners stating that operating pressures may be driven, in part, by sales line pressures such that decreased production levels may not allow for operations below the gas sales line pressures. In such circumstances, the low production well site would need to produce at or above the relevant gas sales line pressure. This may result in decreased dump frequency or duration, and therefore, reduced periods of fugitive emissions during operation. While lower operating pressure and decreased dump frequency or duration would result in lower fugitive emissions, we do not have enough information to determine the likelihood of decreased operating pressure or decreased dump frequency or duration in order to account for them in our model plant analysis.

Despite the potential overestimation of emissions and emission reductions for low production well sites, we examined the costs and emission reductions for several monitoring frequencies to determine the cost of control for the newly created low production well site model plant. As a result of this review, there is evidence to support the petitioners' assertion that low production well sites are different than non-low production well sites. The TSD presents the cost of control for semiannual, stepped, annual and biennial monitoring frequencies.⁵¹

After considering the differences in emissions between non-low production and low production well sites, and the reasons to believe that we have overestimated emission reductions and percentage of fugitive emissions, we are proposing to change the current monitoring frequency for low production well sites from semiannual monitoring to biennial monitoring, or monitoring every other year. We are soliciting comment on the biennial monitoring requirement for low production well sites. Additionally, we are soliciting data on the number of major production and processing

equipment (e.g., separators, heater treaters, glycol dehydrators, and storage vessels) and the number of fugitive emissions components (e.g., valves, open-ended lines, and connectors) located at these well sites, as well as the operating pressures of these well sites considering gas sales line pressures and the number of major production and processing equipment located at the well site (e.g., separators and heater treaters). Further, the EPA is proposing that low production well sites are defined as those well sites where the average combined oil and natural gas production is less than 15 boe per day averaged over the first 30 days of production. We are soliciting comment on the definition of a low production well site, including those where all the wells located on the well site have production below 15 boe per day. We are proposing specific recordkeeping and reporting requirements in 40 CFR 60.5420a, including a requirement to describe how the well site determined it is a low production well site. We are soliciting comment on the recordkeeping and reporting requirements, including alternative information that would provide the combined production of oil and natural gas for the well site. In addition to soliciting comment on the biennial monitoring frequency, we are also soliciting comment and supporting data on an exemption from fugitive emissions requirements at low production well sites, for well sites both with and without controlled storage vessels.

Monitoring Frequency for Compressor Stations. The 2016 NSPS OOOOa requires initial and quarterly monitoring of the collection of fugitive emissions components located at compressor stations. As noted in section VI.B.1 of this preamble, we received petitions requesting less frequent monitoring, specifically semiannual monitoring for compressor stations.⁵² In this action, we are co-proposing semiannual and annual monitoring of the collection of fugitive emissions components located at compressor stations not located on the Alaskan North Slope. (See "Well Sites and Compressor Stations Located on the Alaskan North Slope" for the proposed actions related to those sites.)

Similar to the information received about fugitive monitoring at well sites, the EPA received information from two stakeholders regarding fugitive emissions monitoring at compressor

stations.^{53 54} Some of the information provided the number of fugitive emission components monitored and the number and percentages of fugitive emissions components identified with fugitive emissions for 110 gathering and boosting compressor stations.⁵⁵ One of these stakeholders asserted the data provided regarding gathering and boosting stations would support changing the monitoring frequency for compressor stations to annual monitoring. Some of this data was specific to the required monitoring of the 2016 NSPS OOOOa, while other information was specific to monitoring requirements for various state programs or consent decrees. One company provided the number of fugitive emissions identified during initial monitoring at 17 stations, and subsequent fugitive emissions counts for up to 6 total surveys, however, not all stations are represented in subsequent surveys. While fugitive emissions counts were included in this submission, no other information was provided about the number of components monitored. It was difficult for us to make any conclusions from the information, but we were able to recognize that for at least one company, the average reported initial percentage of identified fugitive emissions is almost 1.5 percent, which is higher than the 1.18 percent used for our model plant calculations. However, no conclusions can be drawn from this single data point and we did not make updates to the model plants as a result of this information. The EPA performed a sensitivity analysis using this data to understand how the cost of control would change if we applied the data provided to compressor stations and included this analysis in the TSD. This analysis did not alter the conclusions that we had reached using the 1.18 percent value.

We are soliciting comment on our analysis of the information provided by this stakeholder,⁵⁶ including additional data that will allow for further analysis of fugitive emissions monitoring at

⁵³ See letter from GPA Midstream Association Re: GPA Midstream OOOOa White Paper Supplemental Information, March 5, 2018, located at Docket ID No. EPA-HQ-OAR-2017-0483.

⁵⁴ See memorandum NSPS OOOOa Monitoring Case Study Presentation by Terence Trefiak with Target Emission Services located at Docket ID No. EPA-HQ-OAR-2017-0483, March 13, 2018.

⁵⁵ See memorandum EPA Analysis of Compressor Station Fugitive Emissions Monitoring Data Provided by GPA Midstream located at Docket ID No. EPA-HQ-OAR-2017-0483, April 17, 2018.

⁵⁶ See memorandum EPA Analysis of Compressor Station Fugitive Emissions Monitoring Data Provided by GPA Midstream located at Docket ID No. EPA-HQ-OAR-2017-0483, April 17, 2018.

⁵⁰ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682 and EPA-HQ-OAR-2010-0505-7685.

⁵¹ See the TSD for full comparison of cost.

⁵² See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

compressor stations. The EPA is also soliciting information that can be used to evaluate if changes are necessary to the model plants. Specifically, the EPA requests information that has been collected from implementing fugitive monitoring programs. This information could demonstrate the actual equipment counts or fugitive emissions component counts at the compressor station, in relation to the number of fugitive emissions identified during each monitoring survey. Finally, the EPA solicits comment and information on costs associated with implementing a fugitive emissions monitoring program.

The unique operating characteristics of compressor stations may support more frequent monitoring of compressor stations as compared to well sites. The collection of fugitive emissions components located at compressor stations are subject to vibration and temperature cycling. Some studies indicate that components subject to vibration, high use, or temperature cycling are the most leak-prone.⁵⁷ The EPA best practices guide for LDAR states that more frequent monitoring should be implemented for components that contribute most to emissions.⁵⁸ Similarly, the Canadian Association of Petroleum Producers issued a best management practice for the management of fugitive emissions at upstream oil and gas facilities in 2007. That document states, “the equipment components most likely to leak should be screened most frequently.”⁵⁹

Additionally, information was also provided by one stakeholder that indicates the operating mode of the compressor(s) located at the station was a key piece of information when detecting fugitive emissions.⁶⁰ For instance, the stakeholder stated that

when compressors were in standby mode, the detected fugitive emissions were lower. We had not previously considered that compressors may not be operating during the fugitive emissions survey, therefore, we are proposing that owners or operators keep a record of the operating mode of each compressor at the time of the monitoring survey, and a requirement that each compressor must be monitored at least once per calendar year when it is operating. If the operating mode of individual compressors has an impact on the occurrence of fugitive emissions, it may provide support for more frequent monitoring, or, alternatively, a requirement to monitor when compressors are operating reflective of normal operating conditions. For example, if the EPA were to move to an annual monitoring frequency, owners and operators might conduct fugitive emissions monitoring during scheduled maintenance periods such as times when there is less demand on the station. This might present the appearance of lower fugitive emissions than if the monitoring occurred during peak seasons, thus decreasing the effectiveness of the program for controlling fugitive emissions, unless the monitoring procedure can assure that does not occur. The EPA is soliciting comment related to the effect the compressor operating mode has on fugitive emissions and comment on a requirement to conduct monitoring only during times that are representative of operating conditions for the compressor station.

There are a number of important factors to consider when selecting the appropriate monitoring frequency for fugitive emissions components located at compressor stations such as the

operating modes that likely affect the number and magnitude of fugitive emissions and costs. In light of the concerns from the petitioners that less frequent monitoring than the current requirement of quarterly monitoring would be appropriate, the EPA performed a sensitivity analysis to understand how the monitoring frequencies would affect emission reductions and costs. We examined the costs and emission reductions for the compressor station model plant at quarterly, semiannual, and annual monitoring frequencies. We applied the two approaches used in the 2016 NSPS OOOOa (single and multipollutant approaches)⁶¹ for evaluating cost-effectiveness of these three monitoring frequencies for the fugitive emissions program for reducing both methane and VOC emissions from non-low production well sites. In addition to evaluating the total cost-effectiveness of the different monitoring frequencies, the EPA also estimated the incremental costs of going from the baseline of no monitoring to annual, from annual to semiannual, and from semiannual to quarterly. The incremental cost of control provides insight into how much it costs to achieve the next increment of emission reductions going from one stringency level to the next, more stringent level, and thus is an appropriate tool for distinguishing among the effects of different stringency levels. Table 3 summarizes the total and incremental costs of control for each of the monitoring frequencies evaluated at compressor stations. Additional information regarding the cost of control and emission reductions is available in section 2.5 of the TSD located at Docket ID No. EPA-HQ-OAR-2017-0483.

TABLE 3—NATIONWIDE EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL FOR FUGITIVE EMISSIONS COMPONENTS LOCATED AT COMPRESSOR STATIONS [Year 2015]

Frequency	Capital cost (million \$)	Annualized costs without recovery credits (million \$/yr)	Emissions reduction, methane (tpy)	Emissions reduction, VOC (tpy)	Total cost-effectiveness without recovery credit (\$/ton methane)	Total cost-effectiveness without recovery credit (\$/ton VOC)	Incremental cost-effectiveness without recovery credit (\$/ton methane)	Incremental cost-effectiveness without recovery credit (\$/ton VOC)
Annual	0.42	2.05	3,680	850	550	2,410	.....	.....
Semiannual	0.42	3.6	5,510	1,270	650	2,830	840	3,650
Quarterly	0.42	6.7	7,350	1,700	910	3,950	1,690	7,300

⁵⁷ Canadian Association of Petroleum Producers, “Best Management Practice. Management of Fugitive Emissions at Upstream Oil and Gas Facilities,” January 2007.

⁵⁸ U.S. Environmental Protection Agency, “Leak Detection and Repair: A Best Practices Guide,” EPA-305-D-07-001, October 2007.

⁵⁹ Canadian Association of Petroleum Producers, “Best Management Practice. Management of Fugitive Emissions at Upstream Oil and Gas Facilities,” January 2007.

⁶⁰ See memorandum NSPS OOOOa Monitoring Case Study Presentation by Terence Trefiak with Target Emission Services located at Docket ID No. EPA-HQ-OAR-2017-0483. March 13, 2018.

⁶¹ See 81 FR 56616. Under the single pollutant approach, we assign all costs to the reduction of one pollutant and zero costs for all other pollutants simultaneously reduced. Under the multipollutant approach, we allocate the annualized costs across the pollutant reductions addressed by the control option in proportion to the relative percentage

reduction of each pollutant controlled. For purposes of the multipollutant approach, we assume that emissions of methane and VOC are equally controlled, therefore half of the cost is apportioned to the methane emission reductions and half of the cost if apportioned to the VOC emission reductions. In this evaluation, we examined both approaches across the range of identified monitoring frequencies: Semiannual, annual, and stepped (semiannual for 2 years followed by annual).

We continue to recognize the limitations in our emissions estimation method, as described for non-low production well sites. As mentioned above, we recognize the distinct operational characteristics of compressor stations that may cause increased fugitive emissions may support more frequent monitoring than proposed for well sites. At this time, we recognize that our analysis likely overestimates the emission reduction and therefore, the cost-effectiveness of each of the three monitoring frequencies for compressor stations due to the same uncertainties described previously for non-low production well sites (*e.g.*, assumed constant percentage of fugitive emissions, uncertainties regarding emission reductions achieved, etc.). Due to these uncertainties, we are unable to conclude that quarterly monitoring is cost-effective for compressor stations, thus we are co-proposing semiannual monitoring for compressor stations. The EPA is soliciting comment and information that will allow us to further refine our model plant analysis, including information regarding emission reductions and the relationship to monitoring frequencies. We are soliciting comment on quarterly monitoring, and our analysis of the factors that may contribute to increased fugitive emissions at compressor stations. Additionally, we are soliciting data in order to understand how the percentage of identified fugitive emissions may change over time; the data should include the date of construction of the compressor station, information on when the compressor station began its fugitive program, the frequency of monitoring, an indication of the location of the compressor station, and how the surveys are performed, including the monitoring instrument used and the regulatory program followed.

Finally, the EPA is also noting that another stakeholder presented an analysis of third party studies and reports as justification for annual monitoring at compressor stations.⁶² In their analysis, the stakeholder states that the EPA has underestimated the control effectiveness of annual OGI monitoring and overestimated emissions from

fugitive emissions components at compressor stations. For example, the stakeholder states that annual OGI monitoring at compressor stations can achieve 80 percent emissions reductions, compared to the EPA's estimate of 40 percent emissions reductions. Additionally, the stakeholder compares the EPA model plant emission estimates to measurement data reported under the requirements of 40 CFR part 98, subpart W—Petroleum and Natural Gas Systems ("Subpart W") as compiled and described in the Pipeline Research Council International, Inc. (PRCI) study report.⁶³ The EPA has reviewed the information and analyzed the referenced third-party reports to determine if the information would support annual monitoring. The EPA has several concerns with the analysis and conclusions presented by the stakeholder, as discussed in the memorandum describing our analysis.⁶⁴ therefore, the EPA is unable at this point to conclude that this information supports annual monitoring for compressor stations. We are co-proposing semiannual and annual monitoring for compressor stations, and soliciting comment and supporting information related to our analysis of the information, including data that sheds further light on which monitoring frequency (annual, semiannual, or quarterly) is most appropriate.

Well Sites and Compressor Stations Located on the Alaskan North Slope. On March 12, 2018, the EPA amended the 2016 NSPS OOOOa to include separate monitoring requirements for the collection of fugitive emissions components located at well sites located on the Alaskan North Slope.⁶⁵ As explained in that action, such separate requirements were warranted due to the area's extreme cold temperature, which is below the temperatures at which the monitoring instruments are designed to operate for approximately half of a year. The amended requirements for the collection of fugitive emissions components located at well sites located on the Alaskan North Slope specify that new well sites that startup production between September and March must conduct initial monitoring within 6 months of the startup of production⁶⁶ or

by June 30, whichever is later, while well sites that startup production between April and August must comply with the 60-day initial monitoring requirement in the 2016 NSPS OOOOa. Similarly, well sites that are modified between September and March must conduct initial monitoring within 6 months of the first day of production for each collection of fugitive emissions components or by June 30, whichever is later. Further, all well sites located on the Alaskan North Slope that are subject to the fugitive emissions requirements must conduct annual monitoring, instead of the semiannual monitoring required for other well sites. Subsequent annual monitoring must be conducted at least 9 months apart.

Compressor stations located on the Alaskan North Slope experience the same extreme cold temperatures as the well sites located on the Alaskan North Slope. One petitioner⁶⁷ cautioned that the monitoring technology specified in the 2016 NSPS OOOOa (*i.e.*, optical gas imaging (OGI) and the instruments for Method 21) cannot reliably operate at well sites on the Alaskan North Slope for a significant portion of the year due to the lengthy period of extreme cold temperatures.⁶⁸ According to manufacturer specifications, OGI cameras, which the EPA identified in the 2016 NSPS OOOOa as the BSER for monitoring fugitive emissions at well sites, are not designed to operate at temperatures below -4°F ,⁶⁹ and the monitoring instruments for Method 21, which the 2016 NSPS OOOOa provides as an alternative to OGI, are not designed to operate below $+14^{\circ}\text{F}$.⁷⁰ One commenter provided data, and the EPA confirmed with its own analysis, that temperatures below 0°F are a common occurrence on the Alaskan North Slope between November and April.⁷¹ In light of the above, there is no assurance that the initial and quarterly monitoring that must occur during that period of time are technically feasible for compressor stations located on the Alaskan North

⁶⁷ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

⁶⁸ See Docket ID No. EPA-HQ-OAR-2010-0505-12434.

⁶⁹ See FLIR Systems, Inc. product specifications for GF300/320 model OGI cameras at <http://www.flir.com/ogi/display/?id=55671>.

⁷⁰ See Thermo Fisher Scientific product specification for TVA-2020 at <https://assets.thermofisher.com/TFS-Assets/LSG/Specification-Sheets/EPM-TVA2020.pdf>.

⁷¹ See information on average hourly temperatures from January 2010 to January 2018 at the weather station located at Deadhorse Alpine Airstrip, Alaska. Obtained from the National Oceanic and Atmospheric Administration (NOAA)'s National Centers for Environmental Information and summarized in Docket ID No. EPA-HQ-OAR-2010-0505-12505.

⁶² See "Methane Emissions from Natural Gas Transmission and Storage Facilities: Review of Available Data on Leak Emission Estimates and Mitigation Using Leak Detection and Repair", prepared for INGAA by Innovative Environmental Solutions, Inc., June 8, 2018 and "Supplement to INGAA White Paper on Subpart OOOOa TSD Estimates of Leak Emissions and LDAR Performance", from Jim McCarthy and Tom McGrath, Innovative Environmental Solutions, Inc., June 20, 2018 located at Docket ID No. EPA-HQ-OAR-2017-0473.

⁶³ GHG Emission Factor Development for Natural Gas Compressors, PRCI Catalog No. PR-312-1602-R02, April 18, 2018.

⁶⁴ See memorandum *EPA Analysis of Fugitive Emissions Data Provided by INGAA* located at Docket ID No. EPA-HQ-OAR-2017-0483, August 21, 2018.

⁶⁵ 83 FR 10628.

⁶⁶ Startup of production is defined in 40 CFR 60.5430a.

Slope. Additionally, while the 2016 NSPS OOOOa provides a waiver from one quarterly monitoring event when the average temperature is below 0°F for two consecutive months, this waiver would not fully address the issues for compressor stations located on the Alaskan North Slope. As discussed above, temperatures are below 0 °F between November and April, which spans across two quarters. The low temperature waiver, only allows missing one quarterly monitoring event. Based on available information, we have concluded that semiannual monitoring is not feasible for well sites located on the Alaskan North Slope, therefore, conducting three quarterly monitoring events is likewise not feasible for compressor stations. Therefore, we are proposing amendments to the fugitive emissions requirements in the 2016 NSPS OOOOa as they apply to compressor stations located on the Alaskan North Slope.

We are proposing to establish separate fugitive monitoring requirements for compressor stations located on the Alaskan North Slope because of the technical infeasibility issues with the operations of the monitoring instruments discussed above. Similar to well sites located on the Alaskan North Slope, we are proposing that new compressor stations that startup between September and March must conduct initial monitoring within 6 months of startup, or by June 30, whichever is later. Similarly, we are proposing that modified compressor stations located on the Alaskan North Slope that become modified between September and March must conduct initial monitoring within 6 months of the modification, or by June 30, whichever is later. Compressor stations that startup or are modified between April and August would meet the 60-day initial monitoring requirement in the 2016 NSPS OOOOa. However, as discussed in section VI.B.3, we are soliciting comment on extending the time frame for conducting the initial monitoring for all well site and compressor station fugitive emissions components subject to the 2016 NSPS OOOOa, including those located on the Alaskan North Slope. Further, we are proposing that all compressor stations located on the Alaskan North Slope that are subject to the fugitive emissions requirements must conduct annual monitoring. Subsequent annual monitoring must be conducted at least 9 months apart, but no more than 13 months apart.

As discussed in section VI.B.3 of this preamble (Initial Monitoring for Well Sites and Compressor Stations), the EPA

is soliciting comment on whether to extend the period for conducting initial monitoring for well sites and compressor stations because additional time is needed to complete installation of equipment. For the same reason, the EPA is soliciting comment on whether to extend the time frame for initial monitoring for well sites that start up production and compressor stations that start up between April and August, and for those that are modified during this period. Further discussion on this topic is included in section VI.B.3 of this preamble, which describes the concerns raised and the timeframes suggested by petitioners (180 days) and the EPA (90 days) to address such concerns. In addition to the information specified in that subsection, we are soliciting comments and information specific to the well sites and compressor stations located on the Alaskan North Slope regarding allowing additional time for the initial monitoring. Upon receiving and reviewing the relevant information, the EPA may conclude that amendment to extend the timeframe for conducting the initial monitoring is necessary for all or some well site and compressor station fugitive emissions components subject to the 2016 NSPS OOOOa, including those located on the Alaskan North Slope.

One petitioner⁷² requested that the EPA exempt well sites and compressor stations located on the Alaskan North Slope from fugitive emissions monitoring, similar to the exemptions from LDAR at natural gas processing plants provided in the 2012 NSPS OOOO and the 2016 NSPS OOOOa. The petitioner stated the reasons for applying an exemption to natural gas processing plants are also valid for well sites and compressor stations.

The EPA exempted natural gas processing plants from LDAR requirements when issuing 40 CFR part 60, subpart KKK, in 1985 (1985 NSPS KKK). At that time, we acknowledged “that there are several unique aspects to the operation of natural gas processing plants north of the Arctic Circle. Because of the unique aspects of natural gas processing plants north of the Arctic Circle, the increased costs to perform routine leak detection and repair may result in an unreasonable cost effectiveness.”⁷³ We currently do not have sufficient information to suggest that the cost-effectiveness of the fugitive emissions requirements specific to well

sites and compressor stations located on the Alaskan North Slope differ from the cost-effectiveness of the program generally. The information we do have related to the initial monitoring suggests that the average initial percentage of identified fugitive emissions for a well site located on the Alaskan North Slope is 2.38 percent.⁷⁴ Additionally, this information represents some of the highest reported percentages of identified fugitive emissions from the data set are from well sites located on the Alaskan North Slope. Therefore, we are not proposing to exempt well sites located on the Alaskan North Slope from the fugitive emissions requirements. However, we are soliciting data to support an analysis of the cost-effectiveness of fugitive emissions monitoring programs for well sites and compressor stations located on the Alaskan North Slope, including the cost associated with performing annual fugitive emissions monitoring and repairs. Specific information that distinguishes differences in cost realized by sites located on the Alaskan North Slope from our model plant estimates would be useful.

2. Modification

Modification of Well Sites. For the purposes of fugitive emissions components at a well site, a modification is defined in 40 CFR 60.5365a(i)(3) as (i) drilling a new well at an existing well site, (ii) hydraulically fracturing a well at an existing well site, or (iii) hydraulically refracturing a well at an existing well site. As the EPA explained in that rulemaking, these three activities, which are conducted to increase production, increase fugitive emissions at well sites in two ways. First, increased production will “generate additional emissions at the well sites. Some of these additional emissions will pass through leaking fugitive emission components at the well sites (in addition to the emissions already leaking from those components).” 81 FR 35881. Second, additional fugitive emissions can also result from installation of additional equipment. As the EPA observed, “it is not uncommon that an increase in production would require additional equipment and, therefore, additional fugitive emission components at the well sites.” *Id.*

As previously mentioned, in a letter dated April 18, 2017, the Administrator granted reconsideration of several

⁷² See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

⁷³ “Equipment Leaks of VOC in Natural Gas Production Industry—Background Information for Promulgated Standards,” EPA-450/3-82-024b, May 1985.

⁷⁴ See memorandum *EPA Analysis of Well Site Fugitive Emissions Monitoring Data Provided by API* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 17, 2018.

aspects of the 2016 NSPS OOOOa, including its application of the fugitive emissions requirements at 40 CFR 60.5397a to low production well sites.⁷⁵ The petitioner who raised this issue for reconsideration identified in its petition a perceived inconsistency between the EPA's justification for not exempting low production well sites from the fugitive emissions requirements and the EPA's rationale for the definition of modification for purposes of those same requirements.⁷⁶ This petitioner observed that it appeared the EPA relied on data indicating the same equipment counts are present at all well sites, regardless of production levels, to justify regulating fugitive emissions at low production well sites, while defining modification by events that increase production (*i.e.*, drilling a new well, hydraulic fracturing, or hydraulic refracturing), which the EPA concludes will increase emissions whether or not there is change in component counts. The petitioner then stated that:

EPA's rationale, that fugitive emissions are a function of the number and types of equipment, and not operating parameters such as pressure and volume, is inconsistent with EPA's justification for what constitutes a 'modification' for an existing well site. EPA assumes that fracturing or refracturing an existing well will increase emissions because of the additional production, *i.e.*, the additional pressure and volume. EPA cannot ignore the laws of physics to the detriment of low production wells in one instance and then 'honor' them in another context to eliminate an 'emissions increase' requirement in the traditional definition of 'modification.'⁷⁷

In addition to the issues raised regarding an inconsistency with our treatment of fugitive emissions from low production well sites and what constitutes a modification (as discussed in section VI.B.1), several petitioners stated that hydraulically refracturing a well alone would not increase emissions from the fugitive emissions components and suggested that emissions would increase from a refractured well only if additional permanent equipment is also installed.⁷⁸ According to one petitioner, [a] well that is refractured typically does not require additional production equipment and does not typically operate at a pressure higher than before the refracturing since that pressure is set by the gas gathering system pressure. Therefore, as long as a significant

piece of process equipment is not constructed along with the refracture, there is no emissions increase and there is no 'modification' as defined in CFR part 60.2.⁷⁹

In light of the above, the EPA has provided a more detailed explanation below for the definition of modification of fugitive emissions components at well sites, including how an increase in production can increase fugitive emissions at well sites even without the addition of equipment, and therefore no addition of fugitive emissions components. The EPA has also re-evaluated its treatment of low production well sites, which is discussed in section VI.B.1 of this preamble.

There is no dispute that an addition of processing equipment, and attendant fugitive emissions components, in conjunction with refracturing a well will result in a modification. Further, as explained in the 2016 NSPS OOOOa and in more detail below, an increase in the number of components is not the sole reason for an increase in fugitive emissions when there is an increase in production.

