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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 318 and 319

[Docket No. APHIS–2010–0082]

RIN 0579–AD71

Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting a portion of the summary of the economic analysis presented in the **SUPPLEMENTARY INFORMATION** portion of our September 14, 2018, final rule amending our regulations governing the importation and interstate movement of fruits and vegetables. The summary reported an incorrect cost savings figure in its discussion of Executive Order 13771. This document corrects that error.

DATES: This correction is effective October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin J. Kaczmarski, Assistant Director, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2127.

SUPPLEMENTARY INFORMATION: On September 14, 2018, we published in the **Federal Register** a final rule (83 FR 46627–46639, Docket No. APHIS–2010–0082) amending our regulations governing the importation of fruits and vegetables by broadening our existing performance standard to provide for approval of all new fruits and vegetables for importation into the United States using a notice-based process. We also removed the region- or commodity-specific phytosanitary requirements currently found in those regulations. Likewise, we made an equivalent revision of the performance standard in our regulations governing the interstate movement of fruits and vegetables from Hawaii and the U.S. territories (Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and removed the commodity-specific phytosanitary requirements from those regulations. That action will allow for the approval of requests to authorize the importation or interstate movement of new fruits and vegetables in a manner that enables a more flexible and responsive regulatory approach to evolving pest situations in both the United States and exporting countries. It will not, however, alter the science-based process in which the risk associated with importation or interstate movement of a given fruit or vegetable is evaluated or the manner in which risks associated with the importation or interstate movement of a fruit or vegetable are mitigated.

As part of the **SUPPLEMENTARY INFORMATION** portion of the final rule, we provided a summary of the Regulatory Impact Analysis/Final Regulatory Flexibility Analysis (RIA/FRFA) prepared for the rule. In its discussion of Executive Order 13771, the summary provided a cost savings figure from an earlier iteration of the RIA/FRFA. The RIA/FRFA posted with the final rule contains the correct figure. In this document, we are correcting the text of the summary provided in the final rule.

Correction

In FR Doc. 2018–19984, published September 14, 2018 (83 FR 46627–46639), make the following correction:

1. On page 46637, in column 1, the second full paragraph is corrected to read as follows:

Interpreting these gains as cost savings accrued by using the quicker notice-based process rather than having to wait for rule promulgation, and in accordance with guidance on complying with Executive Order 13771, the primary annualized cost savings estimate for this rule is $7,895,000. This value is the midpoint estimate of cost savings annualized in perpetuity using a 7 percent discount rate.

Done in Washington, DC, this 28th day of September 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–21627 Filed 10–3–18; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1231

RIN 2590–AA68

Indemnification Payments

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or Agency) is adopting this final rule establishing standards for identifying whether an indemnification payment by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), any of the Federal Home Loan Banks (collectively with Fannie Mae and Freddie Mac, the regulated entities), or the Federal Home Loan Bank System's Office of Finance (the OF) to an affiliated party in connection with an administrative proceeding or civil action instituted by FHFA is prohibited or permissible. This final rule applies to all regulated entities, each Federal Home Loan Bank, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the OF. It does not, however, apply to any regulated entity operating in conservatorship or receivership, or to a limited-life regulated entity.

DATES: This rule is effective on November 5, 2018.