A well is refractured for the purpose of increasing production rates. An increase in the production rate necessitates, by definition, an increase in the molar flow rate. An increase in molar flow rate can be accomplished through an increase in operating pressure (and attendant mass per unit of volume) and/or volumetric flow rate. An increase in volumetric flow rate can be accomplished through an increase to the velocity of flow, an increase to cross-sectional area of the flow path, or, if flow is intermittent, an increase to the time duration of flow (*e.g.*, duration of flow events or frequency of flow events). Increasing velocity of flow of production fluids through process equipment can only be accomplished through an increase in the pressure drop across the system. Where increased production throughput is routed through a system of production equipment that is not physically changed, the cross-sectional area of the flow path through the equipment does not change. Therefore, the increase in production rate requires an increase to either the operating pressure and/or the duration or frequency of flow events. Where operating pressure is increased, the pressure increase will increase the molar flow rate of fugitive emissions from leaking fugitive emission components. These increased emissions on components with existing fugitive emissions will occur even if the

increased operating pressure does not result in additional components with fugitive emissions at existing design stress points, which is an additional source of potential fugitive emissions increases. Increasing duration or frequency of flow events will not be an option unless flow is intermittent. Where flow is intermittent in the process and flow event duration or frequency is increased (*e.g.*, through longer dump events or more frequent dump events), additional molar flow rate will pass through components with fugitive emissions due to increased periods of flow through that component at the same pressure. Therefore, as was stated in the 2016 NSPS OOOOa preamble language, increased production will result in "[s]ome of these additional emissions [passing] through leaking fugitive emission components at the well sites (in addition to the emissions already leaking from those components)." 81 FR 35881.

There is also a third instance in which increased production from modification of a well site could cause an increase in emissions from fugitive emissions components without additional equipment, and therefore, without additional fugitive emissions components. Absent additional stages of separation or an otherwise-accomplished decrease in the pressure at the final stage of separation prior to the storage vessels, increased production throughput to storage vessels increases the flash emissions at those storage vessels. Where storage vessels are affected facilities for purposes of this rule, the rule contains separate requirements for storage vessel covers and CVS to be designed and operated to route all emissions to a control device. However, where controlled storage vessels are not affected facilities because legally and practically enforceable permits limit the potential VOC emissions to below 6 tpy, the covers and CVS are included in the fugitives monitoring program for the well site as a fugitive emissions component. In either scenario, it is possible for increased throughput to these controlled storage vessels at a well site to exceed the design capacity of the vapor control system, which may result in additional emissions from storage vessel thief hatches or other openings.

For the reasons stated above, we propose to maintain our conclusion that refracturing of an existing well will increase fugitive emissions. We solicit comments on our rationale described above. Specifically, we solicit comments and data on whether emissions from fugitive emissions components will

⁷⁵ See Docket ID No. EPA-HQ-OAR-2010-0505-7730.

⁷⁶ See Docket ID No. EPA-HQ-OAR-2010-0505-7685.

⁷⁷ See Docket ID No. EPA-HQ-OAR-2010-0505-7685, page 6.

⁷⁸ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

⁷⁹ Docket ID No. EPA-HQ-OAR-2010-0505-7682, p. 16.

increase following a refracture even if the equipment counts and operating pressures remain the same. Further, we are soliciting comments and data about how changes in production may influence the operating pressures of the well site. Additionally, we are soliciting comment and data on whether an increase in pressure alone (without additional equipment) would result in more fugitive emissions (*e.g.*, cause new fugitive emissions that were not otherwise present or would result in an increase in the fugitive emissions from an already leaking fugitive emissions component). Finally, we are soliciting comment and information on other factors, such as changes in the gas gathering system, that may influence the operating pressures of the well site.

During the implementation of the 2016 NSPS OOOOa, several questions were raised regarding the modification of a separate tank battery for the purposes of fugitive emissions monitoring. The definition of well site in 40 CFR 60.5430a states, "For purposes of the fugitive emissions standards at § 60.5397a, well site also means a separate tank battery surface site collecting crude oil, condensate, intermediate hydrocarbon liquids, or produced water from wells not located at the well site (*e.g.*, centralized tank batteries)." Stakeholders have commented to the EPA that there is confusion regarding when a modification of fugitive emissions components has occurred at a separate tank battery. Similar to the information from petitioners regarding modifications without a change in equipment or component counts at a well site, stakeholders have also claimed that sending process fluids from a new well or existing hydraulically fractured or refractured well that is not located at the separate tank battery will not necessarily increase the emissions from the fugitive emissions components at the separate tank battery. Instead, stakeholders have suggested that emissions increase only when additional processing equipment, such as storage vessels, separators, or compressors, is installed in conjunction with the introduction of additional process fluids received from these off-site wells.

The EPA is proposing a clarification to address modifications of the collection of fugitive emissions components at well sites when the well site is a separate tank battery with no wells located at the tank battery. While the regulatory text is clear about what constitutes a modification when a well is located at the separate tank battery, the regulatory text is less clear when

there are no wells at the tank battery. To clarify the definition of modifications for separate tank batteries, we are proposing specific amendments to clarify when a modification occurs at a well site, including a well site that is a separate tank battery. We are proposing to amend the language in 40 CFR 60.5365a(i) to add two additional instances to clarify when there is a modification to the collection of fugitive emissions components located at a separate tank battery, such as a centralized tank battery (which itself is a well site as defined in 40 CFR 60.5430a). First, when production from a new, hydraulically fractured, or hydraulically refractured well is sent to an existing separate tank battery, the collection of fugitive emissions components at the separate tank battery has been modified. Second, when a well site that is subject to fugitive emissions requirements removes the major production and processing equipment, such that it becomes a well head only well site, and sends the production to an existing separate tank battery, the collection of fugitive components at that separate tank battery has modified. In both instances, a physical or operational change occurs at an existing separate tank battery because additional production from a well site is sent to that separate tank battery, and this change results in an increase in fugitive emissions at that tank battery. We are soliciting comment on these proposed amendments to the definition of modification of the collection of fugitive emissions components located at a well site, including the treatment of separate tank batteries as well sites for the purposes of fugitive emissions requirements. Additionally, we are soliciting comment on other options for modifications of a separate tank battery for purposes of fugitive emissions monitoring. For example, we are soliciting comment on whether we should define a separate tank battery as a separate affected facility, instead of defining this source as a well site. Further, we are soliciting comment on what would constitute a modification of a separate tank battery affected facility, or other options for a modification if the definition remains as currently proposed. Finally, the EPA is soliciting information related to the permitting of such separate tank batteries and information related to how states have regulated these sources when a well is not located at the site.

Modification of Compressor Stations. For the purposes of fugitive emissions components at a compressor station, a modification is defined in 40 CFR

60.5365a(j) as (1) the installation of an additional compressor at an existing compressor station or (2) the replacement of one or more compressors at an existing compressor station that results in a net increase in the total horsepower to drive the compressor(s) that are replaced at the compressor station. We are not proposing any changes to this definition; however, we are soliciting comment on whether the engine horsepower is the correct measure of increased emissions from the collection of fugitive emissions components.

Further, the EPA is clarifying the type of compressors that would trigger a modification for the purposes of fugitive emissions at a compressor station. In the preamble to the 2016 NSPS OOOOa, the EPA clarified that this definition refers to instances where "the design capacity and potential emissions of the compressor station would increase." 81 FR 35864. Therefore, it is possible that the addition of a compressor would not be considered a modification where the overall design capacity of the compressor station is not increased. For example, the addition of a vapor recovery unit (VRU) compressor, such as a screw or vane compressor, would not be a modification for purposes of the compressor station fugitive emissions standards. Adding a VRU compressor does not increase the overall design capacity of the compressor station for the following reasons. VRU compressors are installed to recover methane and VOC emissions; they are not designed to "move natural gas at increased pressure through gathering or transmission pipelines, or into or out of storage." Therefore, the addition of a VRU compressor does not increase the overall design capacity of a compressor station, and does not result in a modification of the compressor station for the purposes of fugitive emissions monitoring. The EPA is not proposing a definition for compressor in this action because the explanation provided above related to the definition of compressor station does not support the need for a definition, and because the 2016 NSPS OOOOa already contains definitions of centrifugal and reciprocating compressors, which are the only compressor affected facilities.

3. Initial Monitoring for Well Sites and Compressor Stations

The 2016 NSPS OOOOa requires completion of initial monitoring for well sites and compressor stations by June 3, 2017, or 60 days after startup, whichever is later. For well sites, the startup of production marks the beginning of the initial monitoring

survey period for the collection of fugitive emissions components at a well site. Similarly, for compressor stations, the startup of the compressor station marks the beginning of the initial monitoring survey period.

Petitioners on the 2016 NSPS OOOOa have requested that the timing of fugitive emissions initial monitoring surveys be revised to allow for integration into existing monitoring programs.⁸⁰ One petitioner asserted that there are numerous challenges to setting up and implementing a fugitive monitoring program. The petitioner reported that even with the EPA's one-year phase-in allowance, there are initial inspection timing challenges (e.g., because of the significant distances between oil and gas sites). Petitioners requested that the EPA consider allowing 180 days for the initial survey. According to the petitioners, allowing for 180 days would not result in significantly more emissions and that, on average, half of the sites would likely conduct their initial survey in less than 90 days and half would likely conduct their initial survey between 90 and 180 days.

Between proposal and promulgation of the 2016 NSPS OOOOa, several industry comments recommended a 90-day time period (in lieu of the 30-day time period we initially proposed) to complete the initial survey to (1) address time and logistical capacities of oil and gas field crews and potential limited availability of monitoring contractors, (2) be consistent with the Ohio Environmental Protection Agency's General Air Permit for Oil and Gas Well Site Production Operations (General Permit 12.2), and (3) provide a more realistic time frame to perform an initial survey without potentially resulting in safety issues while initial oil and gas production and completion activities are taking place on the well pad.⁸¹ Other industry comments were received requesting that the EPA allow the initial fugitive survey to occur within 180 days from startup of a new well site or compressor station to (1) be consistent with similar LDAR programs, such as NSPS KKK and NSPS OOOO (where leak detection is currently imposed at natural gas processing plants), and (2) allow owners or operators time to do a thorough check of all new equipment installations before the survey.⁸² One of the

commenters (also a petitioner) reported that 180 days is needed to prepare for monitoring of the new or modified well site and ensure that such monitoring is conducted during the next scheduled monitoring period that would include all the well sites in the area.⁸³ They asserted that hiring third-party contractors to monitor one remote well site is inefficient and costly.

We have not received data indicating that initial monitoring cannot be completed within the currently required 60-day timeframe. We propose to maintain our conclusion that, in light of the need to complete initial monitoring in a timely manner after startup of production for well sites and the startup or modification for compressor stations to verify the proper installation of equipment, waiting 180 days for initial monitoring is too long after the installation of equipment to verify its proper installation. However, we are soliciting data that supports or refutes the claims by the petitioner that 180 days are necessary for proper installation of equipment before conducting initial monitoring would not result in significantly more emissions. Assuming we receive information that supports extending the initial monitoring deadline to give more time for installing equipment, we think it is possible these tasks may be nevertheless completed in a shorter time frame than the suggested 180 days discussed above. We are, therefore, soliciting comment and supporting data for changing the initial monitoring deadline to 90 days from 60 days after the startup of production for well sites and the startup or modification for compressor stations. Specific data would need to outline the difficulties with completing initial monitoring within the 60 days required in the 2016 NSPS OOOOa. In summary, while we are proposing to maintain the 60-day requirement, we solicit comment and information regarding the request to extend to 180 days, as well as an intermediate 90-day requirement.

We recognize that the 2016 NSPS OOOOa includes a waiver from quarterly monitoring at compressor stations after recognizing there are areas of the country that may experience temperatures below 0° for a period of 60 days. However, as discussed in detail in section VI.B.4, we are not sure where any areas of the country would utilize this waiver. The EPA is soliciting comment on how cold weather may impact the ability to comply with the 60-day initial monitoring deadline for well sites and compressor stations.

4. Low Temperature Waivers

In the 2016 NSPS OOOOa, owners and operators are granted a waiver from one quarterly monitoring event at compressor stations if the average temperature is below 0° for two consecutive quarters. 40 CFR 60.5397a(g)(5). In the preamble to the 2016 NSPS OOOOa we stated that the waiver was included for two reasons: (1) There were concerns raised by commenters that extreme winter weather created risk for the safety of monitoring survey personnel and (2) the manufacturer specifications indicate that OGI cameras may not reliably operate at temperatures below 0°. 80 FR 56668. In light of the proposed changes to monitoring frequencies discussed in section VI.B.1 of this preamble, we are proposing to remove the low temperature waiver because it is no longer relevant. The EPA is soliciting comment and supporting data that would indicate a need to maintain the waiver.

5. Repair Requirements

Repair. After detection of fugitive emissions, the 2016 NSPS OOOOa requires repair of these components within 30 days of detection of the fugitive emissions. Further, the owner or operator must resurvey the component within 30 days of the repair in order to verify successful repair. 40 CFR 60.5397a(h)(1) and (3).

Several questions were raised during implementation that required reconsideration of the repair requirements. Specifically, stakeholders asked about the situation where repairs were completed during the 30-day required timeframe but the resurvey identified the presence of fugitive emissions, indicating unsuccessful repair.

The EPA recognizes the requirements in the 2016 NSPS OOOOa may create an unintended noncompliance issue with the repair requirements. Therefore, we are proposing to amend the repair requirements to require a "first attempt at repair" within 30 days of detection of fugitive emissions, followed by a requirement that identified fugitive emissions be "repaired" within 60 days of detection. We are proposing definitions for "repaired" and "first attempt at repair" as related to the fugitive emissions requirements. The EPA is proposing to define "repaired," for purposes of fugitive emissions monitoring, as "fugitive emissions components are adjusted, replaced, or otherwise altered, in order to eliminate fugitive emissions as defined in 40 CFR 60.5397a of this subpart and is

⁸⁰ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682 and EPA-HQ-OAR-2010-0505-10791.

⁸¹ See Docket ID Nos. EPA-HQ-OAR-2010-0505-6808, EPA-HQ-OAR-2010-0505-6935 and EPA-HQ-OAR-2010-0505-6960.

⁸² See Docket ID EPA-HQ-OAR-2010-0505-6857.

⁸³ See Docket ID EPA-HQ-OAR-2010-0505-6884.

resurveyed as specified in 40 CFR 60.5397a(h)(4) and it is verified that emissions from the fugitive emissions components are below the applicable fugitive emissions definition.” Additionally, we are proposing the definition for “first attempt at repair” for the purposes of fugitive emissions monitoring as “an action taken for the purpose of stopping or reducing fugitive emissions of methane or VOC to the atmosphere. First attempts at repair include, but are not limited to, the following practices where practicable and appropriate: Tightening bonnet bolts; replacing bonnet bolts; tightening packing gland nuts; ensuring the thief hatch is properly seated or injecting lubricant into lubricated packing.” These proposed definitions for “repaired” and “first attempt at repair” are specific to the fugitive emissions requirements and would not replace the definitions for “repaired” or “first attempt at repair” within the requirements for equipment leaks at onshore natural gas processing plants referenced in 40 CFR part 60, subpart VVa. We are soliciting comment on these proposed repair requirements and definitions.

Delay of Repair. As amended on March 12, 2018, the 2016 NSPS OOOOa allows for delay of repair if the repair is technically infeasible; requires a vent blowdown, a compressor station shutdown, a well shutdown, or well shut-in; or would be unsafe to repair during operation of the unit. Repairs meeting one of these criteria must be completed during the next scheduled compressor station shutdown, well shutdown, or well shut-in; after a planned vent blowdown; or within 2 years, whichever is earlier. The amendment addressed the concerns associated with requiring repair during unscheduled or emergency events by removing such a requirement.

In addition to concerns with requiring repair during unscheduled or emergency events, several petitioners raised additional concerns with the provisions regarding the delay of repair for fugitive emissions components at well sites and compressor stations.⁸⁴ One petitioner stated that the 2-year delay should be reevaluated because no specific data was provided to support that deadline.⁸⁵ Further, other petitioners stated that blowdowns, shutdowns, and well shut-ins might not always involve depressurizing the

specific equipment that needs repair. The EPA is soliciting comment on instances when equipment cannot be isolated during vent blowdowns, compressor station shutdowns, well shutdowns, and well shut-ins to allow for repair of components with fugitive emissions. Further, the EPA is soliciting comment and supporting information on the instances where delayed repairs cannot be conducted during any of the events listed in the rule and under what event or time frame delayed repairs can be conducted for those instances.

Finally, we are clarifying when a repair can be delayed. There are three circumstances when repair can be delayed: (1) When the repair is technically infeasible, (2) when the repair requires a vent blowdown, a compressor station shutdown, a well shut-in, or a well shutdown, and (3) when the repair is unsafe during operation of the unit.⁸⁶ The 2016 NSPS OOOOa requires an explanation of each repair that is delayed as well.⁸⁷ As discussed in section VI.B.1, we have added 1 controlled storage vessel per model plant because when the controlled storage vessel is not subject to the control requirements in 40 CFR 60.5395a, the thief hatch and other openings are subject to fugitive emissions requirements, per the definition of fugitive emissions components in 40 CFR 60.5430a. The EPA believes that thief hatches on controlled storage vessels which are part of the fugitive emissions program would not be subject to delay of repair under any of these circumstances; however, we are soliciting comment for any instance when delaying repair on a thief hatch may be necessary. The EPA acknowledges that questions may arise as to whether opening a thief hatch is considered a vent blowdown. While we do not consider this to constitute a vent blowdown, we are soliciting comment on whether clarification within the regulatory text is necessary for this point. We are also soliciting comment on the 2-year deadline for completion of delayed repairs.

6. Definitions Related to Fugitive Emissions at Well Sites and Compressor Stations

Third-party equipment. In the 2016 NSPS OOOOa, all fugitive emissions components located at a well site, regardless of ownership, are subject to the monitoring and repair requirements for fugitive emissions in the 2016 NSPS OOOOa. As defined in 40 CFR 60.5430a, the term ‘fugitive emissions component’

means “any component that has the potential to emit fugitive emissions of methane or VOC at a well site or compressor station, including, but not limited to valves, connectors, pressure relief devices, open-ended lines, flanges, covers and closed vent systems not subject to § 60.5411a, thief hatches or other openings on a controlled storage vessel not subject to § 60.5395a, compressors, instruments, and meters” and the term ‘well site’ means “one or more surface sites that are constructed for the drilling and subsequent operation of any oil well, natural gas well, or injection well.” Several petitioners raised concerns that these definitions are too broad and requested that the EPA should exclude equipment that is owned and operated by a third-party.⁸⁸

First, petitioners requested an exemption for equipment owned and operated by midstream companies because that equipment is owned by legally distinct entities, and applicability of the standards to midstream assets would be based solely on the actions of the upstream producers. Second, petitioners stated that the EPA is incorrect in suggesting that contractual agreements between upstream producers and midstream owners and operators would be appropriate for managing fugitive emissions monitoring and repair(s) at the well site. The petitioners stated that, due to the complexity of contractual agreements between different owners and operators at a well site, each individual owner or operator may need to develop and implement separate fugitive emissions monitoring programs. The petitioner further stated that doing so would add significant and unnecessary costs that the EPA did not consider.⁸⁹

In the response to comment document for the 2016 NSPS OOOOa we stated that cooperative agreements could be used to resolve any fugitive emissions identified during surveys, but we acknowledged in the 2017 NODA that confusion remained over the applicability of the fugitive emissions requirements as they relate to ancillary midstream assets that are owned by companies that are legally distinct from the well site owner and operator and that could have limited emissions. 82 FR 51798. In their comments on the 2017 NODA, one petitioner noted that since the components associated with the gas gathering and metering systems

⁸⁴ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7683, and EPA-HQ-OAR-2010-0505-7686.

⁸⁵ See Docket ID No. EPA-HQ-OAR-2010-0505-7683.

⁸⁶ See 40 CFR 60.5397a(h)(2).

⁸⁷ See 40 CFR 60.5420a(b)(7)(ii)(I).

⁸⁸ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682 and EPA-HQ-OAR-2010-0505-7684.

⁸⁹ See Docket ID No. EPA-HQ-OAR-2010-0505-7684.

serve the “crucial commercial purpose in calculating gas accepted by the gathering company and the related revenue accounting,” the midstream operators could not allow the production operators to access this equipment.⁹⁰ This petitioner further clarified that due to this limitation, the midstream operator would need to implement a separate fugitive emissions program for a limited number of components. Additionally, the petitioner stated there are significant practical issues with renegotiating contracts, especially as well sites are modified over time. We did not consider this issue during development of the 2016 NSPS OOOOa.

In light of the concerns raised by the petitioners, the EPA is proposing to amend the definition of “well site,” for the purposes of fugitive emissions monitoring, to exclude the flange upstream of the custody meter assembly, and fugitive emissions components located downstream of this flange. The EPA understands this custody meter is used effectively as the cash register for the well site and provides a clear separation for the equipment associated with production of the well site, and the equipment associated with putting the gas into the gas gathering system. Additionally, the proposed definition would exclude only a small number of fugitive emissions components, and we do not believe it would be cost-effective to require a separate fugitive emissions program for these components. We are also proposing a definition for the custody meter as “the meter where natural gas or hydrocarbon liquids are measured for sales, transfers, and/or royalty determination,” and the custody meter assembly as “an assembly of fugitive emissions components, including the custody meter, valves, flanges, and connectors necessary for the proper operation of the custody meter.” We are limiting the exemption within the definition of a well site to the flange upstream of the custody meter because we are not aware of similar issues with monitoring other third-party equipment at a well site. The EPA is soliciting comment on this proposed change to the “well site” definition, the proposed definition of “custody meter,” the proposed definition of “custody meter assembly,” and suggestions for other ways which provide a clear separation to distinguish the third-party equipment described above at a well site, for the purposes of fugitive emissions monitoring.

Applicability to Saltwater Disposal Wells. In addition to concerns about the definition of a “well site” as it relates to third party equipment, the EPA received feedback from industry seeking confirmation that a saltwater disposal well is not an injection well as the term is used in the definition for well site and, therefore, not subject to the fugitive emission standards at 40 CFR 60.5397a. They asserted that disposal wells are not injection wells and that the disposed liquid consists of water with insignificant amounts of stabilized skim oil that is never in vapor state at normal or elevated conditions. The commenters were concerned that, although they did not believe it was the EPA’s intent to require fugitive emissions monitoring of saltwater disposal wells, they will nevertheless have to comply with those requirements because, as written, the definition of “well site” is ambiguous with respect to the status of saltwater disposal wells.

Deposits of oil and natural gas can be found in porous rocks and shale, where saltwater is also found. Oil and gas pumped out of the earth that is not pure enough for distribution because of saltwater and other chemicals/impurities go through a separation phase or are treated with chemicals that extract the impurities. After the oil or gas is treated, the water that remains (referred to as “saltwater”) is subject to handling requirements.⁹¹ Saltwater, or produced water, that results from bringing the oil and gas up to the surface (ejected from the well) during production operations is generally (1) recycled, (2) returned to the reservoir for fluid reinjection or (3) injected into underground porous rock formations not productive of oil or gas, and sealed above and below by unbroken, impermeable strata.⁹² The third option is considered saltwater disposal (or oilfield wastewater disposal). Regulations for the disposal of this water vary from state to state, but the EPA monitors disposal to ensure ground water is not contaminated through Underground Injection Control (UIC) programs under the federal Safe Drinking Water Act for surface and groundwater protection. The EPA had not considered these UIC Class II oilfield wastewater disposal wells during the development of the fugitive emissions standards in the 2016 NSPS OOOOa.

⁹¹ <http://www.tech-flo.net/salt-water-disposal.html>.

⁹² Barnett Shale Energy Education Council. *What are Saltwater Disposal Wells?* Air and Water Quality. http://www.bseec.org/what_are_saltwater_disposal_wells.

For the reasons stated below, we are proposing to exclude UIC Class II oilfield wastewater disposal wells from the well site definition and are proposing a definition for a UIC Class II oilfield wastewater disposal well to distinguish them from injection wells subject to the rule. It is our understanding that the storage vessels located at these disposal facilities have low methane and VOC emissions, and thus are not subject to the control requirements for storage vessels found in 40 CFR 60.5395a, do not require controls for permitting purposes, and would not be subject to fugitive emissions monitoring because they are uncontrolled. Further, it is our understanding that the number of fugitive emissions components at these facilities are typically low, including water pumps and a limited number of valves or connectors, which are expected to have negligible if any fugitive emissions. These proposed changes clarify the universe of well sites subject to the fugitive emissions standards. Our proposed definition for a “UIC Class II oilfield disposal well” is “a well with a UIC Class II permit where wastewater resulting from oil and natural gas production operations is injected into underground porous rock formations not productive of oil or gas, and sealed above and below by unbroken, impermeable strata.” Further, we are proposing that UIC Class II disposal facilities without wells that produce oil or natural gas are not considered well sites for the purposes of fugitive emissions requirements. We are soliciting comment on this proposed definition and on the proposed exemption for UIC Class II wastewater disposal wells and disposal facilities from fugitive emissions monitoring and repair, including data to support or refute our understanding that these sites have limited fugitive emissions components.

Definition of well site. As discussed in the sections regarding third-party equipment and saltwater disposal wells, the EPA is proposing to amend the definition of well site as follows:

Well site means one or more surface sites that are constructed for the drilling and subsequent operation of any oil well, natural gas well, or injection well. For purposes of fugitive emission standards at § 60.5397a, a well site also means a separate tank battery surface site collection crude oil, condensate, intermediate hydrocarbon liquids, or produced water from wells not located at the well site (e.g., centralized tank batteries). Also for the purposes of the fugitive emissions standards at § 60.5397a, a well site does not include (1) UIC Class II oilfield disposal wells and disposal facilities and (2) the flange upstream of the custody meter

⁹⁰ See Docket ID No. EPA-HQ-OAR-2010-0505-13436.

assembly and equipment, including fugitive emissions components, located downstream of this flange.

Startup of Production. The EPA defines the “startup of production” in the 2016 NSPS OOOOa as the “beginning of initial flow following the end of flowback when there is continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate or produced water.” 40 CFR 60.5430a. For purposes of the fugitive emissions requirements in 40 CFR 60.5397a, the initial monitoring survey follows the startup of production. We received questions from stakeholders that suggested this definition would limit the fugitive emissions requirements to well sites with hydraulically fractured wells and not those with conventional wells. While the first trigger for modification is based on the drilling of a new well, regardless if it is hydraulically fractured or not, the definition of startup of production is linked to flowback, which is inherently an effect following hydraulic fracturing.

We are proposing to amend the definition of “startup of production” in this proposal to address how it relates to the fugitive emissions requirements. Specifically, we are proposing that, for the purposes of the fugitive monitoring requirements, startup of production means “the beginning of the continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate or produced water.” We are soliciting comment on this proposed definition change as it relates to wells that are not hydraulically fractured.

7. Fugitive Emissions Monitoring Plan

The 2016 NSPS OOOOa requires that each fugitive emissions monitoring plan include a sitemap and a defined observation path.⁹³ As we are clarifying in this proposed action, these requirements were meant to apply only to owners and operators using OGI for monitoring surveys, not to owners and operators using Method 21. In addition to clarifying this intent, we are also proposing options that owners and operators using OGI for monitoring surveys can comply with in lieu of the observation path requirement.

As we discussed in the preamble to the 2016 NSPS OOOOa, the purpose of the observation path is to ensure that the OGI operator visualizes all of the components that must be monitored. In a traditional monitoring scenario using Method 21, the owner or operator tags all of the equipment that must be monitored, and when the operator

subsequently inspects the affected facility, the operator scans each component’s tag and notes the component’s instrument reading. The EPA realizes that this is a time-consuming practice that requires close contact with each component, whereas with OGI, the operator can be away from the components and still monitor several components simultaneously. The observation path⁹⁴ was intended to offer owners and operators an alternative to the traditional tagging approach while still providing assurance that the owner or operator has met the obligation to monitor all components. 81 FR 35860.

Petitions received on the 2016 NSPS OOOOa assert that there is no added benefit to including the sitemap and defined observation path in the fugitive emissions monitoring plan and that they should be removed.⁹⁵ Industry representatives report that, in many cases, sitemaps do not exist. They further report that there are significant added costs associated with the requirement to develop site-specific details for a sitemap and a defined observation path for each site and that there may be hundreds to thousands of different sites. These representatives express concern that sitemaps could also change, subjecting them to additional costs associated with revising the fugitive emissions monitoring plan without any added benefit. While we do think that it is necessary to revise monitoring plans when equipment at the site changes,⁹⁶ we generally expected these to be one-time requirements, unless additional equipment is added to the site. 81 FR 35860. The EPA is specifically seeking comment on whether this assumption is incorrect and, if not, we solicit information on the cost to develop and revise the sitemap, including the cost to document an observation path, the cost to revise a sitemap and observation path, and the frequency with which the sitemap and observation path need to be updated. We are also clarifying that plot plans can be substituted for sitemaps, as

⁹⁴ In the preamble to the 2016 NSPS OOOOa, we also noted that the purpose of using the term “observation path” was to clarify that the emphasis is on the field of view of the OGI instrument, not the physical location of the OGI operator. 81 FR 35860.

⁹⁵ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7686 and EPA-HQ-OAR-2010-0505-10791.

⁹⁶ As we stated in the preamble to the 2016 NSPS OOOOa, we do not expect facilities to create overly detailed process and instrumentation diagrams to describe the observation path. The observation path description could be a simple schematic diagram of the facility site or an aerial photograph of the facility site, as long as such a photograph clearly shows locations of the components and the OGI operator’s walking path. 81 FR 35860.

these two items serve the same function, *i.e.*, to provide information on the locations of equipment on site.

Industry representatives have also expressed concern that the fugitive emissions monitoring plan as written in 40 CFR 60.5397a(d) may cause enforcement issues in cases where the fugitive emissions monitoring plan is not followed exactly (specifically related to the defined observation path), even when the deviation is not critical and the monitoring plan is still effective. In response to public comments on the 2016 NSPS OOOOa, we stated that the elements required in the monitoring plan are necessary to judge the quality of the fugitive emissions survey, in light of the fact that the EPA does not have a standard method for use of OGI, but that we fully expected a trained and experienced camera operator to know when deviations from the standard monitoring plan are necessary and to make these deviations.⁹⁷ However, while deviations may not impact the camera’s detection ability and can actually improve the detection ability, this does not mean that deviations from the monitoring plan should not be noted because this record provides valuable information to air agency reviewers on how surveys are conducted and whether the deviations from the monitoring plan are adequate and warranted. We note that deviations from the monitoring plan are not necessarily deviations from the requirements of the rule.

While we are not proposing to remove the sitemap and observation path elements from the fugitive emissions monitoring plan, we are proposing two alternatives to address petitioner/industry representative concerns. First, in lieu of the defined observation path, we are proposing to add language to 40 CFR 60.5397a(d) that allows an owner or operator to describe how each type of equipment will be effectively monitored, including a description and location of the fugitive emissions components located on the equipment. The sitemap would include the locations of the pieces of equipment when complying with this option. Second, in lieu of meeting the sitemap and defined observation path requirements, we are proposing to add language to 40 CFR 60.5397a(d) to extend the inventory requirement that is currently in 40 CFR 60.5397a(d)(3) for when an owner or operator chooses to perform a survey with Method 21 as an option for owners and operators who perform surveys with OGI. We believe

⁹⁷ See Docket ID No. EPA-HQ-OAR-2010-0505-7632, Chapter 4, page 4-708.

⁹³ See 40 CFR 60.5397a(d)(1) and (2).

that both of these options provide assurances similar to the observation path that the owner or operator meets the requirement to visualize all components.

In summary, the EPA is retaining the requirements for the sitemap and observation path in the fugitive monitoring plan, but is also proposing two alternatives to these requirements. The EPA is soliciting comment on these proposed alternatives. Additionally, we are soliciting comment on other potential options that would serve the same functions as an observation path and sitemap. We are particularly interested in potential options that provide assurance that all regulated components have been monitored, how this information can be documented, and the costs of such alternative approaches.

C. Professional Engineer Certifications

The 2016 NSPS OOOOa requires that CVS used for routing emissions from centrifugal compressor wet seal fluid degassing systems, reciprocating compressors, pneumatic pumps, and storage vessels must have sufficient design and capacity to ensure that all emissions are routed to the control device. 40 CFR 60.5411a(d). This is accomplished through a design evaluation that must be certified by a “qualified professional engineer” (PE). Several petitioners requested reconsideration of the PE certification requirement because the EPA did not provide an evaluation of the costs associated with the certification.⁹⁸ Additionally, petitioners requested that the EPA allow alternatives to PE certification, such as engineering design reviews not necessarily conducted by a licensed PE.

The 2016 NSPS OOOOa also includes a technical infeasibility provision allowing an exemption from the well site pneumatic pump requirements. However, the rule requires that such technical infeasibility be determined and certified by a “qualified professional engineer.” 40 CFR 60.5393a(b)(5)(i). Petitioners objected to this additional certification, stating it results in additional costs and project delays, with no environmental benefits. Additionally, petitioners questioned the value of this requirement, claiming it is duplicative with the existing general duty obligations and requirement to provide a certifying official’s acknowledgment. Petitioners also stated that few companies have a sufficient

number of in-house PEs, and requested that this requirement be broadened to allow alternatives to PE certification, including requiring engineering review and approval of all designs.

In the 2017 NODA, we requested information related to the availability of PEs to provide these certifications. Seven commenters provided information. Three commenters stated that there should be no limitation related to the availability of licensed PEs because in 2016 over 400,000 resident licenses were issued, and over 400,000 non-resident licenses were issued (a PE can hold both types of licenses).⁹⁹ One commenter cited a similar requirement in Colorado’s regulation and stated that in response to the same concerns from the industry, Colorado found there was no basis for the claims about a lack of availability of PEs.¹⁰⁰ In contrast, four commenters stated difficulties with locating a PE willing to provide the certification, citing multiple concerns, including the certification statement included in the 2016 NSPS OOOOa and the certification of a portion of a system when the PE did not design the entire system.¹⁰¹

We have evaluated the concerns raised by petitioners regarding the additional burden of the PE certification for CVS design and pneumatic pump technical infeasibility. Further, the EPA agrees with commenters that in-house engineers may be more knowledgeable about site design and operation for both CVS and pneumatic pumps. In addition, the EPA acknowledges that, in the 2016 NSPS OOOOa, we did not analyze the costs associated with the PE certification requirement or evaluate whether the improved environmental performance this requirement may achieve justifies the associated costs and other compliance burden. In this action, the EPA evaluated the costs associated with PE certification and certification by an in-house engineer. We estimated costs based on two scenarios: (1) Requiring a PE certify the design and (2) allowing either a PE or an in-house engineer certify the design. We estimate that each PE certification would cost \$547, while allowing use of in-house engineers would cost \$358.¹⁰² The EPA

is soliciting comment on this cost estimate.

After reconsideration of these costs, the EPA is proposing to amend the certification requirements for CVS design and technical infeasibility for pneumatic pumps. Specifically, we are proposing to allow certification by either a PE or an in-house engineer with expertise on the design and operation of the CVS or pneumatic pump. We believe that an in-house engineer with knowledge of the design and operation of the CVS is capable of performing these certifications, regardless of licensure; however, we are soliciting comment on the use of other engineers with knowledge of the design and operation of the CVS that may be appropriate for this certification, such as third-party or other qualified engineers. We continue to have a concern regarding the use of undersized or under designed CVS, which can result in pressure relief events from thief hatches and PRVs on the controlled storage vessels or CVS, thus allowing emissions to escape to the atmosphere uncontrolled. As stated in the 2013 NSPS OOOO Oil and Natural Gas Sector: Reconsideration of Certain Provisions of New Source Performance Standards, “Improper design or operation of the storage vessel and its control system can result in occurrences where peak flow overwhelms the storage vessel and its capture systems, resulting in emissions that do not reach the control device, effectively reducing the control efficiency. We believe that it is essential that operators employ properly designed, sized, and operated storage vessels to achieve effective emissions control.” 78 FR 22136. This proposed amendment will still ensure these systems are evaluated and certified by engineers with expert knowledge of their operation.

D. Alternative Means of Emission Limitation (AMEL)

The 2016 NSPS OOOOa contains provisions for owners and operators to request an AMEL for specific work practice standards in the rule, covering well completions, reciprocating compressors, and the collection of fugitive emissions components at well sites and compressor stations. An owner or operator can request an AMEL by submitting data that demonstrate the alternative will achieve at least equivalent emission reductions as the requirements in the rule, among other requirements such as initial and on-going compliance monitoring. The specific requirements for this request are outlined in 40 CFR 60.5398a. For the 2016 NSPS OOOOa, these alternatives

⁹⁹ See Docket ID Nos. EPA-HQ-OAR-2010-0505-12386, EPA-HQ-OAR-2010-0505-12441, and EPA-HQ-OAR-2010-0505-12469.

¹⁰⁰ See Docket ID No. EPA-HQ-OAR-2010-0505-12469.

¹⁰¹ See Docket ID Nos. EPA-HQ-OAR-2010-0505-12422, EPA-HQ-OAR-2010-0505-12441, EPA-HQ-OAR-2010-0505-12437, and EPA-HQ-OAR-2010-0505-12446.

¹⁰² See the TSD for additional discussion of certification cost.

⁹⁸ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

could be based on emerging technologies (e.g., for fugitive emissions, technologies other than OGI or Method 21) or requirements under state or local programs.

We are proposing to amend the language in 40 CFR 60.5398a for incorporation of emerging technologies, and to add a separate section at 40 CFR 60.5399a to take into account existing state programs as discussed in further detail in the sections below.

1. Incorporating Emerging Technologies

As discussed in the 2016 NSPS OOOOa, the EPA recognizes that new technologies are expected to enter the market in the near future that will locate the source of emissions sooner and at lower levels than current technology. While the EPA established a foundation for approving the use of emerging technologies in the final rule, several stakeholders have identified a need to streamline the process for requesting and approving an AMEL for individual affected sources, such as well completions, compressors, and the collection of fugitive emissions components located at a well site or at a compressor station. As promulgated in the 2016 NSPS OOOOa, each AMEL request must be submitted using site-specific information, which could result in the same owner or operator submitting identical requests for multiple affected facilities. We are clarifying that an individual application may include the same technology for multiple sites, provided the required information is provided for each site and any site-specific variations to the procedures are addressed in the application. The application must provide a demonstration of equivalency and the emission reductions achieved for each site included in the application. The EPA is also proposing specific changes to the AMEL process as it relates to emerging technologies to address this issue. Specifically, we are proposing to allow owners or operators to apply for an AMEL, on their own or in conjunction with manufacturers or vendors, and trade associations, that incorporates the use of alternative technologies, techniques, or processes, along with compliance monitoring provisions to ensure continuous compliance other than those identified in the 2016 NSPS OOOOa work practice standards. We are not changing the requirement that AMELs must be site-specific because we are aware of the variability of this sector and are concerned that the procedures for a specific technology may need to be adjusted based on site-specific conditions (e.g., gas compositions,

allowable emissions, or landscape). Therefore, we expect that applications for these AMEL will include site-specific procedures for ensuring continuous compliance of the emission reductions to be demonstrated as equivalent. For this reason, we are not proposing to allow a manufacturer, vendor, or trade association to apply for an AMEL without an owner or operator. However, we are soliciting comment on whether groups of sites within a specific area (e.g., basin-specific) that are operated by the same operator could be grouped under a single AMEL. Additionally, we are proposing that field data can be supplemented with test data, modeling analyses and other documentation, provided the field data still provides information related to seasonal variations. For the purposes of fugitive emissions requirements, the application must demonstrate that the technology is able to detect emissions beyond those allowed, such as pneumatic controllers. We are soliciting comment on the proposed revisions to the application requirements for technology-based AMEL.

2. Incorporating State Programs

In addition to recognizing potential emerging technologies, the EPA evaluated existing state and local fugitive emissions programs during the development of the 2016 NSPS OOOOa for purposes of establishing AMEL. The EPA was unable to conclude that any state program as a whole would reflect what we identified as BSER in the 2016 NSPS OOOOa due to the differences in the sources covered and the specific requirements. However, the 2016 NSPS OOOOa allowed owners and operators to use the AMEL process to allow use of existing state or local programs. 81 FR 35871. Petitioners and states have raised specific questions about the practicality of the AMEL process as it relates to the incorporation of state programs.¹⁰³ For instance, one state has notified the EPA that since the ability to make an AMEL request is limited to owners and operators at the individual site level, it is possible that the EPA would have over 300 identical applications from various owners and operators wanting to use the same state program at their affected facilities. Believing that there may be opportunities to streamline the process, ensure compliance, and reduce regulatory burdens, the EPA continued its evaluation of existing state fugitive emissions programs after promulgating the 2016 NSPS OOOOa. Based on this

¹⁰³ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

evaluation, the EPA is proposing certain existing state requirements as alternatives to specified aspects (e.g., monitoring, repair, and recordkeeping) of the fugitive emissions requirements for well sites and compressor stations.

To date, the EPA has evaluated 14 existing state programs for comparable or equivalent standards related to the fugitive emissions requirements in 40 CFR 60.5397a and the specific amendments in this proposal. For this evaluation, we compared the fugitive emissions components covered by the state programs, monitoring instruments, leak or fugitive emissions definitions, monitoring frequencies, repair requirements, and recordkeeping to the fugitive emissions requirements proposed in this action.¹⁰⁴ We did not include an evaluation of monitoring plans or reporting requirements because we are not proposing any alternative standards for these aspects of the fugitive emissions requirements. Through this evaluation, we have identified aspects of certain existing state fugitive emissions programs that we propose to find to be at least equivalent to the proposed amendments in this action.¹⁰⁵ For instance, we have evaluated the lists of affected fugitive components, monitoring instrument(s), fugitive definition(s), monitoring frequency, repair deadlines, delay of repair provisions, and recordkeeping of the programs reviewed. In most of the programs, the affected fugitive components were different than our definition of fugitive emissions component. Therefore, we are proposing alternative standards that also require the owner or operator to survey our entire list of fugitive emissions components, regardless of whether they are affected components in the state program. Additionally, we evaluated monitoring instruments, frequencies, and fugitive definitions in conjunction with each other. Where monitoring is more frequent, we are proposing that a different fugitive definition could be appropriate. For instance, the standards in the California Code of Regulations, title 17, sections 95665–95667 require quarterly monitoring using Method 21 with a fugitive definition of 1,000 ppm while this proposal requires annual or stepped monitoring with a fugitive definition of 500 ppm if Method 21 is the chosen monitoring instrument. The

¹⁰⁴ See memorandum *Equivalency of State Fugitive Emissions Programs for Well Sites and Compressor Stations to Proposed Standards at 40 CFR part 60, subpart OOOOa* located at Docket ID No. EPA-HQ-OAR-2017-0483. April 12, 2018.

¹⁰⁵ Specifically, we propose to make this finding with respect to state programs in California, Colorado, Ohio, Pennsylvania, Texas, and Utah.

EPA believes that more frequent monitoring warrants allowance of a higher fugitive definition because larger fugitive emissions will be found faster and repaired sooner, thus reducing the overall length of the emission event. Additional information related to the specific evaluation of programs is available in the memorandum *Equivalency of State Fugitive Emissions Programs for Well Sites and Compressor Stations to Proposed Standards at 40 CFR part 60, subpart OOOOa*, located at Docket ID No. EPA-HQ-OAR-2017-0483.

Based on this evaluation, we are proposing combining those aspects of the state requirements to formulate alternatives to the relevant portions of the fugitive emissions standards for the collection of fugitive emissions components located at either well sites or compressor stations. The specific states for which we are proposing alternative standards are California, Colorado, Ohio, and Pennsylvania for both well sites and compressor stations, and Texas and Utah for well sites only. We have not determined whether Pennsylvania's Exemption No. 38 for well sites should be included in the alternative standards. While we evaluated the current consent decree¹⁰⁶ that the state of North Dakota has developed for well sites, we are not proposing alternative standards related to those requirements because by their nature, consent decrees are negotiated terms for non-compliance and contain an expiration date, after which sources return to compliance with the underlying regulatory provisions, permit terms, etc. Further, inclusion of settlement terms from a consent decree as an alternative standard would essentially endorse regulation through enforcement as a pathway to establishment of alternative standards. For all of these reasons, the EPA believes that evaluation of settlement agreement terms reached through negotiated resolution to an enforcement action would be an inappropriate basis from which to establish alternative standards for regulations promulgated through notice and comment rulemaking. Additionally, we are identifying the specific effective date of the individual state programs to specify which version of the state programs is being proposed as alternative standards because the state programs may change over time, and our evaluation is only

valid for the current version of these programs. If in the future any of these programs are amended, the states can utilize the proposed application procedure discussed below.

The proposed alternative fugitive emissions standards include alternatives for monitoring frequencies, repair deadlines, and recordkeeping. The requirements for the monitoring plan found in 40 CFR 60.5397a(c) and (d) would still apply. In fact, the owner or operator would indicate through this monitoring plan that they have elected the alternative and would base the monitoring plan on the specific requirements from the state, local, or tribal program that is being adopted. Compliance would be evaluated against the specified requirements in the alternative fugitive emissions standards as incorporated in the monitoring plan. Further, we are proposing to require notification that the owner or operator has elected to comply with the applicable alternative fugitive emissions standards for the state in which the well site or compressor station is located. We are proposing that this notification is made at least 90 days prior to adopting an alternative fugitive emissions standard. We are soliciting comment on the requirements necessary to document that an owner or operator is following an alternative state, local or tribal program and on the notification requirement, including the appropriateness of the use of the requirement of 90 days' notice prior to adoption of the alternative standards.

In this action we are proposing a new section, in proposed 40 CFR 60.5399a, to include these state requirements that qualify as alternative fugitive emissions standards. The proposed section also includes a framework for the application and inclusion of additional existing state fugitive emissions standards as alternatives to the fugitive emissions requirements or future revisions to programs already proposed as alternative standards. Under our proposal, such applicants would include, but not be limited to, individuals, corporations, partnerships, associations, states, or municipalities. The proposed requirements for the application include specific information about the monitoring instrument (including monitoring procedures), monitoring frequency, leak or fugitive emissions definition, and repair requirements. We are soliciting comment on the proposed application requirements, the proposed alternative fugitive emissions standards (including compliance monitoring), and information to support the inclusion of

additional alternative fugitive emissions standards.

E. Other Reconsideration Issues Being Addressed

1. Well Completions

Location of a Separator During Flowback. The 2016 NSPS OOOOa requires the owner or operator to have a separator onsite during the entirety of the flowback period. 40 CFR 60.5375a(a)(1)(iii). However, several petitioners indicated that it is not clear whether the term "onsite" refers to the specific well site where the well completion is taking place.¹⁰⁷ Our intent was that the separator be located in close enough proximity to the well that it could be utilized as soon as sufficient flowback is present for the separator to function. Close proximity could be either onsite or nearby, as we explained in the preamble to the 2016 NSPS OOOOa, "We anticipate a subcategory 1 well to be producing or near other producing wells. We therefore anticipate REC equipment (including separators) to be onsite or nearby, or that any separator brought onsite or nearby can be put to use." 81 FR 35852. Thus, our intent was that the separator may be located at the well site or near to the well site so that it is able to commence separation flowback, as required by the rule. Locations "near" or "nearby" may include a centralized facility or well pad that services the well which is used to conduct the completion of the well affected facility. In order to alleviate concerns that the separator must be located on the well site, we are proposing to amend 40 CFR 60.5375a(a)(1)(iii) to clarify the location of the separator.

Screenouts and Coil Tubing Cleanouts. Petitioners requested clarification as to whether screenouts and coil tubing cleanouts are regulated as part of flowback. Petitioners asserted that these are necessary processes performed during hydraulic fracturing that are not associated with flowback.¹⁰⁸ In November 2016, the EPA responded to a letter from API seeking clarification on this issue, stating, "any releases of gas or vapor during 'screenouts' and 'coil tubing cleanouts,' which occur during the initial flowback stage are not subject to control under section 60.5375a."¹⁰⁹ However, we have further assessed this topic and believe that the guidance we issued was incorrect. In the

¹⁰⁶ See North Dakota Consent Decree 10.19.16, attachment to the memorandum *Equivalency of State Fugitive Emissions Programs for Well Sites and Compressor Stations to Proposed Standards at 40 CFR part 60, subpart OOOOa*. April 12, 2018, in Docket ID No. EPA-HQ-OAR-2017-0483.

¹⁰⁷ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682 and EPA-HQ-OAR-2010-0505-7686.

¹⁰⁸ See Docket ID No. EPA-HQ-OAR-2010-0505-7682.

¹⁰⁹ See Docket ID No. EPA-HQ-OAR-2010-0505-7722.

preamble to the final 2014 amendments, we stated regarding flowback: “. . . the first stage would begin with the first flowback from the well following hydraulic fracturing or refracturing, and would be characterized by high volumetric flow . . .” 79 FR 79024. In some situations, screenouts or coil tubing cleanouts may be necessary in order to remove proppant (sand) from the well so that high volumetric flow can occur, marking the beginning of the initial flowback stage. Therefore, screenouts and coil tubing cleanouts are not a part of flowback; rather, they are functional processes that allow for flowback to begin. It should be noted that this is consistent with the definition of hydraulic fracturing, which we stated requires high rate, extended flowback to expel fracture fluids and solids during completions. 40 CFR 60.5430a. For the reasons stated above, the November 2016 letter incorrectly states that screenouts and coil tubing cleanouts occur during the initial flowback stage. To clarify this point, we are proposing to revise the definition of flowback to expressly exclude these processes to avoid any future confusion. In addition, we are proposing definitions for these processes. A screenout is the first attempt to clear proppant from the wellbore. It involves flowing the well to a fracture tank in order to achieve maximum velocity and carry the proppant out of the well. If a screenout is unsuccessful in clearing the proppant from the wellbore, then a coil tubing cleanout is conducted. This involves running a string of coil tubing to the packed proppant and jetting the well to dislodge the proppant and provide sufficient lift energy to flow it to the surface. It is after these processes that flowback begins and, subsequently, production. The EPA solicits comment on the proposed definitions for these processes.

Plug Drill-Outs. A plug drill-out is the removal of a plug (or plugs) that was used to conduct hydraulic fracturing in different sections of the well. Plug drill-outs are also functional processes that are necessary in order for flowback to begin. Therefore, the EPA is similarly proposing to exclude these processes from the definition of flowback.

Flowback Routed Through Permanent Separators. The EPA is proposing to streamline reporting and recordkeeping requirements for flowback routed through permanent separators to reduce burden on the regulated community. We consider a permanent separator to be one that handles flowback from a well or wells beginning when the flowback period begins and continuing to the startup of production. When routing

flowback through permanent separators, some reporting and recordkeeping elements associated with well completions (e.g., information about when a separator is hooked up or disconnected) become unnecessary because the separator is already connected to the well at the onset of flowback. In these situations, there is no initial flowback stage, and the separation flowback stage begins. Therefore, the EPA is proposing that operators do not need to record or report the date and time of each attempt to direct flowback to a separator for these situations. However, these streamlined recordkeeping and reporting requirements would not apply in situations where flowback is not routed through a permanent separator; in those cases, operators would be required to report the date and time of each attempt to direct flowback to a separator. The EPA is soliciting comments on these proposed revisions and additional ways to streamline reporting and recordkeeping.