FOR FURTHER INFORMATION CONTACT: Mark D. Laponsky, Deputy General Counsel, *Mark.Laponsky@fhfa.gov,* (202) 649–3054; or Peggy K. Balsawer, Associate General Counsel, *Peggy.Balsawer@fhfa.gov,* (202) 649–3060 (these are not toll-free numbers), Office of General Counsel; Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA published an Interim Final Rule on Golden Parachute and Indemnification Payments in the **Federal Register** on September 16, 2008 (73 FR 53356). Subsequently, it published corrections rescinding that portion of the regulation that addressed indemnification payments on September 19, 2008 (73 FR 54309) and on September 23, 2008 (73 FR 54673). On November 14, 2008, a proposed amendment to the Interim Final Rule was published in the **Federal Register** (73 FR 67424). FHFA specifically requested comments on whether it would be in the best interests of the regulated entities to permit indemnification of first and second tier civil money penalties where the administrative proceeding or civil action related to conduct occurring while the regulated entity was in conservatorship. The public notice and comment period closed on December 29, 2008. On January 29, 2009 (74 FR 5101), FHFA published a final rule on Golden Parachute Payments. On June 29, 2009 (74 FR 30975), FHFA published a proposed amendment to that 2009 Golden Parachute final rule. At the same time, FHFA re-proposed the November 14, 2008 proposed amendment on indemnification payments (2009 re-proposal). The 2009 re-proposal noted that comments received in response to the November 14, 2008 publication on indemnification payments would be considered along with comments received in response to the 2009 re-proposal. The golden parachute provisions of the rule were re-proposed in 2013 (78 FR 28452, May 14, 2013), adopted in final form in 2014 (79 FR 4394, Jan. 28, 2014), and codified as 12 CFR 1231.1, 1231.2, 1231.3, 1231.5, and 1231.6. Amendments to the golden parachute provisions of the rule were proposed on August 28, 2018 (83 FR 43801).

On September 20, 2016, FHFA again re-proposed a rule on indemnification payments to affiliated parties (2016 re-proposal, or proposed rule), redrafting the proposed rule to make it simpler and easier to understand. After an extension, the comment period expired on December 21, 2016.[1] The substance of the 2016 proposed rule did not change from the 2009 re-proposal, other than to replace a provision concerning indemnification payments by regulated entities in conservatorship with one that clearly states that the regulation does not apply to such entities.[2] FHFA further clarified that it does not consider indemnification payments to be subject to FHFA rules and procedures related to compensation, including 12 CFR part 1230.

The final rule generally adopts the 2016 re-proposal's approach to the indemnification provisions of the Federal Deposit Insurance Corporation's (FDIC) counterpart regulation. *See* 12 CFR part 359. Like the FDIC's regulation, and consistent with the Director's statutory discretion to ''prohibit or limit any . . . indemnification payment,'' [3] the final rule creates a presumption that indemnification payments for costs, expenses, fees, and penalties by a regulated entity or the OF to affiliated parties are impermissible in connection with an FHFA-initiated administrative proceeding or civil action. As required by section 4518(e)(2) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (the Safety and Soundness Act, or the Act),[4] the rule sets forth criteria and standards constituting the ''factors'' that the Director has determined are to be used to ''prohibit or limit'' indemnification payments through this regulation. In application, each institution (whether a regulated entity or the OF) is required to ensure that no indemnification payments under this rule are made unless the criteria and standards are met.

II. Technical Corrections

In the process of drafting this final rule, FHFA staff observed that the definitional section of the existing Golden Parachute and Indemnification regulation required a technical correction to align it with the Safety and Soundness Act. *See* proposed § 1231.2; 12 U.S.C. 4518(e). The section of the Act explicitly authorizing the Director to prohibit or limit golden parachute and indemnification payments, applies to payments made to ''affiliated parties'' and does not mention ''entity-affiliated parties.'' The Act does not define ''affiliated parties.'' FHFA had adopted the term ''entity-affiliated party'' and defined it for use in the rule. To align with the Safety and Soundness Act, the correct reference should be to ''affiliated party.'' In this final rule, FHFA is replacing the term ''entity-affiliated party'' with the term ''affiliated party,'' without any change to the substantive definition. The existing definition of ''entity-affiliated party'' will be the definition of ''affiliated party'' for the purposes of this final rule to effect this technical correction.[5]

FHFA is also making some minor, non-substantive changes to the rule text based on staff's determination that the words ''conditions for'' should precede the phrase ''prohibited and permissible indemnification payments'' in proposed § 1231.1 to conform the semantic construction of the final rule's purpose to its other operational provisions; and staff's determination that changing the phrase ''the cost'' to ''any cost'' in clause (2) of the definition of ''liability or legal expense'' in § 1231.2, and adding the word ''a'' in clauses (3) and (4) of § 1231.4(c) would be more consistent and grammatically correct.[6]

III. Comments on the 2016 Re-Proposal

In response to the 2016 re-proposal, FHFA received a public comment from one citizen and a joint comment letter from the 11 Federal Home Loan Banks and the OF. FHFA gave careful consideration to all issues raised by the commenters.

A. Public Comment From a Citizen

A very brief comment from a member of the public was limited to agreeing with the proposed rule's exclusion of coverage for regulated entities in conservatorship. The commenter opined that because the Enterprises are in conservatorship, indemnification payments should be permitted, but that claw backs should be used to avoid excessive indemnification. Though the intended scope of the comment was not clear, the commenter referred to ''servicing agreements the GSEs have with issuing banks'' and to the ''conservatorship agreements.'' The comment reflects an apparent understanding of the import of excluding entities operating in

[1] *See* 81 FR 74739 (Oct. 27, 2016).

[2] While the 2016 re-proposal proposed to except from the rule entities operating in conservatorship or receivership and limited liability regulated entities (LLREs), it did not expressly address its application to an institution that is rehabilitated in conservatorship and emerges other than through receivership and liquidation. Consistency with the rationale underpinning the exception demands that the exception should apply with respect to an administrative proceeding or civil action initiated by FHFA after rehabilitation if the subject conduct occurred during a conservatorship or receivership.

[3] 12 U.S.C. 4518(e)(1).

[4] *See* 12 U.S.C. 4501 *et seq.*

[5] Throughout this final rule ''entity-affiliated party'' has been replaced with ''affiliated party'' (unless the context requires retaining the former term) to reflect the technical change made to the regulation. The change in term has substantive effect in the proposed golden parachute amendments, see 83 FR 43801, 43808–09 (Aug. 28, 2018).

[6] The Agency also made minor grammatical changes to proposed § 1231.4(b)(2)(i) to reduce the text's awkwardness in light of other substantive changes made to the exoneration standard discussed later in this preamble.

conservatorship from the rule's coverage and an endorsement of the proposal.

B. Regulated Entity Public Comments

The eleven Federal Home Loan Banks and the OF (collectively, Banks) jointly submitted the second public comment. *See* Joint Comment of the Federal Home Loan Banks and Office of Finance on Proposed Rule on Indemnification Payments, dated December 21, 2016 (Joint Comment). The Banks addressed several matters related to the 2016 re-proposal, including: (1) The scope of the rulemaking; (2) certain standards and processes relating to the advancement of defense expenses; (3) insurance coverage issues; (4) partial indemnification issues; (5) the treatment of pre-existing indemnification agreements; and (6) potential impacts of the rulemaking. As discussed below, FHFA has decided to adopt some, but not all, of the suggestions it received.

1. Scope of ''Prohibited Indemnification Payment''

The Banks raised four issues relating to the scope of the prohibition on indemnification payments. First, though they applauded FHFA's decision to except regulated entities in conservatorship from the rule's restrictions, they argued this would also lead to what they considered a perverse situation where those entities could be permitted to make indemnification payments for first and second tier civil monetary penalties which healthier institutions would be barred from making under the rule. The Banks recommended that institutions not in conservatorship should have the same breadth of authority to indemnify as entities in conservatorship. This argument for uniform treatment is one that had been raised by commenters—including some Banks—on a prior proposal. FHFA answered the objection and explained its disagreement in the 2016 proposed rule. The Banks' comment letter offers no reason for FHFA to revisit or change its earlier decision declining in general to permit regulated entities not in conservatorship to make indemnification payments for first and second tier civil money penalties. *See* 81 FR at 64358.

Second, the Banks contended that the proposed rule conflicts with the Safety and Soundness Act. Joint Comment p.2. The Banks argued that since the Safety and Soundness Act expressly prohibits indemnification with respect to third tier civil money penalties (12 U.S.C. 4636(g)), the Director may not also prohibit payments relative to first and second tier civil money penalties. FHFA disagrees with the Banks' assertion that a rule prohibiting or limiting indemnification payments with respect to first and second tier civil money penalties conflicts with, or exceeds, authority granted by the Safety and Soundness Act. The Safety and Soundness Act both expressly prohibits indemnification for third tier Civil Money Penalties and expressly grants authority to the Director to ''prohibit or limit, by regulation or order, *any* . . . indemnification payment'' (12 U.S.C. 4518(e)(1)) (emphasis added). The absence of a specific limitation on the Director's authority relative to first and second tier penalties places them squarely within the Director's broad authority to ''prohibit or limit'' indemnification payments under 12 U.S.C. 4518(e)(1).