2. Onshore Natural Gas Processing Plants

Capital Expenditure. We are proposing to correct the definition of “capital expenditure” promulgated at 40 CFR 60.5430a by replacing the reference to the year 2011 with the year 2015 in the formula in paragraph (2) of the definition. The definition of “capital expenditure” was among the issues related to 40 CFR part 60, subpart OOOO that the EPA reconsidered and addressed in the 2016 NSPS OOOOa. That definition is relevant to the equipment leaks standards for onshore natural gas processing plants that were originally promulgated in 1985 in 40 CFR part 60, subpart KKK, updated in 2012 in 40 CFR part 60, subpart OOOO, and carried over in 2016 in 40 CFR part 60, subpart OOOOa. As explained in the memorandum *Alternative Method for Determining Capital Expenditures* (Thomas W. Rhoads to Docket A–80–44, July 21, 1983), located at Docket ID No. EPA–HQ–OAR–2017–0483, this method was developed to allow a facility to approximate the original costs of the facility using the replacement costs and the inflation index and therefore, providing an alternative method to the definition of “capital expenditure” in 40 CFR part 60, subpart A (“General Provisions”).¹¹⁰ The value for “Y” (the percent of replacement cost) is designed to take into account the age of the

facility. Therefore, the replacement cost for a new facility should be the same as the original cost, or the value of “Y” should be closer to 1 for new facilities. Because the 2016 NSPS OOOOa applies to new sources constructed, reconstructed, or modified after September 18, 2015, the base year of 2015 is the correct year to reflect the age of the facility in this calculation.

However, for sources that commenced construction between January 1, 2015, and September 18, 2015, when the value of “2015” is used it results in a “zero” value for “X” for which there is no logarithmic solution. This is a result that the EPA did not intend in its revision of the calculation in the 2016 rulemaking. The EPA is, therefore, amending the definition so that the value of “Y” equals 1 if the affected process unit was constructed in 2015. The proposed amendment would address the mathematical issue for affected sources constructed in 2015 while leaving the calculation method intact for other affected sources. We are soliciting comment on the proposed amendment to the equation.

Notwithstanding this proposed amendment, as indicated above, the equation was developed as an alternative to the General Provisions definition of “capital expenditure.” Since the General Provisions definition also applies, if calculation issues arise when applying the 2016 NSPS OOOOa equation, facilities should use the General Provisions to calculate capital expenditure. Facilities can also contact the EPA for guidance on how to apply the General Provisions definition for “capital expenditure” evaluations if necessary by utilizing 40 CFR 60.5 (Determination of construction or modification).

In addition, the EPA is soliciting comment and information to help inform us whether the current capital expenditure definition should be revised based on a ratio of consumer price indices (CPI), as requested by two petitioners.¹¹¹ Petitioners indicated that calculation of “capital expenditure” was designed to account for inflation. In supporting documentation provided from one petitioner¹¹² a plot of values prior to 1982 demonstrates a logarithmic function, which directly correlates to the CPI for the years 1950 through 1982. This was the information on which the “capital expenditure” equation was based. However, as described by the

¹¹¹ See Docket ID Nos. EPA–HQ–OAR–2010–0505–7682 and EPA–HQ–OAR–2010–0505–7684.

¹¹² See *GPA Midstream New Source Performance Standards (“NSPS”) Subpart OOOOa Petition for Review Technical Issues* located at Docket ID No. EPA–HQ–OAR–2010–0505–12361. March 1, 2017.

¹¹⁰ See also *Equipment Leaks of VOC in Natural Gas Production Industry—Background for Promulgated Standards*, EPA–450/3–82–024b, May 1985, at 9–1.

petitioners, the CPI takes a more linear function post-1982, while the “capital expenditure” equation remains with a logarithmic function. In practice, this could mean that the “P” value would be lower using the “capital expenditure” equation, thus resulting in modifications at lower expenditures than if the CPI were used. While we are proposing to update the existing equation with the corrected base year date of 2015, we are also soliciting comment on changing the calculation for the value of “Y” using the CPI. Specifically, we are soliciting comment on the petitioner’s suggestion that the value for “Y” should be calculated using the CPI of the date of construction or reconstruction divided by the CPI of the date of component price data, or “CPI_N/CPI_{PD}”.

3. Closed Vent Systems (CVS) and Storage Vessel Thief Hatches

The requirements for CVS are specific to the type of affected facility that is associated with the CVS (*i.e.*, “routes to” the CVS). CVS receiving emissions from centrifugal compressor, reciprocating compressor, and pneumatic pump affected facilities must be (a) initially and annually inspected visually for defects and (b) initially and annually monitored using Method 21 to verify operation at no detectable emissions (*i.e.*, an instrument reading less than 500 ppm above background concentration). In contrast, no instrument monitoring is required for CVS receiving emissions from storage vessel affected facilities and monthly auditory, visual, and olfactory (AVO) inspections must be performed. 40 CFR 60.5416a. Several petitioners have stated that the requirements for CVS associated with pneumatic pumps should be aligned with the requirements for CVS associated with storage vessels instead of the CVS requirements for centrifugal or reciprocating compressors.¹¹³ In addition, these petitioners stated, though incorrectly, that pneumatic pumps are subject to OGI monitoring under the fugitive emissions requirements as well as the annual Method 21 requirement; the petitioners, therefore, assert that the Method 21 requirement is duplicative and burdensome. Pneumatic pumps are not fugitive emissions components because they vent as part of normal operation. Finally, stakeholders have requested streamlined and standardized requirements for all CVS, in place of equipment-specific requirements

currently in the 2016 NSPS OOOOa. Specifically, the requirements are spread over multiple sections of the rule and vary based on the affected facility associated with the CVS as stated above, which the stakeholders have indicated creates confusion regarding compliance.

The EPA has received information from various stakeholders that overlapping requirements for these CVS and openings on controlled storage vessels may still exist due to state program requirements. Specifically, two stakeholders have informed us they are required to perform quarterly OGI monitoring on the CVS located at well sites under their state program in addition to the annual Method 21 requirement on the same CVS for their affected facility pneumatic pumps as required by the 2016 NSPS OOOOa. We agree with the stakeholders that amendments are appropriate for the CVS requirements for pneumatic pumps.

We are proposing to align the CVS monitoring requirements for affected facility pneumatic pumps with the CVS monitoring requirements for affected facility storage vessels. As stated by the petitioners, we agree that pneumatic pumps and storage vessels are commonly located at well sites and agree that having separate monitoring requirements for potentially shared CVS is overly burdensome and duplicative. This proposed amendment effectively requires monthly AVO monitoring for the CVS located at well sites because there are no affected facility reciprocating or centrifugal compressors located at well sites. We are soliciting comment on this proposed amendment for CVS on affected facility pneumatic pumps. Additionally, we are soliciting comment on other methods that could be employed as an alternative to the monthly AVO monitoring to ensure the CVS is operated with no detectable emissions.

Further, we are soliciting comment regarding the requirements for covers, thief hatches and other openings on storage vessel affected facilities. As specified in 40 CFR 60.5411a(b)(2), each opening on the storage vessel cover should be secured in a closed and sealed position except during periods where opening the cover is necessary (*e.g.*, to inspect or sample material in the storage vessel). Under 40 CFR 60.5416a(c)(2), each cover is also subject to monthly AVO monitoring for defects that could result in air emissions. It has come to our attention, however, that there may be confusion related to how the cover and openings on the cover relate to the CVS and the no detectable emissions requirement. We have

observed fugitive emissions using OGI on thief hatches, even where the CVS has been properly designed and certified, and the thief hatch is properly weighted and closed.¹¹⁴ Given this information, we acknowledge there are concerns about an interpretation of 40 CFR 60.5411a(c)(2) under which thief hatches are subject to the no detectable emissions limit. We recognize that this limit is traditionally required for components that we do not expect to leak (*e.g.*, valves with no external actuating shaft in contact with process fluid). However, as noted here, we continue to observe fugitive emissions from thief hatches that are properly weighted and closed. Root cause analysis has demonstrated that deteriorated gaskets are one cause of such emissions. While these sources might still be able to meet the sensory monitoring limit, we are soliciting comment on whether covers and openings on the cover should be viewed as part of the CVS and thus subject to the no detectable emissions limit. In addition, we are soliciting comment on whether other methods are available to more reliably identify fugitive emissions from the CVS and thief hatches or other openings on storage vessel affected facilities than the currently required monthly AVO and to better assure compliance with the 95% VOC emissions control requirement for storage vessel affected facilities. We are also soliciting comment on whether a work practice standard would be more effective at assuring compliance than subjecting thief hatches to a no detectable emissions standard as determined through monthly AVO. Finally, we are not proposing any changes to the CVS requirements for affected facility centrifugal compressors or reciprocating compressors.

VII. Implementation Improvements

Following publication of the 2016 NSPS OOOOa, we subsequently determined, following review of petitions and discussions with affected parties, that the final rule warrants correction and clarification in certain areas in addition to those discussed above. Each of these areas is discussed below.

¹¹⁴ Analysis of Consent Decree Reports from Noble Energy, Inc. as to Emissions Observations from Thief Hatches or Other Openings on Controlled Storage Vessels; Oil and Natural Gas Sector: Emission Standards for New, Reconstructed and Modified Sources Reconsideration—SAN 5719.8 located at Docket ID No. EPA-HQ-OAR-2017-0483.

¹¹³ See Docket ID Nos. EPA-HQ-OAR-2010-0505-7682, EPA-HQ-OAR-2010-0505-7685 and EPA-HQ-OAR-2010-0505-7686.

A. Reciprocating Compressors

The 2016 NSPS OOOOa includes an alternative to the work practice standards for reciprocating compressors. Operators may choose to gather rod packing emissions using a collection system that operates under negative pressure and then route emissions to a process via a CVS, as opposed to replacing the rod packing every 26,000 hours or 36 months. During the comment period for the proposal for the 2016 NSPS OOOOa, the EPA received feedback from various stakeholders, who noted that there were safety concerns with requiring the rod packing emissions to be collected under negative pressure. Specifically, commenters stated that operating the collection system under negative pressure may inadvertently introduce oxygen into the system.¹¹⁵ In response to comments, the EPA stated that operation of the collection system under negative pressure was necessary in order to appropriately capture emissions.¹¹⁶ The EPA is soliciting comment and supporting data on capture systems which are at least equivalent to the current systems and which could negate the necessity to capture emissions under negative pressure.

B. Storage Vessels

Pursuant to 40 CFR 60.5365a(e), owners and operators must calculate potential emissions from storage vessels in order to determine if control requirements apply. This calculation is based on the “maximum average daily throughput.” During implementation of the 2016 NSPS OOOOa, several stakeholders requested clarification regarding this calculation. Specifically, the stakeholders have expressed confusion about what value constitutes the “maximum average daily throughput.” This value was intended to represent the maximum of the average daily production rates in the first 30-day period to each individual storage vessel. The EPA stated in its Response to Comments on the 2013 amendments to the 2012 NSPS OOOO, “we believe that the estimate of potential VOC emissions should be determined based on maximum emissions during the 30-day period rather than average emissions over that period”.¹¹⁷ While the EPA was clear that emissions are not to be averaged over the 30-day period, we were less

clear at the time as to what averaging was allowed when we used the term “maximum average daily throughput.” Therefore, we propose to further clarify in this notice when and how daily production may be averaged in determining daily throughput.

We are proposing to revise the definition to clarify that the maximum average daily throughput refers to the maximum average daily throughput for an individual storage vessel over the days that production is routed to that storage vessel during the 30-day evaluation period. This average over the days that production is routed to a storage vessel represents the maximum average daily throughput for that single storage vessel because the determination takes place during the first 30-day evaluation period when production throughput will be the greatest due to the decline curve for production from oil and natural gas wells. Further, by clarifying that production to a single storage vessel must be averaged over the number of days production was actually sent to that storage vessel, rather than over the entire 30 days (where the storage vessel receives no production on some days), we are ensuring that the determination of potential for VOC emissions to that individual storage vessel does not presume that production will be split evenly across storage vessels where there is no legally and practically enforceable limit requiring operation in that manner. A more detailed discussion regarding the issue of averaging across a tank battery is provided below. We are soliciting comment on this clarification. Additionally, we are soliciting comment on whether a different term would better describe this value than the currently used “maximum average daily throughput.”

Where a storage vessel has automated gauging, the operator may directly determine the average daily throughput for each day that production is routed to that storage vessel. The average daily throughput for each day of production to that storage vessel would then be averaged to determine the maximum average daily throughput for the 30-day evaluation period. For example, if a storage vessel receives production on 22 of the 30 days in the evaluation period, then the maximum average daily throughput is calculated by averaging the daily throughput that was calculated for each of those 22 days. We recognize that this approach averages the daily throughputs for the days that a storage vessel receives production; however, recognizing that production declines, we are clarifying that this calculation, based on the days of production to the

storage vessel during the first 30-days of production, represents the potential emissions. We are soliciting comment on this clarification.

We understand that some storage vessels may not have daily throughput measurements because they are not equipped with automated level gauging and do not have daily manually gauged readings. In such circumstances, we believe that the liquid height, and therefore volume, in the storage vessel would be measured at a minimum at the start and completion of loadout of liquids from the storage vessel. Frequency of loadout from each storage vessel (*i.e.*, “turnover rate”) will vary depending on company or site-specific operations. Therefore, it is possible that a storage vessel could have multiple turnovers during the first 30-days of production, and therefore multiple production periods. Where this occurs, you must determine the average daily throughput for each of those production periods, which can be done by dividing the volumetric throughput calculated from the change in liquid height for that production period over the number of days in the production period, and use the maximum of those production period average daily throughput values to calculate the potential emissions from the individual storage vessel. A production period begins when production begins to be routed to a storage vessel and ends either when throughput is routed away from that storage vessel or when a loadout occurs from that storage vessel, whichever happens first. We recognize that calculating daily throughput based on liquid level measurements at the beginning and end of a production period will necessarily average production throughput to the individual storage vessel over the number of days it was receiving production in the turnover period. However, recognizing that production declines, we are clarifying that this calculation, based on the first 30-days of production, represents the potential emissions. We are soliciting comment on this clarification.

Finally, inspection data and compliance reports for the 2016 NSPS OOOOa indicate that many operators determined that few or no storage vessels are affected facilities under the 2016 NSPS OOOOa. For example, review of the 2016 NSPS OOOOa compliance reports and the fewer than expected number of reported storage vessel affected facilities indicates that some operators may be incorrectly averaging emissions across storage tanks in tank batteries when determining the potential for VOC emissions. Both the

¹¹⁵ See Docket ID No. EPA-HQ-OAR-2010-0505-6884.

¹¹⁶ See Docket ID No. EPA-HQ-OAR-2010-0505-7632, Chapter 7, page 7-37.

¹¹⁷ See Docket ID No. EPA-HQ-OAR-2010-0505-4639.

2012 NSPS OOOO and 2016 NSPS OOOOa specify that a storage vessel affected facility is “a single storage vessel” that “has the potential for VOC emissions equal to or greater than 6 tpy.” 40 CFR 60.5365(e) and 60.5365a(e). In prior rulemakings, the EPA explained that storage vessel emission estimation methods for the potential for VOC emissions generally require information on both the composition and volumetric rate of the liquid entering the storage vessel, where the volumetric throughput is frequently calculated by recording the volume of liquid collected from the receiving vessel(s) over time. 79 FR 79026. Because the 2012 NSPS OOOO and 2016 NSPS OOOOa define the affected facility as “a single storage vessel,” the determination of the potential for VOC emissions must be based on the liquid throughput of each “single storage vessel,” even where the storage vessel is part of a tank battery. Operators should ensure that the determination of the potential for VOC emissions reflects each storage vessel’s actual configuration and operational characteristics. Similarly, the EPA notes that affected facility determinations are allowed to account for legally and practically enforceable limits in determining the potential for VOC emissions for a storage vessel. However, only limits that meet certain enforceability criteria may be used to restrict a source’s potential to emit, and the permit or requirement must include sufficient compliance assurance terms and conditions such that the source cannot lawfully exceed the limit. Given the potential for recurring emissions from controlled storage vessel thief hatches or other opening owing to operation and maintenance performance even where adequate design has been verified,¹¹⁸ any limit on capture and control efficiency from storage vessels must include sufficient monitoring to timely identify and repair emissions from storage vessels to ensure the limit on capture and control efficiency is consistently achieved.

Where a storage vessel is part of a tank battery, some operators appear to derive the maximum average daily throughput of a storage vessel in a battery by using the throughput to the entire battery (by using records of liquids collected from the battery over

time) and dividing that figure by the number of storage vessels in the battery. This approach for determining a storage vessel’s maximum average daily throughput is incorrect for certain operational configurations. For instance, where a tank battery is operated such that all pressurized liquids from the separator initially flow to only one storage vessel, and then overflow to the next, and so on (*i.e.*, in series or series flow), the first individual storage vessel’s throughput would be the entire battery’s throughput, not the entire battery’s throughput apportioned evenly among the storage vessels. Dividing an entire battery’s throughput by the number of storage vessels in the battery would greatly underestimate flash emissions from the first storage vessel connected in series, which is where liquid pressure drops from separator pressure to atmospheric pressure. However, such division could be appropriate where all liquids flow through a splitter system in a common header that ensures that all liquids initially flow in equal amounts to all storage vessels in a tank battery at all times since the liquid pressure drop would occur equally in each storage vessel in the battery. The EPA is soliciting comment and suggestions for how to clarify or simplify the calculation for application by stakeholders such that the potential emissions from storage vessels may be determined.

Finally, records of each VOC emissions determination for each storage vessel affected facility are required in 40 CFR 60.5420a(c)(5)(ii). Given the proposed clarification discussed above, we are soliciting comment on specific recordkeeping requirements that would support the applicability determination for each individual storage vessel regardless of whether that storage vessel is determined to be an affected facility. This is because recordkeeping is necessary to be able to verify that rule applicability was appropriately determined in accordance with the regulatory requirements. We are soliciting comment on the type of records that would be maintained to demonstrate how the calculations of the maximum average daily throughput and the potential for VOC emissions were performed. For example, information related to how the throughput to the individual storage vessel was determined (*i.e.*, daily measurements or liquid height measurements at the start and end of a production period) and the start and end dates for each production period, along with the number of days

production was routed to that storage vessel, are key elements that we would expect to have recorded. Where automated readings from gauges or meters are available, we expect that a data historian could automatically record and store some or all of this information. Where automated readings are not available, load slips may be able to provide some or all of this information (*i.e.*, liquid height in a storage vessel at the beginning and end of each load out and the date of the load out, traceable to the storage vessel). We are also soliciting comment on records that would be available to document the operational configuration of a tank battery, where applicable, including to which storage vessel(s) production was routed for each day in the 30-day evaluation period. For calculation of potential for VOC emissions, we expect that identification of the model or calculation methodology used would be documented with the calculation itself. In addition to the type of information that should be recorded, we are also soliciting comment on the associated recordkeeping burden.

C. Definition of Certifying Official

In response to petitions on NSPS OOOO, the EPA amended the definition of ‘responsible official’ in order to remove potential confusion in the regulated community and to clarify that the requirements of the NSPS were not associated with a permitting program.¹¹⁹ Because the terms ‘responsible official’ and ‘permitting authority’ were similar to terms used in the Title V permitting program, the EPA changed the term ‘responsible official’ to ‘certifying official’ and replaced the term ‘permitting authority’ used in the definition with ‘Administrator.’¹²⁰ This amended definition of ‘certifying official’ was carried forward into the 2015 NSPS OOOOa proposal. 80 FR 56694. The EPA received comments that the term ‘certifying official’ still includes references to permitting programs and is inconsistent with way the NSPS program operates.¹²¹ In response to this comment, the EPA stated that the change made in the 2014 amendments “remove[d] any confusion.”¹²² Upon further evaluation of this issue, the EPA recognizes that continuing to include the language “facilities applying for or subject to a permit” in the definition of ‘certifying

¹¹⁸ Analysis of Consent Decree Reports from Noble Energy, Inc. as to Emissions Observations from Thief Hatches or Other Openings on Controlled Storage Vessels; Oil and Natural Gas Sector: Emission Standards for New, Reconstructed and Modified Sources Reconsideration—SAN 5719.8 located at Docket ID No. EPA-HQ-OAR-2017-0483.

¹¹⁹ 79 FR 79023-4.

¹²⁰ *Id.*

¹²¹ See Docket ID No. EPA-HQ-OAR-2010-0505-6881.

¹²² See Docket ID No. EPA-HQ-OAR-2010-0505-7632, Chapter 15, page 15-284.

official' is inappropriate for the NSPS program. Therefore, the EPA is proposing to amend this definition to remove the reference to permits. The EPA solicits comment on this proposed change.

D. Equipment in VOC Service Less Than 300 Hours/Year

In this action, the EPA is proposing to amend the requirements for equipment leaks at onshore natural gas processing plants. Specifically, we are proposing to include an exemption from monitoring for certain equipment that an owner or operator designates as being in VOC service less than 300 hr/yr.

When the 2007 requirements were promulgated, the EPA concluded that an exemption for certain equipment that is in VOC service less than 300 hr/yr was appropriate. In response to public comments on the 2006 NSPS VV/VVa proposal, we stated that such exemption was appropriate for equipment that is used only during emergencies, used as a backup, or that is in service only during startup and shutdown.¹²³ In these situations, the operating schedule of the equipment is unpredictable and likely at widely spaced and varying intervals. Planning for monitoring is more challenging and the effort outweighs the limited potential gain in emissions. The EPA is proposing to include this same exemption for equipment at onshore natural gas processing plants that is used only during emergencies, used as a backup, or that is in service only during startup and shutdown.

E. Reporting and Recordkeeping

The EPA is proposing to streamline certain reporting and recordkeeping requirements to reduce burden on the regulated industry. The proposed changes can be seen in section 60.5420a. Additionally, the proposed reporting elements can be seen in the draft electronic reporting template, located at Docket ID No. EPA-HQ-OAR-2017-0483. We solicit comment on these proposed revisions; the content, layout, and overall design of the reporting template; and additional ways to streamline reporting and recordkeeping.

We are also proposing revisions to accommodate the submittal of CBI data in annual reports, as well as additional clarifications for reporting requirements during outages of the Compliance and Emissions Data Reporting Interface (CEDRI) or the EPA's Central Data Exchange (CDX) systems, or during a

force majeure event. These proposed changes can be seen in section 60.5420a.

F. Technical Corrections and Clarifications

We are proposing to revise the 2016 NSPS OOOOa to include the following technical corrections and clarifications.

- Revise paragraphs 60.5385a(a)(1), 60.5410a(c)(1), 60.5415a(c)(1), 60.5420a(b)(4)(i), and 60.5420a(c)(3)(i) to clarify that hours or months of operation at reciprocating compressor facilities should be measured beginning with the later of initial startup, the effective date of the requirement (August 2, 2016), or the last rod packing replacement.
- Revise paragraph 60.5393a(b)(3)(ii) to correctly cross-reference to paragraph (b)(3)(i) of that section.
- Revise paragraph 60.5397a(c)(8) to clarify the calibration requirements when Method 21 of Appendix A-7 to Part 60 is used for fugitive emission monitoring.
- Revise paragraph 60.5397a(d)(3) to correctly cross-reference paragraphs (g)(3) and (g)(4) of that section.
- Revise paragraph 60.5401a(e) to remove the word "routine" to clarify that pumps in light liquid service, valves in gas/vapor service and light liquid service, and pressure relief devices in gas/vapor service within a process unit at an onshore natural gas processing plant located on the Alaskan North Slope are not subject to any monitoring requirements.
- Revise paragraph 60.5410a(e) to correctly reference pneumatic pump affected facilities located at a well site as opposed to pneumatic pump affected facilities not located at a natural gas processing plant. This proposed revision reflects that the 2016 NSPS OOOOa did not finalize requirements for pneumatic pumps in the gathering and boosting and transmission and storage segments. 81 FR 35850.
- Revise paragraph 60.5411a(a)(1) to remove the reference to paragraphs 60.5412a(a) and (c) for reciprocating compressor affected facilities.
- Revise paragraph 60.5411a(d)(1) to remove the reference to storage vessels, as this paragraph applies to all the sources lists in paragraph 60.5411a(d), not only storage vessels.
- Revise paragraphs 60.5412a(a)(1), 60.5412a(a)(1)(iv), 60.5412a(d)(1)(iv), and 60.5412a(d)(1)(iv)(D) to clarify that all boilers and process heaters must introduce the vent stream into the flame zone and that the performance requirement option for combustion control devices on centrifugal compressors and storage vessels is to introduce the vent stream with the

primary fuel or as the primary fuel. This is consistent with the performance testing exemption in section 60.5413a and continuous monitoring exemption in section 60.5417a for boilers and process heaters that introduce the vent stream with the primary fuel or as the primary fuel.

- Revise paragraph 60.5412a(c) to correctly reference both paragraphs (c)(1) and (c)(2) of that section, for managing carbon in a carbon adsorption system.
- Revise paragraph 60.5413a(d)(5)(i) to reference fused silica-coated stainless steel evacuated canisters instead a specific name brand product.
- Revise paragraph 60.5413a(d)(9)(iii) to clarify the basis for the total hydrocarbon span for the alternative range is propane, just as the basis for the recommended total hydrocarbon span is propane.
- Revise paragraph 60.5413a(d)(12) to clarify that all data elements must be submitted for each test run.
- Revise paragraph 60.5415a(b)(3) to reference all the applicable reporting and recordkeeping requirements.
- Revise paragraph 60.5416a(a)(4) to correctly cross-reference paragraph 60.5411a(a)(3)(ii).
- Revise paragraph 60.5417a(a) to clarify requirements for controls not specifically listed in paragraph (d) of that section.
- Revise paragraph 60.5422a(b) to correctly cross-reference paragraphs 60.487a(b)(1) through (3) and (b)(5).
- Revise paragraph 60.5422a(c) to correctly cross-reference paragraph 60.487a(c)(2)(i) through (iv) and (c)(2)(vii) through (viii).
- Revise paragraph 60.5423a(b) to simplify the reporting language and clarify what data is required in the report of excess emissions for sweetening unit affected facilities.
- Revise paragraph 60.5430a to remove the phrase "including but not limited to" from the "fugitive emissions component" definition. This proposed revision reflects that in the response to comments document for the 2016 NSPS OOOOa we stated we were removing this phrase.¹²⁴
- Revise paragraph 60.5430a to remove the phrase "at the sales meter" from the "low pressure well" definition. When determining the low pressure status of a well, pressure is measured within the flow line, rather than at the sales meter.
- Revise Table 3 to correctly indicate that the performance tests in section 60.8 do not apply to pneumatic pump affected facilities.

¹²³ See Docket ID No. EPA-HQ-OAR-2006-0699-0094.

¹²⁴ See Docket ID No. EPA-HQ-OAR-2010-0505-7632, Chapter 4, page 4-319.

- Revise Table 3 to include the collection of fugitive emissions components at a well site and the collection of fugitive emissions components at a compressor station in the list of exclusions for notification of reconstruction.

- Revise paragraphs 60.5393a(f), 60.5410a(e)(8), 60.5411a(e), 60.5415a(b), 60.5415a(b)(4), 60.5416a(d), 60.5420a(b), 60.5420a(b)(13), and introductory text in 60.5411a and 60.5416a to remove the language added in the “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Grant of Reconsideration and Partial Stay” (June 5, 2017), which was vacated by the U.S. Court of Appeals for the D.C. Circuit on July 3, 2017.

VIII. Impacts of This Proposed Rule

A. What are the air impacts?

For this action, the EPA estimated the change in emissions that will occur due to the implementation of the proposed NSPS reconsideration for the analysis years of 2019 through 2025. We estimate impacts beginning in 2019 to reflect the year implementation of this reconsideration will begin, assuming it is finalized within the next year. We estimate impacts through 2025 to illustrate the continued compound effect of this rule over a longer period. We do not estimate impacts after 2025 for reasons including limited information, as explained in the RIA (Regulatory Impact Analysis). The regulatory impact estimates for 2025 include sources newly affected in 2025 as well as the accumulation of affected sources from 2016 to 2024 that are also assumed to be in continued operation in 2025, thus incurring compliance costs and emissions reductions in 2025.

We have estimated that, over the 2019 through 2025 timeframe, assuming semiannual monitoring at compressor stations, the proposed NSPS reconsideration would increase methane emissions by about 380,000 short tons, and VOC emissions by about 100,000 tons from facilities affected by this reconsideration compared to emissions under the 2018 updated baseline, as described in the RIA. The proposed reconsideration is also expected to concurrently increase hazardous air pollutant (HAP) emissions by about 3,800 tons from 2019 through 2025. Section 2 of the RIA contains an analysis of the increase in emissions as a result of this proposed reconsideration under the co-proposed option of annual monitoring at compressor stations. As seen in section 2.5.2 of the RIA, the co-proposed option of annual fugitive emissions monitoring results in greater

total emissions than those under the co-proposed option of semiannual fugitive emissions monitoring at compressor stations outside of the Alaskan North Slope. Over 2019 through 2025, fugitive emissions under the co-proposed option assuming annual monitoring are about 100,000 short tons greater for methane, 24,000 tons greater for VOC, and 890 tons greater for HAP than those under the co-proposed option assuming semiannual fugitive emissions monitoring.

As described in the TSD and RIA for this rule, the EPA projected affected facilities using a combination of historical data from the United States GHG Inventory, projected activity levels taken from the Energy Information Administration (EIA’s) Annual Energy Outlook (AEO), and oil and natural gas production information from DrillingInfo, a private company that provides information and analysis to the energy sector. The EPA also considered state regulations with similar requirements to the proposed NSPS in projecting affected sources for impacts analyses supporting this rule.

B. What are the energy impacts?

Energy impacts in this section are those energy requirements associated with the operation of emission control devices. Potential impacts on the national energy economy from the rule are discussed in the economic impacts section. There would be little change in the national energy demand from the operation of any of the environmental controls proposed in this action. The proposed NSPS reconsideration continues to encourage the use of emission controls that recover hydrocarbon products that can be used on-site as fuel or reprocessed within the production process for sale.

C. What are the compliance cost savings?

Assuming the co-proposed option of semiannual monitoring at compressor stations, the EPA estimates the PV of compliance cost savings of the proposed reconsideration over 2019–2025, discounted back to 2016, will be \$429 million (in 2016 dollars) under a 7 percent discount rate, and \$546 million under a 3 percent discount rate, not including the forgone producer revenues associated with the decrease in the recovery of saleable natural gas. The EAV of these cost savings are \$74 million per year using a 7 percent discount rate and \$85 million per year using a 3 percent discount rate. In this analysis, we use the 2018 AEO projection of natural gas prices to estimate the value of the change in the

recovered gas at the wellhead. After accounting for the change in these revenues, the estimate of the PV of compliance cost savings of the proposed reconsideration over 2019–2025, discounted back to 2016, are estimated to be \$380 million under a 7 percent discount rate, and \$484 million under a 3 percent discount rate; the corresponding estimates of the EAV of cost savings after accounting for the forgone revenues are \$66 million per year under a 7 percent discount rate, and \$75 million per year under a 3 percent discount rate.

Compared to the estimated cost savings of the co-proposed option under semiannual fugitive emissions monitoring at compressor stations, the co-proposed option assuming annual monitoring results in greater cost savings. Assuming a 7 percent discount rate, and including the forgone value of product recovery, the PV of the total cost savings from 2019 through 2025 are about \$43 million greater under annual monitoring than under semiannual monitoring. This is associated with an increase in the EAV of total cost savings of about \$7.5 million per year in comparison to the co-proposed option under semiannual monitoring. A summary of the cost savings and forgone emission reductions associated with the co-proposed option of annual fugitive emissions monitoring at compressor stations is located in section 2.5.2 of the RIA.

D. What are the economic and employment impacts?

The EPA used the National Energy Modeling System (NEMS) to estimate the impacts of the 2016 NSPS OOOOa on the United States energy system. The NEMS is a publicly-available model of the United States energy economy developed and maintained by the EIA and is used to produce the AEO, a reference publication that provides detailed forecasts of the United States energy economy.

The EPA estimated small impacts of that rule over the 2020 to 2025 period relative to the baseline for that rule. The proposed reconsideration is estimated to result in a decrease in total costs compared to the updated 2018 baseline, and the 2016 NSPS OOOOa, with the change in costs affecting a subset of the total costs estimated for the 2016 NSPS OOOOa. Therefore, the EPA expects that this deregulatory action, if finalized, would partially ameliorate the impacts estimated for the final NSPS in the 2016 RIA.

Executive Order 13563 directs federal agencies to consider the effect of regulations on job creation and

employment. According to the Executive Order, “our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science.” (Executive Order 13563, 2011.) While a standalone analysis of employment impacts is not included in a standard benefit-cost analysis, such an analysis is of particular concern in the current economic climate given continued interest in the employment impact of regulations such as this proposed rule.

The EPA estimated the labor impacts due to the installation, operation, and maintenance of control equipment, control activities, and labor associated with new reporting and recordkeeping requirements in the 2016 NSPS OOOOa RIA. For the proposed reconsideration, the EPA expects there will be slight reductions in the labor required for compliance-related activities associated with the 2016 NSPS OOOOa requirements relating to fugitive emissions and inspections of closed vent systems. However, due to uncertainties associated with how the proposed reconsideration will influence the portfolio of activities associated with fugitive emissions-related requirements, the EPA is unable to provide quantitative estimates of compliance-related labor changes.

E. What are the forgone benefits of the proposed standards?

The EPA estimated the forgone domestic climate benefits from the methane emissions associated with this reconsideration using an interim measure of the domestic social cost of methane (SC-CH₄). The SC-CH₄ estimates used here were developed under E.O. 13783 for use in regulatory analyses until an improved estimate of the impacts of climate change to the U.S. can be developed based on the best available science and economics. E.O. 13783 directed agencies to ensure that estimates of the social cost of greenhouse gases used in regulatory analyses “are based on the best available science and economics” and are consistent with the guidance contained in OMB Circular A-4, “including with respect to the consideration of domestic

versus international impacts and the consideration of appropriate discount rates” (E.O. 13783, Section 5(c)). In addition, E.O. 13783 withdrew the technical support documents (TSDs) and the August 2016 Addendum to these TSDs describing the global social cost of greenhouse gas estimates developed under the prior Administration as no longer representative of government policy. The withdrawn TSDs and Addendum were developed by an interagency working group (IWG) that included the EPA and other executive branch entities and were used in the 2016 NSPS RIA.

The forgone benefits of the proposed reconsideration are estimated based on semiannual monitoring at compressor stations and are in comparison to an updated baseline with the 2016 NSPS OOOOa and the March 12, 2018 amendments with respect to the Alaskan North Slope in place.¹²⁵ The EPA estimates the PV of the forgone domestic climate benefits over 2019–2025, discounted back to 2016, will be \$13.5 million under a 7 percent discount rate and \$54 million under a 3 percent discount rate. The EAV of these forgone benefits is \$2.3 million per year under a 7 percent discount rate and \$8.3 million per year under a 3 percent discount rate. These values represent only a partial accounting of domestic climate impacts from methane emissions, and do not account for health effects of ozone exposure from the increase in methane emissions.

The EPA expects that the forgone VOC emission reductions may degrade air quality and adversely affect health and welfare effects associated with exposure to ozone, PM_{2.5}, and HAP, however data limitations prevent us from quantifying forgone VOC-related health benefits. This omission should not imply that these forgone benefits may not exist; rather, it reflects the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this industrial sector with the data currently available. As

¹²⁵ While the EPA is co-proposing annual monitoring for compressor stations, this discussion of forgone benefits is limited to the proposal of semiannual monitoring for compressor stations. For additional information regarding the cost savings and forgone emission reductions, see section 2 of the RIA.

described in the RIA, with these data currently unavailable, we are unable to estimate forgone health benefits estimates for this rule due to the differences in the locations of oil and natural gas emission points relative to existing information and the highly localized nature of air quality responses associated with HAP and VOC reductions.

IX. Statutory and Executive Order Reviews

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

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

This action is an economically significant regulatory action that was submitted to the OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This Regulatory Impact Analysis (RIA) is available in the docket. The RIA describes in detail the empirical basis for the EPA’s assumptions and characterizes the various sources of uncertainties affecting the estimates below. Table 4 shows the present value and equivalent annualized value results of the cost and benefits analysis for the proposed rule, assuming semiannual monitoring at compressor stations, for 2019 through 2025, discounted back to 2016 using a discount rate of 7 percent. The table also shows the total increase in emissions from 2019 through 2025 from this proposed reconsideration. When discussing net benefits, we modify the relevant terminology to be more consistent with traditional net benefits analysis. In the following table, we refer to the cost savings as presented in section 2 of the RIA, and in section VIII.C, above, as the “benefits” of this proposed action and the forgone benefits as presented in section 3 of the RIA, and in section VIII.E, above, as the “costs” of this proposed action. The net benefits are the benefits (cost savings) minus the costs (forgone benefits).

TABLE 4—SUMMARY OF THE PRESENT VALUE AND EQUIVALENT ANNUALIZED VALUE OF THE MONETIZED FORGONE BENEFITS, COST SAVINGS AND NET BENEFITS OF THE PROPOSED OIL AND NATURAL GAS RECONSIDERATION FROM 2019 THROUGH 2025

[Millions of 2016\$]

	Present value	Equivalent annualized value
Benefits (Total Cost Savings)	\$380 million	\$66 million.
Costs (Forgone Domestic Climate Benefits)	\$13.5 million	\$2.3 million.
Net Benefits	\$367 million	\$64 million.
Non-monetized Forgone Benefits	Non-monetized climate impacts from increases in methane emissions. Health effects of PM _{2.5} and ozone exposure from an increase of 100,000 tons of VOC from 2019 through 2025. Health effects of HAP exposure from an increase of 3,800 tons of HAP from 2019 through 2025. Health effects of ozone exposure from an increase of 380,000 short tons of methane from 2019 through 2025. Visibility impairment. Vegetation effects.	

Estimates may not sum due to independent rounding.

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

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the EPA’s analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

A summary of the information collection activities submitted to the OMB for the final action titled, “Standards of Performance for Crude Oil and Natural Gas Facilities for Construction, Modification, or Reconstruction” (2016 NSPS OOOOa) under the PRA, and assigned EPA ICR Number 2523.02, can be found at 81 FR 35890. You can find a copy of the ICR in the 2016 NSPS OOOOa docket (EPA–HQ–OAR–2010–0505–7626). This proposed reconsideration revises the information collection activities of 2016 NSPS OOOOa. The revised information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The revised ICR document that the EPA prepared has been assigned EPA ICR number 2523.03. You can find a copy of the revised ICR in the docket for this rule.

The proposed changes to the 2016 NSPS OOOOa information collection activities would reduce the burden on the regulated industry associated with reporting and recordkeeping requirements. Proposed amendments to the reporting and recordkeeping requirements are presented in section 60.5420a. Other information collection activity reductions would result from proposed amendments that streamline

and align monitoring requirements (and associated recordkeeping) in the rule.

The estimated average annual burden (averaged over the first 3 years after the effective date of the standards) for the recordkeeping and reporting requirements associated with the proposed amendments to subpart OOOOa for the estimated 2,893 owners and operators subject to the rule is 156,188 labor hours, with an average annual cost of \$9,615,691 (2016\$) over the three-year period. The information collection activities associated with the proposed amendments would result in an estimated average annual burden reduction of 8 percent compared to the previously-submitted 2016 NSPS OOOOa ICR (2016\$).

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

Submit your comments on the Agency’s need for this information, the accuracy of the provided revised burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB’s Office of Information and Regulatory Affairs via email to RIA_submissions@omb.eop.gov, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than November 14, 2018. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This is a deregulatory action, and the burden on all entities affected by this proposed rule, including small entities, is reduced compared to the 2016 NSPS OOOOa. See the RIA for details. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act of 1995 (UMRA)

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

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This rule, if finalized, would primarily affect private industry and would not impose

significant economic costs on state or local governments.

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

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The 2016 NSPS OOOOa, as discussed in the RIA,¹²⁶ was anticipated to reduce emissions of methane, VOC, and HAPs, and some of the benefits of reducing these pollutants would have accrued to children. However, new data and analysis have affected expectations about the extent of the impact of the fugitive emissions program in the 2016 NSPS OOOOa on these benefits. For example, as previously discussed above in section VI.B.1. of this preamble, the EPA reviewed data provided by the petitioners, as well as other data that have become available since promulgation of the 2016 NSPS OOOOa. The EPA identified several areas of our analysis that raise concerns we have overestimated the emission reductions and, therefore, the cost effectiveness of the 2016 NSPS OOOOa fugitive emissions program. Based on this review, the EPA updated the model plants for non-low production well sites, re-examined the fugitive emissions estimation method for non-low production well sites and compressor stations, and recognized distinct operational characteristics of compressor stations. Furthermore, while the proposed amendment is expected to decrease the impact of the fugitive emissions program in the 2016 NSPS OOOOa on these benefits, as discussed in Chapter 1 of the RIA, the potential decrease in emission reduction (and thus the benefit) from the proposed amendment is minimal compared to the overall emission reduction that would

continue to be achieved under the amended 40 CFR part 60, subpart OOOOa.

Moreover, the proposed action does not affect the level of public health and environmental protection already being provided by existing NAAQS and other mechanisms in the CAA. This proposed action does not affect applicable local, state, or federal permitting or air quality management programs that will continue to address areas with degraded air quality and maintain the air quality in areas meeting current standards. Areas that need to reduce criteria air pollution to meet the NAAQS will still need to rely on control strategies to reduce emissions. For the reasons stated above, we do not believe this small decrease in emission reduction from this action will have a disproportionate adverse effect on children's health.

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

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The basis for this determination can be found in the 2016 NSPS OOOOa (81 FR 35894).

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards.¹²⁷ Therefore, the EPA conducted searches for the Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). Searches were conducted for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 3A, 3B, 3C, 4, 6, 10, 15, 16, 16A, 18, 21, 22, and 25A of 40 CFR part 60 Appendix A. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 21, and 22 and none were brought to its attention in comments. All potential standards were reviewed to determine the practicality of the voluntary consensus standards (VCS) for this rule.

Two VCS were identified as an acceptable alternative to the EPA test methods for the purpose of this rule.

¹²⁷ These proposed technical standards are the same as those previously finalized at 40 CFR part 60, subpart OOOOa (81 FR 35824). 2016 NSPS OOOOa also previously incorporated by reference 10 technical standards. The incorporation by reference remains unchanged in this proposed action. See Docket ID Nos. EPA-HQ-OAR-2010-0505-7657 and EPA-HQ-OAR-2010-0505-7658.

First, ANSI/ASME PTC 19-10-1981, Flue and Exhaust Gas Analyses (Part 10) was identified to be used in lieu of EPA Methods 3B, 6, 6A, 6B, 15A, and 16A manual portions only and not the instrumental portion. This standard includes manual and instructional methods of analysis for carbon dioxide, carbon monoxide, hydrogen sulfide, nitrogen oxides, oxygen, and sulfur dioxide. Second, ASTM D6420-99 (2010), "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry," is an acceptable alternative to EPA Method 18 with the following caveats; only use when the target compounds are all known and the target compounds are all listed in ASTM D6420 as measurable. ASTM D6420 should never be specified as a total VOC Method. (ASTM D6420-99 (2010) is not incorporated by reference in 40 CFR part 60.) The search identified 19 VCS that were potentially applicable for this rule in lieu of the EPA reference methods. However, these have been determined to not be practical due to lack of equivalency, documentation, validation of data, and other important technical and policy considerations. For additional information, please see the memorandum *Voluntary Consensus Standard Results for Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration*, located at Docket ID No. EPA-HQ-OAR-2017-0483.

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

The EPA believes that this proposed action is unlikely to have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The 2016 NSPS OOOOa was anticipated to reduce emissions of methane, VOC, and HAPs, and some of the benefits of reducing these pollutants would have accrued to minority populations, low-income populations and/or indigenous peoples. However, new data and analysis have affected expectations about the extent of the impact of the fugitive emissions program in the 2016 NSPS OOOOa on these benefits. For example, as previously discussed above in section VI.B.1. of this preamble, the EPA reviewed data provided by the petitioners, as well as other data that have become available since promulgation of the 2016 NSPS OOOOa.

¹²⁶ See Chapter 4, "Economic Impact Analysis and Distributional Assessments," of the RIA.

The EPA identified several areas of our analysis that raise concerns we have overestimated the emission reductions and, therefore, the cost effectiveness of the 2016 NSPS OOOOa fugitive emissions program. Based on this review, the EPA updated the model plants for non-low production well sites, re-examined fugitive emissions from low production well sites, recognized the limitations in our emissions estimation method for non-low production well sites and compressor stations, and recognized distinct operational characteristics of compressor stations. Furthermore, while these communities may experience forgone benefits as a result of this action, as discussed in Chapter 1 of the RIA, the potential foregone emission reductions (and related benefits) from the proposed amendments is minimal compared to the overall emission reductions (and related benefits) from the 2016 NSPS.

Moreover, the proposed action does not affect the level of public health and environmental protection already being provided by existing NAAQS and other mechanisms in the CAA. This proposed action does not affect applicable local, state, or federal permitting or air quality management programs that will continue to address areas with degraded air quality and maintain the air quality in areas meeting current standards. Areas that need to reduce criteria air pollution to meet the NAAQS will still need to rely on control strategies to reduce emissions.

For the reasons stated above, the EPA believes that this proposed action is unlikely to have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples. We note that the potential impacts of this proposed action are not expected to be experienced uniformly, and the distribution of avoided compliance costs associated with this action depends on the degree to which costs would have been passed through to consumers.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping.

Dated: September 11, 2018.

Andrew R. Wheeler,
Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart OOOOa—Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015

■ 2. Section 60.5365a is amended by revising paragraph (e) introductory text and adding paragraph (i)(4) to read as follows:

§ 60.5365a Am I subject to this subpart?

* * * * *

(e) Each storage vessel affected facility, which is a single storage vessel with the potential for VOC emissions equal to or greater than 6 tpy as determined according to this section. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput, as defined in § 60.5430a, determined for a 30-day period of production prior to the applicable emission determination deadline specified in this subsection. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority.

* * * * *

(i) * * *

(4) For purposes of § 60.5397a, a “modification” to a separate tank battery occurs when:

(i) Any of the actions in paragraphs § 60.5365a(i)(3)(i) through (iii) occurs at an existing separate tank battery;

(ii) A well sending production to an existing separate tank battery is modified, as defined in § 60.5365a(i)(3)(i) through (iii); or

(iii) A well site subject to the requirements in § 60.5397a removes all major production and processing equipment, as defined in § 60.5430a, such that it becomes a wellhead only well site and sends production to an existing separate tank battery.

* * * * *

■ 3. Section 60.5375a is amended by revising paragraph (a)(1)(iii) introductory text and paragraph (f)(3)(ii) and adding paragraph (f)(4) to read as follows:

§ 60.5375a What GHG and VOC standards apply to well affected facilities?

* * * * *

(a) * * *

(1) * * *

(iii) You must have a separator onsite or otherwise available for use at a centralized facility or well pad that services the well affected facility which is used to conduct the completion of the well affected facility. The separator must be available and ready to be used to comply with paragraph (a)(1)(ii) of this section during the entirety of the flowback period, except as provided in paragraphs (a)(1)(iii)(A) through (C) of this section.

* * * * *

(f) * * *

(3) * * *

(ii) Route all flowback into one or more well completion vessels and commence operation of a separator unless it is technically infeasible for a separator to function. Any gas present in the flowback before the separator can function is not subject to control under this section. Capture and direct recovered gas to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous pilot flame.

(4) You must submit the notification as specified in § 60.5420a(a)(2), submit annual reports as specified in § 60.5420a(b)(1) and (2) and maintain records specified in § 60.5420a(c)(1)(iii) for each wildcat and delineation well. You must submit the notification as specified in § 60.5420a(a)(2), submit annual reports as specified in § 60.5420a(b)(1) and (2), and maintain records as specified in § 60.5420a(c)(1)(iii) and (vii) for each low pressure well.

* * * * *

■ 4. Section 60.5385a is amended by revising paragraph (a)(1) to read as follows:

§ 60.5385a What GHG and VOC standards apply to reciprocating compressor affected facilities?

* * * * *

(a) * * *

(1) On or before the compressor has operated for 26,000 hours. The number of hours of operation must be continuously monitored beginning upon initial startup of your reciprocating compressor affected facility, August 2, 2016, or the date of the most recent reciprocating compressor rod packing replacement, whichever is later.

* * * * *

■ 5. Section 60.5393a is amended by:

- a. Revising paragraph (b) introductory text and paragraphs (b)(3), (b)(5), (b)(6) and (c);
- b. Removing and reserving paragraphs (b)(1), (b)(2), and (f).

The revisions read as follows:

§ 60.5393a What GHG and VOC standards apply to pneumatic pump affected facilities?

* * * * *

(b) For each pneumatic pump affected facility at a well site you must reduce natural gas emissions by 95.0 percent, except as provided in paragraphs (b)(3), (4) and (5) of this section.

- (1) [Reserved]
- (2) [Reserved]

(3) You are not required to install a control device solely for the purpose of complying with the 95.0 percent reduction requirement of paragraph (b) of this section. If you do not have a control device installed on site by the compliance date and you do not have the ability to route to a process, then you must comply instead with the provisions of paragraphs (b)(3)(i) and (ii) of this section.

(i) Submit a certification in accordance with § 60.5420a(b)(8)(i)(A) in your next annual report, certifying that there is no available control device or process on site and maintain the records in § 60.5420a(c)(16)(i) and (ii).

(ii) If you subsequently install a control device or have the ability to route to a process, you are no longer required to comply with paragraph (b)(3)(i) of this section and must submit the information in § 60.5420a(b)(8)(ii) in your next annual report and maintain the records in § 60.5420a(c)(16)(i), (ii), and (iii). You must be in compliance with the requirements of paragraph (b)(2) of this section within 30 days of startup of the control device or within 30 days of the ability to route to a process.

* * * * *

(5) If an owner or operator determines, through an engineering assessment, that routing a pneumatic pump to a control device or a process is technically infeasible, the requirements specified in paragraph (b)(5)(i) through (iv) of this section must be met.

(i) The owner or operator shall conduct the assessment of technical infeasibility in accordance with the criteria in paragraph (b)(5)(iii) of this section and have it certified by an in-house engineer or a qualified professional engineer in accordance with paragraph (b)(5)(ii) of this section.

(ii) The following certification, signed and dated by the in-house engineer or qualified professional engineer shall

state: "I certify that the assessment of technical infeasibility was prepared under my direction or supervision. I further certify that the assessment was conducted and this report was prepared pursuant to the requirements of § 60.5393a(b)(5)(iii). Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(iii) The assessment of technical feasibility to route emissions from the pneumatic pump to an existing control device onsite or to a process shall include, but is not limited to, safety considerations, distance from the control device, pressure losses and differentials in the closed vent system and the ability of the control device to handle the pneumatic pump emissions which are routed to them. The assessment of technical infeasibility shall be prepared under the direction or supervision of the in-house engineer or qualified professional engineer who signs the certification in accordance with paragraph (b)(2)(ii) of this section.

(iv) The owner or operator shall maintain the records § 60.5420a(c)(16)(iv).

(6) If the pneumatic pump is routed to a control device or a process and the control device or process is subsequently removed from the location or is no longer available, you are no longer required to be in compliance with the requirements of paragraph (b) of this section, and instead must comply with paragraph (b)(3) of this section and report the change in next annual report in accordance with § 60.5420a(b)(8)(ii).

(c) If you use a control device or route to a process to reduce emissions, you must connect the pneumatic pump affected facility through a closed vent system that meets the requirements of § 60.5411a(c) and (d).

* * * * *

(f) [Reserved]

■ 6. Section 60.5397a is amended by:

- a. Revising paragraph (a);
- b. Revising paragraphs (c)(2);
- c. Revising paragraph (c)(8) introductory text;
- d. Adding paragraph (c)(8)(iii);
- e. Revising paragraph (d);
- f. Revising paragraph (f)(2);
- g. Revising paragraph (g) introductory text;
- h. Revising paragraphs (g)(1) and (2);
- i. Removing and reserving paragraph (g)(5);
- j. Adding paragraph (g)(6); and
- k. Revising paragraph (h).

The revisions and additions read as follows:

§ 60.5397a What fugitive emissions GHG and VOC standards apply to the affected facility which is the collection of fugitive emissions components at a well site and the affected facility which is the collection of fugitive emissions components at a compressor station?

* * * * *

(a) You must monitor all fugitive emission components, as defined in § 60.5430a, in accordance with paragraphs (b) through (g) of this section. You must repair all sources of fugitive emissions in accordance with paragraph (h) of this section. You must keep records in accordance with paragraph (i) of this section and report in accordance with paragraph (j) of this section. For purposes of this section, fugitive emissions are defined as: Any visible emission from a fugitive emissions component observed using optical gas imaging or an instrument reading of 500 ppm or greater using Method 21 of Appendix A-7 to this part.

* * * * *

(c) * * *

(2) Technique for determining fugitive emissions (*i.e.*, Method 21 of Appendix A-7 to this part or optical gas imaging meeting the requirements in paragraphs (c)(7)(i) through (vii) of this section).

* * * * *

(8) If you are using Method 21 of appendix A-7 of this part, your plan must also include the elements specified in paragraphs (c)(8)(i) through (iii) of this section. For purposes of complying with the fugitive emissions monitoring program using Method 21 a fugitive emission is defined as an instrument reading of 500 ppm or greater.

* * * * *

(iii) Procedures for calibration. The instrument must be calibrated before use each day of its use by the procedures specified in Method 21 of appendix A-7 of this part. At a minimum, you must also conduct precision tests at the interval specified in Method 21 of appendix A-7 of this part, Section 8.1.2, and a calibration drift assessment at the end of each monitoring day. The calibration drift assessment must be conducted as specified in paragraph (c)(8)(iii)(A) of this section. Corrective action for drift assessments is specified in paragraphs (c)(8)(iii)(B) and (C) of this section.

(A) Check the instrument using the same calibration gas that was used to calibrate the instrument before use. Follow the procedures specified in Method 21 of appendix A-7 of this part,

Section 10.1, except do not adjust the meter readout to correspond to the calibration gas value. If multiple scales are used, record the instrument reading for each scale used. Divide these readings by the initial calibration values for each scale and multiply by 100 to express the calibration drift as a percentage.

(B) If a calibration drift assessment shows a negative drift of more than 10 percent, then all equipment with instrument readings between the fugitive emission definition multiplied by (100 minus the percent of negative drift/divided by 100) and the fugitive emission definition that was monitored since the last calibration must be re-monitored.

(C) If any calibration drift assessment shows a positive drift of more than 10 percent from the initial calibration value, then, at the owner/operator's discretion, all equipment with instrument readings above the fugitive emission definition and below the fugitive emission definition multiplied by (100 plus the percent of positive drift/divided by 100) monitored since the last calibration may be re-monitored.

(d) Each fugitive emissions monitoring plan must include the elements specified in paragraphs (d)(1) through (3) of this section, at a minimum, as applicable.

(1) If you are using optical gas imaging, your plan must include a sitemap or plot plan and the information in paragraph (d)(1)(i) or paragraphs (d)(1)(ii) through (iv):

(i) A defined observation path that ensures that all fugitive emissions components are within sight of the path. The observation path must account for interferences.

(ii) For closed vent systems regulated under this section, a narrative description of how the closed vent system will be monitored, including a description and the location of all fugitive emissions components located on the closed vent system. The sitemap or plot plan must include the location of each closed vent system.

(iii) For controlled storage vessels regulated under this section, a narrative description of how the storage vessel will be monitored including a description and location of all fugitive emissions components located on the controlled storage vessel. The sitemap or plot plan must include the location of each controlled storage vessel.

(iv) For all other fugitive emissions components not associated with a closed vent system or controlled storage vessel regulated under this section, a narrative description of how the fugitive emissions components will be

monitored, including a description and location of all fugitive emissions components. The description and location of fugitive emissions components may be grouped by unit operations (e.g., separator, heater/treater, glycol dehydrator). The sitemap or plot plan must include the location of each unit operation.

(2) If you are using Method 21, your plan must include a list of fugitive emissions components to be monitored and method for determining location of fugitive emissions components to be monitored in the field (e.g., tagging, identification on a process and instrumentation diagram, etc.). If you are using optical gas imaging, you may comply with this requirement in lieu of paragraph (d)(1) of this section.

(3) Your fugitive emissions monitoring plan must include the written plan developed for all of the fugitive emission components designated as difficult-to-monitor in accordance with paragraph (g)(3) of this section, and the written plan for fugitive emission components designated as unsafe-to-monitor in accordance with paragraph (g)(4) of this section.

* * * * *

(f) * * *

(2) You must conduct an initial monitoring survey within 60 days of the startup of a new compressor station for each new collection of fugitive emissions components at the new compressor station or by June 3, 2017, whichever is later. For a modified collection of fugitive components at a compressor station, the initial monitoring survey must be conducted within 60 days of the modification or by June 3, 2017, whichever is later. Notwithstanding the preceding deadlines, for each collection of fugitive emissions components at a new compressor station located on the Alaskan North Slope that starts up between September and March, you must conduct an initial monitoring survey within 6 months of the startup date for new compressor stations, within 6 months of the modification, or by the following June 30, whichever is later.

(g) A monitoring survey of each collection of fugitive emissions components at a well site or at a compressor station must be performed at the frequencies specified in paragraphs (g)(1) and (2) of this section, with the exceptions noted in paragraphs (g)(3), (4), and (6) of this section.

(1) A monitoring survey of each collection of fugitive emissions components at a well site within a company-defined area must be

conducted at the frequencies specified in paragraphs (g)(1)(i) or (ii) of this section.

(i) At least annually for each collection of fugitive emissions components located at a well site with average combined oil and natural gas production for the wells at the site being greater than or equal to 15 barrels of oil equivalent (boe) per day averaged over the first 30 days of production, where boe equals cubic feet gas/5658.53. Consecutive annual monitoring surveys must be conducted at least 9 months apart and no more than 13 months apart.

(ii) At least once every other year (i.e., biennial) for each collection of fugitive emissions components located at a well site with average combined oil and natural gas production for the wells at the site being less than 15 boe per day averaged over the first 30 days of production, where boe equals cubic feet gas/5658.53. Consecutive biennial monitoring surveys must be conducted no more than 25 months apart.

(2) Except as provided herein, a monitoring survey of the collection of fugitive emissions components at a compressor station within a company-defined area must be conducted at least semiannually after the initial survey. Consecutive semiannual monitoring surveys must be conducted at least 4 months apart and no more than 6 months apart. Each compressor must be monitored while in operation (i.e., not in stand-by mode) at least annually. A monitoring survey of the collection of fugitive emissions components at a compressor station located on the Alaskan North Slope must be conducted at least annually. Consecutive annual monitoring surveys must be conducted at least 9 months apart and no more than 13 months apart.

* * * * *

(5) [Reserved]

(6) You are no longer required to comply with the requirements of paragraph (g)(1) of this section when the owner or operator removes all major production and processing equipment, as defined in § 60.5430a, such that the well site becomes a wellhead only well site. If any major production and processing equipment is subsequently added to the well site, then the owner or operator must comply with the requirements in paragraphs (f)(1) and (g)(1) of this section.

(h) Each identified source of fugitive emissions shall be repaired, as defined in § 60.5430a, in accordance with paragraphs (h)(1) and (2) of this section.

(1) Each identified source of fugitive emissions shall be repaired as soon as

practicable, but no later than 60 calendar days after detection of the fugitive emissions.

(2) A first attempt at repair shall be made no later than 30 calendar days after detection of the fugitive emissions.

(3) If the repair is technically infeasible, would require a vent blowdown, a compressor station shutdown, a well shutdown or well shut-in, or would be unsafe to repair during operation of the unit, the repair must be completed during the next scheduled compressor station shutdown, well shutdown, well shut-in, after a scheduled vent blowdown or within 2 years, whichever is earlier. For purposes of this requirement, a vent blowdown is the opening of one or more blowdown valves to depressurize major production and processing equipment, other than a storage vessel.

(4) Each repaired fugitive emissions component must be resurveyed according to the requirements in paragraphs (h)(4)(i) through (iv) of this section, to ensure that there are no fugitive emissions.

(i) The operator may resurvey the fugitive emissions components to verify repair using either Method 21 of appendix A-7 of this part or optical gas imaging.

(ii) For each repair that cannot be made during the monitoring survey when the fugitive emissions are initially found, a digital photograph must be taken of that component or the component must be tagged during the monitoring survey when the fugitives were initially found for identification purposes and subsequent repair. The digital photograph must include the date that the photograph was taken and must clearly identify the component by location within the site (e.g., the latitude and longitude of the component or by other descriptive landmarks visible in the picture).

(iii) Operators that use Method 21 of appendix A-7 of this part to resurvey the repaired fugitive emissions components are subject to the resurvey provisions specified in paragraphs (h)(4)(iii)(A) and (B) of this section.

(A) A fugitive emissions component is repaired when the Method 21 instrument indicates a concentration of less than 500 ppm above background or when no soap bubbles are observed when the alternative screening procedures specified in section 8.3.3 of Method 21 of appendix A-7 of this part are used.

(B) Operators must use the Method 21 monitoring requirements specified in paragraph (c)(8)(ii) of this section or the alternative screening procedures

specified in section 8.3.3 of Method 21 of appendix A-7 of this part.

(iv) Operators that use optical gas imaging to resurvey the repaired fugitive emissions components, are subject to the resurvey provisions specified in paragraphs (h)(4)(iv)(A) and (B) of this section.

(A) A fugitive emissions component is repaired when the optical gas imaging instrument shows no indication of visible emissions.

(B) Operators must use the optical gas imaging monitoring requirements specified in paragraph (c)(7) of this section.

* * * * *

■ 7. Section 60.5398a is amended by revising paragraphs (a), (c), (d) and (f) to read as follows:

§ 60.5398a What are the alternative means of emission limitations for GHG and VOC from well completions, reciprocating compressors, the collection of fugitive emissions components at a well site and the collection of fugitive emissions components at a compressor station?

(a) If, in the Administrator's judgment, an alternative means of emission limitation will achieve a reduction in GHG (in the form of a limitation on emission of methane) and VOC emissions at least equivalent to the reduction in GHG and VOC emissions achieved under § 60.5375a, § 60.5385a, and § 60.5397a, the Administrator will publish, in the **Federal Register**, a notice permitting the use of that alternative means for the purpose of compliance with § 60.5375a, § 60.5385a, and § 60.5397a. The notice may condition permission on requirements related to the operation and maintenance of the alternative means.

* * * * *

(c) The Administrator will consider applications under this section from owners or operators of affected facilities, and manufacturers or vendors of leak detection technologies, or trade associations provided they are submitted in conjunction with an owner or operator.

(d) Determination of equivalence to the design, equipment, work practice or operational requirements of this section will be evaluated by the following guidelines:

(1) The applicant must provide information that is sufficient for demonstrating the alternative means of emission limitation is at least as equivalent as the relevant standards. At a minimum, the applicant must collect, verify, and submit field data to demonstrate the equivalence of the alternative means of emission limitation; the field data must

encompass seasonal variations over the year to ensure that the technique works appropriately in different conditions that will be encountered during monitoring surveys. The field data may be supplemented with modeling analyses, test data, or other documentation. The application must include the following information:

(i) A description of the technology, technique, or process.

(ii) A description of the monitoring instrument or measurement technology used in the technology, technique, or process.

(iii) A description of performance based procedures (i.e., method) and data quality indicators for precision and bias; the method detection limit of the technology, technique, or process.

(iv) For affected facilities under § 60.5397a, the action criteria and level at which a fugitive emission exists.

(v) Any initial and ongoing quality assurance/quality control measures necessary for maintaining the technology, technique, or process.

(vi) Timeframes for conducting ongoing quality assurance/quality control.

(vii) Field data verifying viability and detection capabilities of the technology, technique, or process. Test data, modeling analyses, or other documentation may be used to supplement field data.

(viii) Frequency of measurements and surveys conducted with the technology, technique, or process.

(ix) For continuous monitoring techniques, the minimum data availability.

(x) Sufficient data and other supporting documentation for determining the emissions reductions achieved or avoided by the technology, technique, or process.

(xi) Any restrictions for using the technology, technique, or process.

(xii) Operation and maintenance procedures and other provisions necessary to ensure reduction in methane and VOC emissions at least equivalent to the reduction in methane and VOC emissions achieved under § 60.5397a.

(xiii) Initial and continuous compliance procedures, including recordkeeping and reporting, if the compliance procedures are different than those specified in § 60.5397a(d).

(2) For each determination of equivalency requested, the emission reduction achieved by the design, equipment, work practice or operational requirements shall be demonstrated by field data, which can be supplemented with modeling analyses at an active

production site or test data at a controlled test environment or facility.

(3) For each technology, technique, or process for which a determination of equivalency is requested, the emission reduction achieved by the alternative means of emission limitation shall be demonstrated.

* * * * *

(f)(1) An application submitted under this section will be evaluated based on the field data, modeling analyses, and other documentation that was provided to demonstrate the equivalence of the alternative means of emission limitation under this section.

(2) The Administrator may condition the approval of the alternative means of emission limitation on requirements that may be necessary to ensure that the alternative will achieve at least equivalent emission reduction(s) as the reduction(s) achieved under the requirement(s) for which the alternative is being requested.

■ 8. Subpart OOOOa is amended by adding section 60.5399a to read as follows:

§ 60.5399a What alternative fugitive emissions standards apply to the affected facility which is the collection of fugitive emissions components at a well site and the affected facility which is the collection of fugitive emissions components at a compressor station: Equivalency with state, local, and tribal programs?

This section provides alternative fugitive emissions standards for the collection of fugitive emissions components, as defined in § 60.5430a, located at well sites and compressor stations. Paragraphs (a) through (e) of this section outline the procedure for submittal and approval of alternative fugitive emissions standards. Paragraphs (g) through (n) of this section provide approved alternative fugitive emissions standards. The terms “fugitive emissions components” and “repaired” are defined in § 60.5430a and must be applied to the alternative fugitive emissions standards in this section.

(a) The Administrator will consider applications for alternative fugitive emissions standards under this section based on state, local, or tribal programs that are currently in effect from any interested person, which includes, but is not limited to individuals, corporations, partnerships, associations, state, or municipalities.

(b) Determination of alternative fugitive emissions standards to the design, equipment, work practice, or operational requirements of § 60.5397a will be evaluated by the following guidelines:

(1) The monitoring instrument, including the monitoring procedure;

- (2) The monitoring frequency;
- (3) The fugitive emissions definition;
- (4) The repair requirements; and
- (5) The recordkeeping and reporting requirements.

(c) After notice and opportunity for public comment, the Administrator will determine whether the requested alternative fugitive emissions standard will achieve at least equivalent emission reduction(s) in VOC and methane emissions as the reduction(s) achieved under the applicable requirement(s) for which an alternative is being requested, and will publish the determination in the **Federal Register**.

(d)(1) An application submitted under this section will be evaluated based on the documentation that was provided to demonstrate the equivalence of the alternative fugitive emissions standards under this section.

(2) The Administrator may condition the approval of the alternative fugitive emissions standards on requirements that may be necessary to ensure that the alternative will achieve at least equivalent emissions reduction(s) as the reduction(s) achieved under the requirements for which the alternative is being requested.

(e) Any alternative fugitive emissions standard approved under this section shall:

(1) Constitute a required design, equipment, work practice, or operational standard within the meaning of section 111(h)(1) of the CAA; and

(2) May be used by any owner or operator in meeting the relevant standards and requirements established for affected facilities under § 60.5397a.

(f)(1) An owner or operator must notify the Administrator before implementing one of the alternative fugitive emissions standards, as specified in § 60.5420a(a)(3).

(2) An owner or operator implementing one of the alternative fugitive emissions standards must include the information specified in § 60.5420a(b)(7) in the annual report and maintain the records specified by the specific alternative fugitive emissions standard for a period of at least 5 years.

(g) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site or a compressor station in the state of California.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a well site or a compressor station in the state of California may elect to reduce VOC and GHG emissions through compliance with the monitoring, repair, and

recordkeeping requirements in the California Code of Regulations, title 17, §§ 95665–95667, effective January 1, 2020, as an alternative to complying with the requirements in §§ 60.5397a(f)(1) and (2), (g)(1) through (4), (h), and (i) of this subpart.

(h) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site or a compressor station in the state of Colorado.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a well site or a compressor station in the state of Colorado may elect to comply with the monitoring, repair, and recordkeeping requirements in Colorado Regulation 7, §§ XII.L, effective June 30, 2018, or XVII.F, effective October 15, 2014 for well sites and January 1, 2015 for compressor stations, as an alternative to complying with the requirements in §§ 60.5397a(f)(1) and (2), (g)(1) through (4), (h), and (i) of this subpart, provided the monitoring instrument used is an optical gas imaging or a Method 21 instrument.

(i) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site in the state of Ohio.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a well site in the state of Ohio may elect to comply with the monitoring, repair, and recordkeeping requirements in Ohio General Permits 12.1, Section C.5 and 12.2, Section C.5, effective April 14, 2014, as an alternative to complying with the requirements in §§ 60.5397a(f)(1), (g)(1), (3), and (4), (h), and (i) of this subpart, provided the monitoring instrument used is a Method 21 instrument and that the leak definition used for Method 21 monitoring is an instrument reading of 500 ppm or greater.

(j) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a compressor station in the state of Ohio.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a compressor station in the state of Ohio may elect to comply with the monitoring, repair, and recordkeeping requirements in Ohio General Permit 18.1, effective February 7, 2017, as an alternative to complying with the requirements in §§ 60.5397a(f)(2), (g)(2) through (4), (h), and (i) of this subpart, provided the monitoring instrument used is a Method 21 instrument and that the leak definition used for Method 21

monitoring is an instrument reading of 500 ppm or greater.

(k) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site in the state of Pennsylvania.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a well site in the state of Pennsylvania may elect to comply with the monitoring, repair, and recordkeeping requirements in Pennsylvania General Permit 5, section G, effective August 8, 2018, as an alternative to complying with the requirements in §§ 60.5397a(f)(2), (g)(2) through (4), (h), and (i) of this subpart, provided the monitoring instrument used is an optical gas imaging or a Method 21 instrument.

(l) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a compressor station in the state of Pennsylvania.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a compressor station in the state of Pennsylvania may elect to comply with the monitoring, repair, and recordkeeping requirements in Pennsylvania General Permit 5, section G, effective August 8, 2018, as an alternative to complying with the requirements in §§ 60.5397a(f)(2), (g)(2) through (4), (h), and (i) of this subpart, provided the monitoring instrument used is an optical gas imaging or a Method 21 instrument.

(m) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site in the state of Texas.* An affected facility, which is the collection of fugitive emissions components, as defined in § 60.5430a, located at a well site in the state of Texas may elect to comply with the monitoring, repair, and recordkeeping requirements in the Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, section (e)(6), effective November 8, 2012, or at 30 Tex. Admin. Code § 116.620, effective September 4, 2000, as an alternative to complying with the requirements in §§ 60.5397a(f)(2), (g)(2) through (4), (h), and (i) of this subpart, provided the monitoring instrument used is a Method 21 instrument and that the leak definition used for Method 21 monitoring is an instrument reading of 2,000 ppm or greater.

(n) *Alternative fugitive emissions requirements for the collection of fugitive emissions components located at a well site in the state of Utah.* An affected facility, which is the collection of fugitive emissions components, as

defined in § 60.5430a, and is required to control emissions in accordance with Utah Administrative Code R307-506 and R307-507, located at a well site in the state of Utah may elect to comply with the monitoring, repair, and recordkeeping requirements in the Utah Administrative Code R307-509, effective March 2, 2018, as an alternative to complying with the requirements in §§ 60.5397a(f)(2), (g)(2) through (4), (h), and (i) of this subpart.

■ 9. Section 60.5400a is amended by revising paragraph (a) to read as follows:

§ 60.5400a What equipment leak GHG and VOC standards apply to affected facilities at an onshore natural gas processing plant?

* * * * *

(a) You must comply with the requirements of §§ 60.482-1a(a), (b), (d), and (e), 60.482-2a, and 60.482-4a through 60.482-11a, except as provided in § 60.5401a.

* * * * *

■ 10. Section 60.5401a is amended by revising paragraph (e) to read as follows:

§ 60.5401a What are the exceptions to the equipment leak GHG and VOC standards for affected facilities at onshore natural gas processing plants?

* * * * *

(e) Pumps in light liquid service, valves in gas/vapor and light liquid service, pressure relief devices in gas/vapor service, and connectors in gas/vapor service and in light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the monitoring requirements of §§ 60.482-2a(a)(1), 60.482-7a(a), 60.482-11a(a), and paragraph (b)(1) of this section.

* * * * *

■ 11. Section 60.5410a is amended by:

- a. Revising paragraph (c)(1);
- b. Revising paragraphs (e)(2) through (5); and
- c. Removing and reserving paragraph (e)(8).

The revisions read as follows:

§ 60.5410a How do I demonstrate initial compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, collection of fugitive emissions components at a compressor station, and equipment leaks and sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(c) * * *

(1) If complying with § 60.5385a(a)(1) or (2), during the initial compliance period, you must continuously monitor the number of hours of operation or

track the number of months since initial startup, since August 2, 2016, or since the last rod packing replacement, whichever is later.

* * * * *

(e) * * *

(2) If you own or operate a pneumatic pump affected facility located at a well site, you must reduce emissions in accordance with § 60.5393a(b)(1) or (b)(2), and you must collect the pneumatic pump emissions through a closed vent system that meets the requirements of § 60.5411a(c) and (d).

(3) If you own or operate a pneumatic pump affected facility located at a well site and there is no control device or process available on site, you must submit the certification in § 60.5420a(b)(8)(i)(A).

(4) If you own or operate a pneumatic pump affected facility located at a well site, and you are unable to route to an existing control device or to a process due to technical infeasibility, you must submit the certification in § 60.5420a(b)(8)(i)(B).

(5) If you own or operate a pneumatic pump affected facility located at a well site and you reduce emissions in accordance with § 60.5393a(b)(4), you must collect the pneumatic pump emissions through a closed vent system that meets the requirements of § 60.5411a(c) and (d).

* * * * *

(8) [Reserved]

* * * * *

■ 12. Section 60.5411a is amended by:

- a. Revising the introductory text;
- b. Revising paragraph (a) introductory text;
- c. Revising paragraph (a)(1);
- d. Revising paragraph (c) introductory text;
- e. Revising paragraph (c)(1);
- f. Revising paragraph (d)(1); and
- g. Removing and reserving paragraph (e).

The revisions read as follows:

§ 60.5411a What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing emissions from centrifugal compressor wet seal fluid degassing systems, reciprocating compressors, pneumatic pumps and storage vessels?

You must meet the applicable requirements of this section for each cover and closed vent system used to comply with the emission standards for your centrifugal compressor wet seal degassing systems, reciprocating compressors, pneumatic pumps and storage vessels.

(a) Closed vent system requirements for reciprocating compressors and centrifugal compressor wet seal degassing systems.

(1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the reciprocating compressor rod packing emissions collection system to a process. You must design the closed vent system to route all gases, vapors, and fumes emitted from the centrifugal compressor wet seal fluid degassing system to a process or a control device that meets the requirements specified in § 60.5412a(a) through (c).

* * * * *

(c) Closed vent system requirements for storage vessel and pneumatic pump affected facilities using a control device or routing emissions to a process.

(1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel or pneumatic pump to a control device or to a process. For storage vessels, the closed vent system must route all gases, vapors, and fumes to a control device that meets the requirements specified in § 60.5412a(c) and (d).

* * * * *

(d) * * *

(1) You must conduct an assessment that the closed vent system is of sufficient design and capacity to ensure that all emissions from the affected facility are routed to the control device and that the control device is of sufficient design and capacity to accommodate all emissions from the affected facility, and have it certified by an in-house engineer or a qualified professional engineer in accordance with paragraphs (d)(1)(i) and (ii) of this section.

(i) You must provide the following certification, signed and dated by an in-house engineer or a qualified professional engineer: "I certify that the closed vent system design and capacity assessment was prepared under my direction or supervision. I further certify that the closed vent system design and capacity assessment was conducted and this report was prepared pursuant to the requirements of subpart OOOOa of 40 CFR part 60. Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(ii) The assessment shall be prepared under the direction or supervision of an in-house engineer or a qualified professional engineer who signs the certification in paragraph (d)(1)(i) of this section.

* * * * *

(e) [Reserved]

- 13. Section 60.5412a is amended by
- a. Revising paragraph (a)(1) introductory text;
- b. Revising paragraph (a)(1)(iv);
- c. Revising paragraph (c) introductory text;
- d. Revising paragraph (d)(1)(iv) introductory text; and paragraph (d)(1)(iv)(D).

The revisions read as follows:

§ 60.5412a What additional requirements must I meet for determining initial compliance with control devices used to comply with the emission standards for my centrifugal compressor, and storage vessel affected facilities?

* * * * *

(a) * * *

(1) Each combustion device (e.g., thermal vapor incinerator, catalytic vapor incinerator, boiler, or process heater) must be designed and operated in accordance with one of the performance requirements specified in paragraphs (a)(1)(i) through (iv) of this section. If a boiler or process heater is used as the control device, then you must introduce the vent stream into the flame zone of the boiler or process heater.

* * * * *

(iv) You must introduce the vent stream with the primary fuel or use the vent stream as the primary fuel in a boiler or process heater.

* * * * *

(c) For each carbon adsorption system used as a control device to meet the requirements of paragraph (a)(2) or (d)(2) of this section, you must manage the carbon in accordance with the requirements specified in paragraphs (c)(1) and (2) of this section.

* * * * *

(d) * * *

(1) * * *

(iv) Each enclosed combustion control device (e.g., thermal vapor incinerator, catalytic vapor incinerator, boiler, or process heater) must be designed and operated in accordance with one of the performance requirements specified in paragraphs (A) through (D) of this section. If a boiler or process heater is used as the control device, then you must introduce the vent stream into the flame zone of the boiler or process heater.

* * * * *

(D) You must introduce the vent stream with the primary fuel or use the vent stream as the primary fuel in a boiler or process heater.

* * * * *

- 14. Section 60.5413a is amended by revising paragraph (d)(5)(i) introductory text and paragraphs (d)(9)(iii) and

(d)(12) introductory text to read as follows.

§ 60.5413a What are the performance testing procedures for control devices used to demonstrate compliance at my centrifugal compressor and storage vessel affected facilities?

* * * * *

(d) * * *

(5) * * *

(i) At the inlet gas sampling location, securely connect a fused silica-coated stainless steel evacuated canister fitted with a flow controller sufficient to fill the canister over a 3-hour period. Filling must be conducted as specified in paragraphs (d)(5)(i)(A) through (C) of this section.

* * * * *

(9) * * *

(iii) A 0–10 parts per million by volume-wet (ppmvw) (as propane) measurement range is preferred; as an alternative a 0–30 ppmvw (as propane) measurement range may be used.

* * * * *

(12) The owner or operator of a combustion control device model tested under this paragraph must submit the information listed in paragraphs (d)(12)(i) through (vi) of this section for each test run in the test report required by this section in accordance with § 60.5420a(b)(10). Owners or operators who claim that any of the performance test information being submitted is confidential business information (CBI) must submit a complete file including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to Attn: CBI Document Control Officer; Office of Air Quality Planning and Standards (OAQPS) CBIO Room 521; 109 T.W. Alexander Drive; RTP, NC 27711. The same file with the CBI omitted must be submitted to *Oil_and_Gas_PT@EPA.GOV*.

* * * * *

- 15. Section 60.5415a is amended by:
- a. Revising paragraph (b) introductory text;
- b. Revising paragraph (b)(3);
- c. Removing and reserving paragraph (b)(4);
- d. Revising paragraph (c)(1); and
- e. Revising paragraph (h)(2).

The revisions read as follows:

§ 60.5415a How do I demonstrate continuous compliance with the standards for my well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, collection of fugitive emissions components at a well site, and collection of fugitive emissions components at a compressor station affected facilities, and affected facilities at onshore natural gas processing plants?

* * * * *

(b) For each centrifugal compressor affected facility and each pneumatic pump affected facility, you must demonstrate continuous compliance according to paragraph (b)(3) of this section. For each centrifugal compressor affected facility, you also must demonstrate continuous compliance according to paragraphs (b)(1) and (2) of this section.

* * * * *

(3) You must submit the annual reports required by § 60.5420a(b)(1), (3), and (8) and maintain the records as specified in § 60.5420a(c)(2), (6) through (11), (16), and (17), as applicable.

(4) [Reserved]

(c) * * *

(1) You must continuously monitor the number of hours of operation for each reciprocating compressor affected facility or track the number of months since initial startup, since August 2, 2016, or since the date of the most recent reciprocating compressor rod packing replacement, whichever is later.

* * * * *

(h) * * *

(2) You must repair each identified source of fugitive emissions as required in § 60.5397a(h).

* * * * *

- 16. Section 60.5416a is amended by:
- a. Revising the introductory text;
- b. Revising paragraph (a) introductory text;
- c. Revising paragraph (a)(4) introductory text;
- d. Revising paragraph (c) introductory text; and
- e. Removing and reserving paragraph (d).

The revisions read as follows:

§ 60.5416a What are the initial and continuous cover and closed vent system inspection and monitoring requirements for my centrifugal compressor, reciprocating compressor, pneumatic pump, and storage vessel affected facilities?

For each closed vent system or cover at your centrifugal compressor, reciprocating compressor, pneumatic pump, and storage vessel affected facilities, you must comply with the applicable requirements of paragraphs (a) through (c) of this section.

(a) Inspections for closed vent systems and covers installed on each centrifugal

compressor or reciprocating compressor affected facility. Except as provided in paragraphs (b)(11) and (12) of this section, you must inspect each closed vent system according to the procedures and schedule specified in paragraphs (a)(1) and (2) of this section, inspect each cover according to the procedures and schedule specified in paragraph (a)(3) of this section, and inspect each bypass device according to the procedures of paragraph (a)(4) of this section.

* * * * *

(4) For each bypass device, except as provided for in § 60.5411a(a)(3)(ii), you must meet the requirements of paragraphs (a)(4)(i) or (ii) of this section.

* * * * *

(c) *Cover and closed vent system inspections for pneumatic pump or storage vessel affected facilities.* If you install a control device or route emissions to a process, you must comply with the inspection and recordkeeping requirements for each closed vent system and cover as specified in paragraphs (c)(1) and (c)(2) of this section. You must also comply with the requirements of (c)(3) through (7) of this section.

* * * * *

(d) [Reserved]

■ 17. Section 60.5417a is amended by revising paragraph (a) to read as follows:

§ 60.5417a What are the continuous control device monitoring requirements for my centrifugal compressor and storage vessel affected facilities?

* * * * *

(a) For each control device used to comply with the emission reduction standard for centrifugal compressor affected facilities in § 60.5380a(a)(1), you must install and operate a continuous parameter monitoring system for each control device as specified in paragraphs (c) through (g) of this section, except as provided for in paragraph (b) of this section. If you install and operate a flare in accordance with § 60.5412a(a)(3), you are exempt from the requirements of paragraphs (e) and (f) of this section. If you install and operate an enclosed combustion device or control device which is not specifically listed in paragraph (d) of this section, you must demonstrate continuous compliance according to paragraphs (h)(1) through (h)(4) of this section.

* * * * *

■ 18. Section 60.5420a is amended by:

- a. Revising paragraph (a)(1);
- b. Adding paragraph (a)(3);
- c. Revising paragraph (b) introductory text;

- d. Revising paragraph (b)(2);
- e. Revising paragraph (b)(3) introductory paragraph;
- f. Revising paragraphs (b)(3)(ii) through (iv);
- g. Adding paragraph (b)(3)(v);
- h. Revising paragraph (b)(4);
- i. Revising paragraphs (b)(5)(i) through (iii);
- j. Revising paragraph (b)(6) introductory text;
- k. Revising paragraphs (b)(6)(iii) and (vii);
- l. Adding paragraphs (b)(6)(viii) and (ix);
- m. Revising paragraph (b)(7);
- n. Revising paragraph (b)(8) introductory text;
- o. Revising paragraph (b)(8)(iii);
- p. Adding paragraph (b)(8)(iv);
- q. Revising paragraph (b)(9)(i);
- r. Revising paragraphs (b)(11) through (13);
- s. Adding paragraph (b)(14);
- t. Revising paragraph (c) introductory text;
- u. Revising paragraph (c)(1) introductory text;
- v. Revising paragraph (c)(1)(ii);
- w. Revising paragraph (c)(1)(iii) introductory text;
- x. Revising paragraphs (c)(1)(iii)(A) and (B);
- y. Revising paragraph (c)(1)(iii)(C)(1);
- z. Revising paragraphs (c)(1)(iv), (c)(1)(vi)(B), and (c)(1)(vii);
- aa. Revising paragraph (c)(2) introductory text;
- bb. Revising paragraphs (c)(2)(vi)(D) and (E);
- cc. Revising paragraph (c)(2)(vii);
- dd. Adding paragraph (c)(2)(viii);
- ee. Revising paragraphs (c)(3)(i) and (iii);
- ff. Revising paragraphs (c)(4)(i) and (v);
- gg. Revising paragraph (c)(5) introductory text;
- hh. Revising paragraphs (c)(5)(iii) and (v);
- ii. Revising paragraph (c)(5)(vi) introductory text;
- jj. Revising paragraphs (c)(5)(vi)(F)(4) and (c)(5)(vi)(G);
- kk. Adding paragraphs (c)(5)(vi)(H) and (c)(5)(vii);
- ll. Revising paragraphs (c)(6) through (9);
- mm. Revising paragraph (c)(15);
- nn. Revising paragraphs (c)(16)(ii) and (iv); and
- oo. Adding paragraph (c)(18)

The revisions and additions read as follows:

§ 60.5420a What are my notification, reporting, and recordkeeping requirements?

(a) * * *

(1) If you own or operate an affected facility that is the group of all equipment within a process unit at an onshore natural gas processing plant, or a sweetening unit at an onshore natural gas processing plant, you must submit the notifications required in § 60.7(a)(1), (3), and (4) and § 60.15(d). If you own or operate a well, centrifugal compressor, reciprocating compressor, pneumatic controller, pneumatic pump, storage vessel, or collection of fugitive emissions components at a well site or collection of fugitive emissions components at a compressor station, you are not required to submit the notifications required in § 60.7(a)(1), (3), and (4) and § 60.15(d).

* * * * *

(3) An owner or operator electing to comply with the provisions of § 60.5399a shall notify the Administrator of the alternative standard selected 90 days before implementing any of the provisions.

(b) *Reporting requirements.* You must submit annual reports containing the information specified in paragraphs (b)(1) through (8) and (12) of this section and performance test reports as specified in paragraph (b)(9) or (10) of this section, if applicable. You must submit annual reports following the procedure specified in paragraph (b)(11) of this section. The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410a. Subsequent annual reports are due no later than same date each year as the initial annual report. If you own or operate more than one affected facility, you may submit one report for multiple affected facilities provided the report contains all of the information required as specified in paragraphs (b)(1) through (8) and (12) of this section. Annual reports may coincide with title V reports as long as all the required elements of the annual report are included. You may arrange with the Administrator a common schedule on which reports required by this part may be submitted as long as the schedule does not extend the reporting period.

* * * * *

(2) For each well affected facility that is subject to § 60.5375a(a) or (f), the records of each well completion operation conducted during the reporting period, including the information specified in paragraphs (b)(2)(i) through (b)(2)(xiv) of this section, if applicable. In lieu of submitting the records specified in paragraph (b)(2)(i) through (b)(2)(xiv) of this section, the owner or operator may submit a list of each well completion

with hydraulic fracturing completed during the reporting period, and the digital photograph required by paragraph (c)(1)(v) of this section for each well completion. For each well affected facility that routes flowback entirely through permanent separators, the records specified in paragraphs (b)(2)(i) through (b)(2)(iv) and (b)(2)(vi) through (b)(2)(xiv) of this section. For each well affected facility that is subject to § 60.5375a(g), the record specified in paragraph (b)(2)(xv) of this section.

(i) Well Completion ID.

(ii) Latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983.

(iii) US Well ID.

(iv) The date and time of the onset of flowback following hydraulic fracturing or refracturing.

(v) The date and time of each attempt to direct flowback to a separator as required in § 60.5375a(a)(1)(ii).

(vi) The date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production.

(vii) The duration (in hours) of flowback.

(viii) The duration (in hours) of recovery and disposition of recovery (*i.e.*, routed to the gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw material would serve).

(ix) The duration (in hours) of combustion.

(x) The duration (in hours) of venting.

(xi) The specific reasons for venting in lieu of capture or combustion.

(xii) For any deviations recorded as specified in paragraph (c)(1)(ii) of this section, the date and time the deviation began, the duration of the deviation, and a description of the deviation.

(xiii) For each well affected facility subject to § 60.5375a(f), a record of the well type (*i.e.*, wildcat well, delineation well, or low pressure well (as defined § 60.5430a)) and supporting inputs and calculations, if applicable.

(xiv) For each well affected facility for which you claim an exception under § 60.5375a(a)(3), the specific exception claimed and reasons why the well meets the claimed exception.

(xv) For each well affected facility with less than 300 scf of gas per stock tank barrel of oil produced, the supporting analysis that was performed in order to make that claim, including but not limited to, GOR values for established leases and data from wells in the same basin and field.

(3) For each centrifugal compressor affected facility, the information

specified in paragraphs (b)(3)(i) through (v) of this section.

* * * * *

(ii) For each deviation that occurred during the reporting period and recorded as specified in paragraph (c)(2) of this section, the date and time the deviation began, the duration of the deviation, and a description of the deviation.

(iii) If required to comply with § 60.5380a(a)(2), the information in paragraphs (b)(3)(iii)(A) through (C) of this section.

(A) Dates of each inspection required under § 60.5416a(a) and (b);

(B) Each defect or leak identified during each inspection, how the defect or leak was repaired and date of repair or the date of anticipated repair if the repair is delayed; and

(C) Date and time of each bypass alarm or each instance the key is checked out if you are subject to the bypass requirements of § 60.5416a(a)(4).

(iv) If complying with § 60.5380a(a)(1) with a control device tested under § 60.5413a(d) which meets the criteria in § 60.5413a(d)(11) and § 60.5413a(e), the information in paragraphs (b)(3)(iv)(A) through (D) of this section.

(A) Identification of the compressor with the control device.

(B) Make, model, and date of purchase of the control device.

(C) For each instance where the inlet gas flow rate exceeds the manufacturer's listed maximum gas flow rate, where there is no indication of the presence of a pilot flame, or where visible emissions exceeded 1 minute in any 15-minute period, include the date and time the deviation began, the duration of the deviation, and a description of the deviation.

(D) For each visible emissions test following return to operation from a maintenance or repair activity, the date of the visible emissions test, the length of the test, and the amount of time for which visible emissions were present.

(v) If complying with § 60.5380a(a)(1) with a control device not tested under § 60.5413a(d), identification of the compressor with the tested control device, the date the performance test was conducted, and pollutant(s) tested. Submit the performance test report following the procedures specified in paragraph (b)(9) of this section.

(4) For each reciprocating compressor affected facility, the information specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) The cumulative number of hours of operation or the number of months since initial startup, since August 2, 2016, or since the previous

reciprocating compressor rod packing replacement, whichever is later. Alternatively, a statement that emissions from the rod packing are being routed to a process through a closed vent system under negative pressure.

(ii) If applicable, for each deviation that occurred during the reporting period and recorded as specified in paragraph (c)(3)(iii) of this section, the date and time the deviation began, duration of the deviation and a description of the deviation.

(iii) If required to comply with § 60.5385a(a)(3), the information in paragraphs (b)(4)(iii)(A) through (C) of this section.

(A) Dates of each inspection required under § 60.5416a(a) and (b);

(B) Each defect or leak identified during each inspection, how the defect or leak was repaired and date of repair or date of anticipated repair if repair is delayed; and

(C) Date and time of each bypass alarm or each instance the key is checked out if you are subject to the bypass requirements of § 60.5416a(a)(4).

(5) * * *

(i) An identification of each pneumatic controller constructed, modified or reconstructed during the reporting period, including the month and year of installation, reconstruction or modification and identification information that allows traceability to the records required in paragraph (c)(4)(iii) or (iv) of this section.

(ii) If applicable, reason why the use of pneumatic controller affected facilities with a natural gas bleed rate greater than the applicable standard are required.

(iii) For each instance where the pneumatic controller was not operated in compliance with the requirements specified in § 60.5390a, a description of the deviation, the date and time the deviation began, and the duration of the deviation.

(6) For each storage vessel affected facility, the information in paragraphs (b)(6)(i) through (ix) of this section.

* * * * *

(iii) For each deviation that occurred during the reporting period and recorded as specified in paragraph (c)(5)(iii) of this section, the date and time the deviation began, duration of the deviation and a description of the deviation.

* * * * *

(vii) For each storage vessel constructed, modified, reconstructed or returned to service during the reporting period complying with § 60.5395a(a)(2) with a control device tested under

§ 60.5413a(d) which meets the criteria in § 60.5413a(d)(11) and § 60.5413a(e), the information in paragraphs (b)(6)(vii)(A) through (D) of this section.

(A) Identification of the storage vessel with the control device.

(B) Make, model, and date of purchase of the control device.

(C) For each instance where the inlet gas flow rate exceeds the manufacturer's listed maximum gas flow rate, where there is no indication of the presence of a pilot flame, or where visible emissions exceeded 1 minute in any 15-minute period, include the date and time the deviation began, the duration of the deviation, and a description of the deviation.

(D) For each visible emissions test following return to operation from a maintenance or repair activity, the date of the visible emissions test, the length of the test, and the amount of time for which visible emissions were present.

(viii) If complying with § 60.5395a(a)(2) with a control device not tested under § 60.5413a(d), identification of the storage vessel with the tested control device, the date the performance test was conducted, and pollutant(s) tested. Submit the performance test report following the procedures specified in paragraph (b)(9) of this section.

(ix) If required to comply with § 60.5395a(b)(1), the information in paragraphs (b)(6)(ix)(A) through (C) of this section.

(A) Dates of each inspection required under § 60.5416a(c);

(B) Each defect or leak identified during each inspection, how the defect or leak was repaired and date of repair or date of anticipated repair if repair is delayed; and

(C) Date and time of each bypass alarm or each instance the key is checked out if you are subject to the bypass requirements of § 60.5416a(c)(3).

(7) For the collection of fugitive emissions components at each well site and the collection of fugitive emissions components at each compressor station within the company-defined area, the information specified in paragraphs (b)(7)(i) and (ii) of this section.

(i)(A) For each collection of fugitive emissions components at a well site that became an affected facility during the reporting period, you must include the date of the startup of production or the date of the first day of production after modification.

(B) For each collection of fugitive emissions components at a compressor station that became an affected facility during the reporting period, you must include the date of startup or the date of modification.

(C) For each collection of fugitive emissions components at a well site where during the reporting period you complete the removal of all major production and processing equipment such that the well site contains only one or more wellheads, you must include a statement that all major production and processing equipment has been removed from the well site, the date of the removal of the last piece of major production and processing equipment, and if the well site is still producing to another site, the well ID or separate tank battery ID receiving the production.

(D) For each collection of fugitive emissions components at a well site where you previously reported under paragraph (b)(7)(i)(C) the removal of all major production and processing equipment and during the reporting period major production and processing equipment is added back to the well site, the date that the first piece of major production and processing equipment is added back to the well site.

(E) For each new collection of fugitive emissions components at a well site where the average combined oil and natural gas production for the wells at the site is less than 15 boe per day, you must submit the combined oil and natural gas production in boe for the wells at the site, averaged over the first 30 days of production.

(ii) For each fugitive emissions monitoring survey performed during the annual reporting period, the information specified in paragraphs (b)(7)(ii)(A) through (L) of this section.

(A) Date of the survey.

(B) Name or unique ID of operator(s) performing survey.

(C) Ambient temperature, sky conditions, and maximum wind speed at the time of the survey.

(D) Monitoring instrument used.

(E) Any deviations from the monitoring plan elements under § 60.5397a(c)(1), (2), (7), and (8)(i) or a statement that there were no deviations from these elements of the monitoring plan.

(F) Number and type of components for which fugitive emissions were detected.

(G) Number and type of fugitive emissions components that were not repaired as required in § 60.5397a(h).

(H) Number and type of difficult-to-monitor and unsafe-to-monitor fugitive emission components monitored.

(I) The date of successful repair of the fugitive emissions component.

(J) Number and type of fugitive emission components currently on delay of repair and explanation for each delay of repair.

(K) Type of instrument used to resurvey a repaired fugitive emissions component that could not be repaired during the initial fugitive emissions finding, if the type of instrument is different from the type used during the initial fugitive emissions finding.

(L) Date of planned shutdown(s) that occurred during the reporting period if there are any components that have been placed on delay of repair.

(8) For each pneumatic pump affected facility, the information specified in paragraphs (b)(8)(i) through (iv) of this section.

* * * * *

(iii) For each deviation that occurred during the reporting period and recorded as specified in paragraph (c)(16)(ii) of this section, the date and time the deviation began, duration of the deviation and a description of the deviation.

(iv) If required to comply with § 60.5393a(b), the information in paragraphs (b)(8)(iv)(A) through (C) of this section.

(A) Dates of each inspection required under § 60.5416a(c);

(B) Each defect or leak identified during each inspection, how the defect or leak was repaired and date of repair or date of anticipated repair if repair is delayed; and

(C) Date and time of each bypass alarm or each instance the key is checked out if you are subject to the bypass requirements of § 60.5416a(c)(3).

(9) * * *

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>)). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a

compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

* * * * *

(11) You must submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (<https://cdx.epa.gov/>)). You must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI website (<https://www3.epa.gov/ttn/chief/cedri/>). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate address listed in § 60.4. Once the form has been available in CEDRI for at least 90 calendar days, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. If you claim that some of the information required to be submitted via CEDRI is CBI, submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via CEDRI.

(12) You must submit the certification signed by the in-house engineer or qualified professional engineer according to § 60.5411a(d) for each closed vent system routing to a control device or process.

(13) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are

precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(14) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the

force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(c) *Recordkeeping requirements.* You must maintain the records identified as specified in § 60.7(f) and in paragraphs (c)(1) through (18) of this section. All records required by this subpart must be maintained either onsite or at the nearest local field office for at least 5 years. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(1) The records for each well affected facility as specified in paragraphs (c)(1)(i) through (vii) of this section, as applicable. For each well affected facility for which you make a claim that the well affected facility is not subject to the requirements for well completions pursuant to 60.5375a(g), you must maintain the record in paragraph (c)(1)(vi) of this section, only. For each well affected facility that routes flowback entirely through permanent separators the date and time of each attempt to direct flowback to a separator is not required.

* * * * *

(ii) Records of deviations in cases where well completion operations with hydraulic fracturing were not performed in compliance with the requirements specified in § 60.5375a, including the date and time the deviation began, the duration of the deviation, and a description of the deviation.

(iii) You must maintain the records specified in paragraphs (c)(1)(iii)(A) through (C) of this section.

(A) For each well affected facility required to comply with the requirements of § 60.5375a(a), you must record: The latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983; the United States Well Number; the date and time of the onset of flowback following hydraulic fracturing or refracturing; the date and time of each attempt to direct flowback to a separator as required in § 60.5375a(1)(ii); the date and time of each occurrence of returning to the

initial flowback stage under § 60.5375a(1)(i); and the date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production; the duration of flowback; duration of recovery and disposition of recovery (*i.e.*, routed to the gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw material would serve); duration of combustion; duration of venting; and specific reasons for venting in lieu of capture or combustion. The duration must be specified in hours. In addition, for wells where it is technically infeasible to route the recovered gas as specified in § 60.5375a(1)(ii), you must record the reasons for the claim of technical infeasibility with respect to all four options provided in that subparagraph.

(B) For each well affected facility required to comply with the requirements of § 60.5375a(f), you must record: Latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983; the United States Well Number; the date and time of the onset of flowback following hydraulic fracturing or refracturing; the date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production; the duration of flowback; duration of recovery and disposition of recovery (*i.e.*, routed to the gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw material would serve); duration of combustion; duration of venting; and specific reasons for venting in lieu of capture or combustion. The duration must be specified in hours.

(C) * * *

(1) The latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983; the United States Well Number; the date and time of the onset of flowback following hydraulic fracturing or refracturing; the date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production; the duration of flowback; duration of recovery and disposition of recovery (*i.e.*, routed to the gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw

material would serve); duration of combustion; duration of venting; and specific reasons for venting in lieu of capture or combustion. The duration must be specified in hours.

* * * * *

(iv) For each well affected facility for which you claim an exception under § 60.5375a(3), you must record: The latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983; the United States Well Number; the specific exception claimed; the starting date and ending date for the period the well operated under the exception; and an explanation of why the well meets the claimed exception.

* * * * *

(vi) * * *

(B) The latitude and longitude of the well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using North American Datum of 1983; the United States Well Number;

* * * * *

(vii) For each well affected facility subject to § 60.5375a(f), a record of the well type (*i.e.*, wildcat well, delineation well, or low pressure well (as defined § 60.5430a)) and supporting inputs and calculations, if applicable.

(2) For each centrifugal compressor affected facility, you must maintain records of deviations in cases where the centrifugal compressor was not operated in compliance with the requirements specified in § 60.5380a, including a description of each deviation, the date and time each deviation began and the duration of each deviation. Except as specified in paragraph (c)(2)(viii) of this section, you must maintain the records in paragraphs (c)(2)(i) through (vii) of this section for each control device tested under § 60.5413a(d) which meets the criteria in § 60.5413a(d)(11) and § 60.5413a(e) and used to comply with § 60.5380a(a)(1) for each centrifugal compressor.

* * * * *

(vi) * * *

(D) Records of the visible emissions test following return to operation from a maintenance or repair activity, including the date of the visible emissions test, the length of the test, and the amount of time for which visible emissions were present.

(E) Records of the manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing emissions.

(vii) Records of deviations for instances where the inlet gas flow rate exceeds the manufacturer's listed

maximum gas flow rate, where there is no indication of the presence of a pilot flame, or where visible emissions exceeded 1 minute in any 15-minute period, including a description of the deviation, the date and time the deviation began, and the duration of the deviation.

(viii) As an alternative to the requirements of paragraph (c)(2)(iv) of this section, you may maintain records of one or more digital photographs with the date the photograph was taken and the latitude and longitude of the centrifugal compressor and control device imbedded within or stored with the digital file. As an alternative to imbedded latitude and longitude within the digital photograph, the digital photograph may consist of a photograph of the centrifugal compressor and control device with a photograph of a separately operating GPS device within the same digital picture, provided the latitude and longitude output of the GPS unit can be clearly read in the digital photograph.

(3) * * *

(i) Records of the cumulative number of hours of operation or number of months since initial startup, since August 2, 2016, or since the previous replacement of the reciprocating compressor rod packing, whichever is later. Alternatively, a statement that emissions from the rod packing are being routed to a process through a closed vent system under negative pressure.

* * * * *

(iii) Records of deviations in cases where the reciprocating compressor was not operated in compliance with the requirements specified in § 60.5385a, including the date and time the deviation began, duration of the deviation and a description of the deviation.

(4) * * *

(i) Records of the month and year of installation, reconstruction or modification, location in latitude and longitude coordinates in decimal degrees to an accuracy and precision of five (5) decimals of a degree using the North American Datum of 1983, identification information that allows traceability to the records required in paragraph (c)(4)(iii) or (iv) of this section and manufacturer specifications for each pneumatic controller constructed, modified or reconstructed.

* * * * *

(v) For each instance where the pneumatic controller was not operated in compliance with the requirements specified in § 60.5390a, a description of the deviation, the date and time the

deviation began, and the duration of the deviation.

(5) For each storage vessel affected facility, you must maintain the records identified in paragraphs (c)(5)(i) through (vii) of this section.

* * * * *

(iii) For each instance where the storage vessel was not operated in compliance with the requirements specified in §§ 60.5395a, 60.5411a, 60.5412a, and 60.5413a, as applicable, a description of the deviation, the date and time each deviation began, and the duration of the deviation.

* * * * *

(v) You must maintain records of the identification and location in latitude and longitude coordinates in decimal degrees to an accuracy and precision of five (5) decimals of a degree using the North American Datum of 1983 of each storage vessel affected facility.

(vi) Except as specified in paragraph (c)(5)(vi)(G) of this section, you must maintain the records specified in paragraphs (c)(5)(vi)(A) through (H) of this section for each control device tested under § 60.5413a(d) which meets the criteria in § 60.5413a(d)(11) and § 60.5413a(e) and used to comply with § 60.5395a(a)(2) for each storage vessel.

* * * * *

(F) * * *

(4) Records of the visible emissions test following return to operation from a maintenance or repair activity, including the date of the visible emissions test, the length of the test, and the amount of time for which visible emissions were present.

* * * * *

(G) Records of deviations for instances where the inlet gas flow rate exceeds the manufacturer's listed maximum gas flow rate, where there is no indication of the presence of a pilot flame, or where visible emissions exceeded 1 minute in any 15-minute period, including a description of the deviation, the date and time the deviation began, and the duration of the deviation.

(H) As an alternative to the requirements of paragraph (c)(5)(vi)(D) of this section, you may maintain records of one or more digital photographs with the date the photograph was taken and the latitude and longitude of the storage vessel and control device imbedded within or stored with the digital file. As an alternative to imbedded latitude and longitude within the digital photograph, the digital photograph may consist of a photograph of the storage vessel and control device with a photograph of a separately operating GPS device within the same digital picture, provided the

latitude and longitude output of the GPS unit can be clearly read in the digital photograph.

(vii) Records of the date that each storage vessel affected facility is removed from service and returned to service, as applicable.

(6) Records of each closed vent system inspection required under § 60.5416a(a)(1) and (2) for centrifugal compressors and reciprocating compressors, or § 60.5416a(c)(1) for storage vessels and pneumatic pumps as required in paragraphs (c)(6)(i) through (iii) of this section.

(i) A record of each closed vent system inspection. You must include an identification number for each closed vent system (or other unique identification description selected by you) and the date of the inspection.

(ii) For each defect detected during inspections required by § 60.5416a(a)(1) and (2) or § 60.5416a(c)(1), you must record the location of the defect, a description of the defect, the date of detection, the corrective action taken the repair the defect, and the date the repair to correct the defect is completed.

(iii) If repair of the defect is delayed as described in § 60.5416a(b)(10), you must record the reason for the delay and the date you expect to complete the repair.

(7) A record of each cover inspection required under § 60.5416a(a)(3) for centrifugal or reciprocating compressors or § 60.5416a(c)(2) for storage vessels or pneumatic pumps as required in paragraphs (c)(7)(i) through (iii) of this section.

(i) A record of each cover inspection. You must include an identification number for each cover (or other unique identification description selected by you) and the date of the inspection.

(ii) For each defect detected during inspections required by § 60.5416a(a)(3) or § 60.5416a(c)(2), you must record the location of the defect, a description of the defect, the date of detection, the corrective action taken the repair the defect, and the date the repair to correct the defect is completed.

(iii) If repair of the defect is delayed as described in § 60.5416a(b)(10), you must record the reason for the delay and the date you expect to complete the repair.

(8) If you are subject to the bypass requirements of § 60.5416a(a)(4) for centrifugal compressors or reciprocating compressors, or § 60.5416a(c)(3) for storage vessels or pneumatic pumps, you must prepare and maintain a record of each inspection or a record of each time the key is checked out or a record of each time the alarm is sounded.

(9) If you are subject to the closed vent system no detectable emissions requirements of § 60.5416a(b) for centrifugal compressors or reciprocating compressors, you must prepare and maintain the records required in paragraphs (c)(9)(i) through (iii) of this section.

(i) A record of each closed vent system no detectable emissions monitoring survey. You must include an identification number for each closed vent system (or other unique identification description selected by you) and the date of the monitoring survey.

(ii) For each leak detected during inspections required by § 60.5416a(b), you must record the location of the leak, the maximum concentration reading obtained using Method 21, the date of detection, the corrective action taken the repair the leak, and the date the repair to correct the leak is completed.

(iii) If repair of the leak is delayed as described in § 60.5416a(b)(10), you must record the reason for the delay and the date you expect to complete the repair.

* * * * *

(15) For each collection of fugitive emissions components at a well site and each collection of fugitive emissions components at a compressor station, the records identified in paragraphs (c)(15)(i) through (vii) of this section.

(i) The date of the startup of production or the date of the first day of production after modification for each collection of fugitive emissions components at a well site and the date of startup or the date of modification for each collection of fugitive emissions components compressor station.

(ii) For each collection of fugitive emissions components at a well site where you complete the removal of all major production and processing equipment such that the well site contains only one or more wellheads, the date the well site completes the removal of all major production and processing equipment from the well site, and, if the well site is still producing, the well ID or separate tank battery ID receiving the production from the well site. If major production and processing equipment is subsequently added back to the well site, the date that the first piece of major production and processing equipment is added back to the well site.

(iii) For each collection of fugitive emissions components at a well site that is monitored annually under (g)(1)(ii)(B), the records identified in paragraphs (c)(15)(iii)(A) and (B) of this section.

(A) The average daily combined oil and natural gas production for the well

site during the first 30 days of production; and

(B) A description of the methodology used to calculate the daily average production for the well site.

(iv) The fugitive emissions monitoring plan as required in § 60.5397a(b), (c), and (d).

(v) The records of each monitoring survey as specified in paragraphs (c)(15)(v)(A) through (L) of this section.

(A) Date of the survey.

(B) Beginning and end time of the survey.

(C) Name of operator(s) performing survey. If you choose to report the unique ID of the operator(s) performing the survey in lieu of the operator(s) name, you must keep a record linking the unique ID to the operator(s) name. You must note the training and experience of the operator(s).

(D) Monitoring instrument used.

(E) When optical gas imaging is used to perform the survey, one or more digital photographs or videos, captured from the optical gas imaging instrument used for monitoring, of each required monitoring survey being performed. The digital photograph must include the date the photograph was taken and the latitude and longitude of the collection of fugitive emissions components at a well site or collection of fugitive emissions components at a compressor station imbedded within or stored with the digital file. As an alternative to imbedded latitude and longitude within the digital file, the digital photograph or video may consist of an image of the monitoring survey being performed with a separately operating GPS device within the same digital picture or video, provided the latitude and longitude output of the GPS unit can be clearly read in the digital image. Digital photographs or video recorded under paragraph (c)(15)(v)(K)(1) of this section can be used to meet this requirement, as long as the photograph or video is taken with the optical gas imaging instrument, includes the date and the latitude and longitude are either imbedded or visible in the picture.

(F) Fugitive emissions component identification when Method 21 of appendix A-7 of this part is used to perform the monitoring survey or when optical gas imaging is used to perform the monitoring survey and the owner or operator chooses to comply with § 60.5397a(d)(2) in lieu of § 60.5397a(d)(1).

(G) Ambient temperature, sky conditions, and maximum wind speed at the time of the survey.

(H) Any deviations from the monitoring plan or a statement that

there were no deviations from the monitoring plan.

(I) Documentation of each fugitive emission, including the information specified in paragraphs (c)(15)(v)(I)(1) through (3) of this section.

(1) Location.

(2) Component ID and type of fugitive emissions component.

(3) Instrument reading of each fugitive emissions component that requires repair when Method 21 is used for monitoring.

(J) Number and type of fugitive emissions components that were not repaired as required in § 60.5397a(h).

(K) For each component that cannot be repaired during the monitoring survey when the fugitive emissions were initially found:

(1) Number and type of components that were tagged or a digital photograph or video of each fugitive emissions component. The digital photograph or video must clearly identify the location of the component that must be repaired. Any digital photograph or video required under this paragraph can also be used to meet the requirements under paragraph (c)(15)(ii)(E) of this section, as long as the photograph or video is taken with the optical gas imaging instrument, includes the date and the latitude and longitude are either imbedded or visible in the picture.

(2) The date and repair methods applied in each attempt to repair the fugitive emissions components.

(3) The date of successful repair of the fugitive emissions component.

(4) The date of each resurvey and instrumentation used to resurvey a repaired fugitive emissions component that could not be repaired during the initial fugitive emissions finding.

(5) Identification of each fugitive emission component placed on delay of repair and explanation for each delay of repair.

(L) Records of calibrations for the instrument used during the monitoring survey.

(vi) Date of planned shutdowns that occur while there are any components that have been placed on delay of repair.

(16) * * *

(ii) Records of deviations in cases where the pneumatic pump was not operated in compliance with the requirements specified in § 60.5393a, including the date and time the deviation began, duration of the deviation and a description of the deviation.

* * * * *

(iv) Records substantiating a claim according to § 60.5393a(b)(5) that it is technically infeasible to capture and

route emissions from a pneumatic pump to a control device or process; including the certification according to § 60.5393a(b)(5)(ii) and the records of the engineering assessment of technical infeasibility performed according to § 60.5393a(b)(5)(iii).

(18) A copy of each performance test submitted under paragraph (b)(9) of this section.

■ 19. Section 60.5422a is amended by revising paragraphs (a) and (b), and paragraph (c) introductory text to read as follows:

§ 60.5422a What are my additional reporting requirements for my affected facility subject to GHG and VOC requirements for onshore natural gas processing plants?

(a) You must comply with the requirements of paragraphs (b) and (c) of this section in addition to the requirements of § 60.487a(a), (b)(1) through (3), (b)(5), (c)(2)(i) through (iv), and (c)(2)(vii) through (viii). You must submit semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA’s Central Data Exchange (CDX) (<https://cdx.epa.gov/>)). Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI website (<https://www3.epa.gov/ttn/chief/cedri/>). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Once the form has been available in CEDRI for at least 90 days, you must begin submitting all subsequent reports via CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(b) An owner or operator must include the following information in the initial semiannual report in addition to the information required in § 60.487a(b)(1) through (3) and (b)(5): Number of pressure relief devices subject to the requirements of § 60.5401a(b) except for those pressure relief devices designated for no detectable emissions under the provisions of § 60.482–4a(a) and those pressure relief devices complying with § 60.482–4a(c).

(c) An owner or operator must include the information specified in paragraphs (c)(1) and (2) of this section in all semiannual reports in addition to the information required in

§ 60.487a(c)(2)(i) through (iv) and (c)(2)(vii) through (viii):

* * * * *

■ 20. Section 60.5423a is amended by revising paragraph (b) introductory text and adding paragraph (b)(3) to read as follows:

§ 60.5423a What additional recordkeeping and reporting requirements apply to my sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(b) You must submit a report of excess emissions to the Administrator in your annual report if you had excess emissions during the reporting period. The procedures for submitting annual reports are located in § 60.5420a(b). For the purpose of these reports, excess emissions are defined as specified in paragraphs (b)(1) and (2) of this section. The report must contain the information specified in paragraph (b)(3) of this section.

* * * * *

(3) For each period of excess emissions during the reporting period, include the following information in your report:

(i) The date and time of commencement and completion of each period of excess emissions;

(ii) The required minimum efficiency (Z) and the actual average sulfur emissions reduction (R) for periods defined in paragraph (b)(1) of this section; and

(iii) The appropriate operating temperature and the actual average temperature of the gases leaving the combustion zone for periods defined in paragraph (b)(2) of this section.

* * * * *

■ 21. Section 60.5430a is amended by:

■ a. Revising the definitions for “capital expenditure”, “certifying official”, “flowback”, “fugitive emissions component”, “low pressure well”, “maximum average daily throughput”, “startup of production”, and “well site”;

■ b. Adding in alphabetical order the definitions for “coil tubing cleanout”, “custody meter”, “custody meter assembly”, “first attempt at repair”, “major production and processing equipment”, “permanent separator”, “plug drill-out”, “repaired”, “screenout”, “UIC Class II oilfield disposal well”, and “wellhead only well site”; and

■ c. Removing the definition for “greenfield site”.

The revisions and additions read as follows:

§ 60.5430a What definitions apply to this subpart?

* * * * *

Capital expenditure means, in addition to the definition in 40 CFR 60.2, an expenditure for a physical or operational change to an existing facility that:

(1) Exceeds P, the product of the facility’s replacement cost, R, and an adjusted annual asset guideline repair allowance, A, as reflected by the following equation: $P = R \times A$, where:

(i) The adjusted annual asset guideline repair allowance, A, is the product of the percent of the replacement cost, Y, and the applicable basic annual asset guideline repair allowance, B, divided by 100 as reflected by the following equation: $A = Y \times (B \div 100)$;

(ii) The percent Y is determined from the following equations: $Y = 1.0 - 0.575 \log X$, where X is 2015 minus the year of construction, and $Y = 1.0$ when the year of construction is 2015; and

(iii) The applicable basic annual asset guideline repair allowance, B, is 4.5.

* * * * *

Certifying official means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities with an affected facility subject to this subpart and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The Administrator is notified of such delegation of authority prior to the exercise of that authority. The Administrator reserves the right to evaluate such delegation;

(2) For a partnership (including but not limited to general partnerships, limited partnerships, and limited liability partnerships) or sole proprietorship: A general partner or the proprietor, respectively. If a general partner is a corporation, the provisions of paragraph (1) of this definition apply;

(3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility

for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(4) For affected facilities:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; or

(ii) The designated representative for any other purposes under part 60.

Coil tubing cleanout means the process where an operator runs a string of coil tubing to the packed proppant within a well and jets the well to dislodge the proppant and provide sufficient lift energy to flow it to the surface.

* * * * *

Custody meter means the meter where natural gas or hydrocarbon liquids are measured for sales, transfers, and/or royalty determination.

Custody meter assembly means an assembly of fugitive emissions components, including the custody meter, valves, flanges, and connectors necessary for the proper operation of the custody meter.

* * * * *

First attempt at repair means, for the purposes of fugitive emissions components, an action taken for the purpose of stopping or reducing fugitive emissions of methane or VOC to the atmosphere. First attempts at repair include, but are not limited to, the following practices where practicable and appropriate: Tightening bonnet bolts; replacing bonnet bolts; tightening packing gland nuts; or injecting lubricant into lubricated packing.

* * * * *

Flowback means the process of allowing fluids and entrained solids to flow from a well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production. The term flowback also means the fluids and entrained solids that emerge from a well during the flowback process. The flowback period begins when material introduced into the well during the treatment returns to the surface following hydraulic fracturing or refracturing. The flowback period ends when either the well is shut in and permanently disconnected from the flowback equipment or at the startup of production. The flowback period includes the initial flowback stage and the separation flowback stage. Screenouts, coil tubing cleanouts, and plug drill-outs are not considered part of the flowback process.

Fugitive emissions component means any component that has the potential to emit fugitive emissions of methane or VOC at a well site or compressor station, including valves, connectors, pressure relief devices, open-ended lines, flanges, covers and closed vent systems not subject to §§ 60.5411 or 60.5411a, thief hatches or other openings on a controlled storage vessel not subject to §§ 60.5395 or 60.5395a, compressors, instruments, and meters. Devices that vent as part of normal operations, such as natural gas-driven pneumatic controllers or natural gas-driven pumps, are not fugitive emissions components, insofar as the natural gas discharged from the device's vent is not considered a fugitive emission. Emissions originating from other than the device's vent, such as the thief hatch on a controlled storage vessel, would be considered fugitive emissions.

* * * * *

Low pressure well means a well that satisfies at least one of the following conditions:

(1) The static pressure at the wellhead following fracturing but prior to the onset of flowback is less than the flow line pressure;

(2) The pressure of flowback fluid immediately before it enters the flow line, as determined under § 60.5432a, is less than the flow line pressure; or

(3) Flowback of the fracture fluids will not occur without the use of artificial lift equipment.

Major production and processing equipment means compressors, glycol dehydrators, heater/treaters, pneumatic pumps, pneumatic controllers, separators, and storage vessels collecting crude oil, condensate, intermediate hydrocarbon liquids, or produced water, for the purpose of determining whether a well site is a wellhead only well site.

Maximum average daily throughput means the throughput, determined as described in (1) or (2), to an individual storage vessel over the days that production is routed to that storage vessel during the 30-day evaluation period specified in § 60.5365a(e)(1).

(1) If throughput to the individual storage vessel is measured on a daily basis (e.g., via level gauge automation or daily manual gauging), the maximum average daily throughput is the average of all daily throughputs for days on which throughput was routed to that storage vessel during the 30-day evaluation period; or

(2) If throughput to the individual storage vessel is not measured on a daily basis (e.g., via manual gauging at the start and end of loadouts), the maximum

average daily throughput is the highest, of the average daily throughputs, determined for any production period to that storage vessel during the 30-day evaluation period, as determined by averaging total throughput to that storage vessel over each production period. A production period begins when production begins to be routed to a storage vessel and ends either when throughput is routed away from that storage vessel or when a loadout occurs from that storage vessel, whichever happens first.

Regardless of the determination methodology, operators must not include days during which throughput is not routed to an individual storage vessel when calculating maximum average daily throughput for that storage vessel.

* * * * *

Permanent separator means a separator that handles flowback from a well or wells beginning when the flowback period begins and continuing to the startup of production.

Plug drill-out means the removal of a plug (or plugs) that was used to conducted hydraulic fracturing in different sections of the well.

* * * * *

Repaired means, for the purposes of fugitive emissions components, that fugitive emissions components are adjusted, replaced, or otherwise altered, in order to eliminate fugitive emissions as defined in § 60.5397a of this subpart and is resurveyed as specified in § 60.5397a(h)(4) and it is verified that emissions from the fugitive emissions components are below the applicable fugitive emissions definition.

* * * * *

Screenout means the first attempt to clear proppant from the wellbore through flowing the well to a fracture tank in order to achieve maximum velocity and carry the proppant out of the well.

* * * * *

Startup of production means the beginning of initial flow following the end of flowback when there is continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate or produced water, except as otherwise provided herein. For the purposes of the fugitive monitoring requirements of § 60.5397a, *startup of production* means the beginning of the continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate or produced water.

* * * * *

UIC Class II oilfield disposal well means a well with a UIC Class II permit

where wastewater resulting from oil and natural gas production operations is injected into underground porous rock formations not productive of oil or gas, and sealed above and below by unbroken, impermeable strata.

* * * * *

Well site means one or more surface sites that are constructed for the drilling and subsequent operation of any oil well, natural gas well, or injection well. For purposes of the fugitive emissions standards at § 60.5397a, well site also means a separate tank battery surface

site collecting crude oil, condensate, intermediate hydrocarbon liquids, or produced water from wells not located at the well site (e.g., centralized tank batteries). Also, for the purposes of the fugitive emissions standards at § 60.5397a, a well site does not include (1) UIC Class II oilfield disposal wells and disposal facilities and (2) the flange upstream of the custody meter assembly and equipment, including fugitive emissions components, located downstream of this flange.

* * * * *

Wellhead only well site means, for the purposes of the fugitive emissions standards at § 60.5397a, a well site that contains one or more wellheads and no major production and processing equipment.

* * * * *

■ 22. Table 3 to Subpart OOOOa of Part 60 is amended to revise the explanations for sections 60.8 and 60.15 general provisions citation entries to read as follows:

TABLE 3 TO SUBPART OOOOa OF PART 60—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOOa

General provisions citation	Subject of citation	Applies to subpart?	Explanation
* * * * *	* * * * *	* * * * *	* * * * *
§ 60.8	Performance tests	Yes	Performance testing is required for control devices used on storage vessels, centrifugal compressors, and pneumatic pumps, except that performance testing is not required for a control device used solely on pneumatic pump(s).
* * * * *	* * * * *	* * * * *	* * * * *
§ 60.15	Reconstruction	Yes	Except that § 60.15(d) does not apply to wells, pneumatic controllers, pneumatic pumps, centrifugal compressors, reciprocating compressors, storage vessels, or the collection of fugitive emissions components at a well site or the collection of fugitive emissions components at a compressor station.
* * * * *	* * * * *	* * * * *	* * * * *

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FEDERAL REGISTER

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October 15, 2018

Part III

The President

Proclamation 9803—National Domestic Violence Awareness Month, 2018
Proclamation 9804—General Pulaski Memorial Day, 2018

Presidential Documents

Title 3—

Proclamation 9803 of October 9, 2018

The President

National Domestic Violence Awareness Month, 2018

By the President of the United States of America**A Proclamation**

This Nation—founded on principles of liberty and justice—has no tolerance for domestic violence. Personal relationships should be a source of comfort and support—a solid foundation for each person’s empowerment and achievement in his or her daily life. Domestic violence dissolves that foundation, affecting millions of women and men every year. During National Domestic Violence Awareness Month, we reassert our commitment to eradicating this devastating crime so that homes are places of refuge and love—not of fear or violence.

Horrible and criminal acts of domestic violence are unfortunately common in all areas of the world. While people of every race, sex, age, and socioeconomic status have suffered at the hands of abusers, the vast majority of domestic violence is perpetrated against women. Each of us has a moral obligation to speak up for those who suffer from physical, sexual, and emotional abuse. We pledge to advocate on behalf of those who have been assaulted at home, and to make every effort to prevent domestic violence from happening in the first place. We acknowledge the hard work of the many advocates, clergy, service providers, healthcare providers, educators, law enforcement officers, family members, and friends who assist and comfort those who have suffered physical or emotional trauma at the hands of an abuser.

My Administration, in partnership with State, local, and tribal governments as well as public and private organizations, is working to ensure that offenders are prosecuted and survivors get the support they need to live lives free from fear, torment, and violence. My fiscal year 2019 budget proposal includes a \$5.5 million increase in funding for programs administered by the Department of Justice’s Office on Violence Against Women, which would bring total funding to approximately \$500 million. This office coordinates the efforts of diverse organizations to prevent and respond to abuse, and has awarded more than \$7 billion in grants and cooperative agreements to State, local, and tribal governments, as well as private organizations since its inception. It also funds law enforcement efforts that hold domestic violence offenders accountable for their crimes. Each year, these officers respond to more than 150,000 calls for service, investigate more than 150,000 cases, and refer more than 70,000 cases to prosecutors.

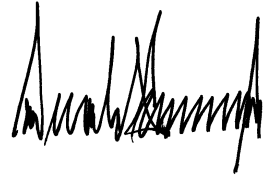
In addition, the Department of Health and Human Services is supporting initiatives to train healthcare providers to assist those who have endured domestic violence and implement initiatives that prevent domestic violence in the first place. Through the Department’s Project Catalyst, clinics are checking patients for signs of domestic violence and connecting people in need to local service providers. The Centers for Disease Control and Prevention’s DELTA IMPACT program is also providing funding to State health departments to implement community and societal-level strategies to reduce the incidence of domestic violence in our homes and communities.

This month, we recognize that, while our Nation has made strides in preventing domestic violence from first occurring and also prosecuting perpetrators who commit these horrible crimes, much work remains to be done.

To ensure the protection of all Americans, especially women and children, we must strive to end domestic violence—in all its forms—from our society and help victims recover from abuse. And we must encourage Americans affected by domestic violence to seek help from those they trust and to never lose hope in the possibility of building a better life.

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 2018 as National Domestic Violence Awareness Month. I call upon all Americans to stand firm in condemning domestic violence and supporting survivors of these crimes in finding the safety and recovery they need. I also call upon all Americans to support, recognize, and trust in the efforts of law enforcement, public health, and social service providers to hold offenders accountable, protect victims of crime and their communities, and prevent future violence.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



Presidential Documents

Proclamation 9804 of October 10, 2018

General Pulaski Memorial Day, 2018

By the President of the United States of America

A Proclamation

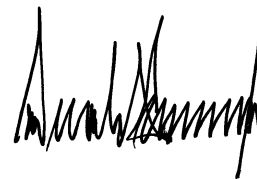
Today, we pay tribute to the Polish immigrant and renowned military commander, General Casimir Pulaski, who gave his life for the cause of freedom during the American Revolutionary War. In the Continental Army, General Pulaski volunteered to serve alongside our Nation's forefathers in their cause for independence. His expertise on the battlefield, tactical insights, and creation of a highly effective corps of mounted infantry earned him the title of "Father of the American Cavalry." On General Pulaski Memorial Day, we commemorate his legacy and draw inspiration from his stalwart commitment to liberty, the rule of law, and the sovereignty of the people.

As a younger man, Count Casimir Pulaski developed a reputation for tremendous bravery while fighting with his father to free his native Poland from Russian control. When Russia nevertheless prevailed, Pulaski faced exile and crossed Europe into France. There, in a fortuitous turn of events for America, Pulaski crossed paths with Benjamin Franklin, who urged him to join the cause of American independence. Rising rapidly through the ranks of the Continental Army to the position of Brigadier General, Pulaski demonstrated uncommon and contagious courage on the battlefield, saving the life of General George Washington at the Battle of Brandywine and transforming a cavalry legion of Americans, Germans, Frenchman, Irishmen, and Poles into a lethal fighting force.

On October 9, 1779, General Pulaski was severely wounded during the Battle of Savannah. Two days later, he died. In his memory, General Washington wrote that "[t]he Count's valor and active zeal on all occasions have done him great honor." Although General Pulaski did not live to see the Star-Spangled Banner fly victoriously over the field at Yorktown, his legacy of heroism and sacrifice is etched into our history, alongside that of heroes like Marquis de Lafayette and Bernardo de Gálvez, and has inspired Americans for generations. By giving his last full measure of devotion for our freedom and independence, General Pulaski embodied the special bond that the American and Polish people cherish to this day. Indeed, more than two centuries after the General's heroic death, and 100 years since Poland gained its own independence, the United States of America and Poland continue to share a kindred devotion to the cause of freedom and to strengthening the bilateral relationship between our two countries.

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 11, 2018, as General Pulaski Memorial Day. I encourage all Americans to commemorate on this occasion those who have contributed to the furthering of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.

A handwritten signature in black ink, appearing to be the name of Donald Trump, written in a cursive style.

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Monday, October 15, 2018

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