Third, the Banks also argued that indemnification should be permissible for the costs and expenses associated with the first and second tier penalties, whether or not the regulated entities are in conservatorship. This comment can be read in two ways. If the Banks are suggesting that indemnification of defense fees and costs should be allowed even when a first or second tier civil money penalty is imposed, FHFA rejects the prospect as undermining the intent and effectiveness of the fundamental presumption of impermissibility, and therefore, the regulation itself. If, however, the Banks mean that indemnification of defense fees and costs should be allowed if the defense against civil money penalties is successful, FHFA believes no revision is necessary because this final rule is clear that such indemnification of defense expenses, and in appropriate cases partial indemnification, is permitted.

Fourth, the Banks argue that the prohibitions in the proposed rule are stricter than typical state governance statutes as may have been selected by an institution under FHFA's corporate governance regulation, 12 CFR part 1239. They believe that the Banks should be allowed to follow state law standards for indemnification and advancement of expenses to avoid confusion and conflicts in implementing standards from disparate sources. FHFA agrees that the proposed rule is more restrictive than many state laws, but nonetheless is satisfied that the proposed rule strikes the correct balance by applying federal law to its regulated entities in actions brought by the Agency, as specifically authorized by the Safety and Soundness Act, 12 U.S.C. 4518(e)(1). Since each regulated entity may identify a singular state or model law for corporate governance purposes under 12 CFR 1239, that choice of law would apply to indemnification payments to the extent not inconsistent with federal law and safety and soundness. 12 CFR 1239.3(a).[7] But the corporate governance rule does not constitute a limitation of FHFA's responsibility and authority to establish stricter standards for the regulated entities when the Agency deems them appropriate. The purpose of the federal statute is to provide the Director authority to prohibit or limit indemnification payments in proceedings brought by the Agency, regardless of what other law would permit. FHFA has carefully considered the Banks' comments and observations, but considers it appropriate to apply federal standards for the federal cases it brings. Finally, FHFA does not accept the Banks' generalized and unsupported assertions of ''practical conflicts'' and confusion in applying this rule to FHFA-initiated actions. FDIC-insured banks and savings associations successfully operate under the parallel FDIC regulation and have done so for the past 20 years.

2. Standards and Processes Relating to the Advancement of Defense Expenses

The Banks expressed concern that the proposed rule would require both a prior investigation and board findings by the regulated entity or the OF before an affiliated party could be advanced defense fees and expenses. They argued that a prior investigation is excessive, time consuming and unnecessary, that sufficient facts to make the required findings are likely to be unavailable at the early stage when advancement of expenses is sought, and that a board decision to deny the request under such circumstances could trigger litigation against a Bank by the affiliated party. Therefore, the commenters argued that a prior investigation and board findings should not be a precondition for indemnification. The Banks observed that an investigation and board findings would not be required under the proposed rule to permit a third party insurer to advance expenses directly under insurance policies or fidelity bonds purchased by the Banks, and so should not apply even in the absence of those circumstances. Finally, the Banks contend that, in the interests of Bank safety and soundness and to counter potential confusion and conflicts with

[7] *See* 12 CFR 1239.3(a) (''The corporate governance practices and procedures of each regulated entity, and practices and procedures relating to indemnification (including advancement of expenses), shall comply with and be subject to the applicable authorizing statutes and other Federal law, rules, and regulations, and shall be consistent with the safe and sound operations of the regulated entities.'').

different legal standards, the advancement of expenses and costs be permitted pursuant to the provisions already contained in a Bank's bylaws, existing indemnification agreements, and state law for governance chosen under 12 CFR 1239.

FHFA is not persuaded by the Banks' position. The FDIC considered such issues in developing its indemnification rule. The FDIC's first proposed rule would have required a board investigation and a more fulsome determination that the affiliated party had a ''substantial likelihood of prevailing on the merits.'' 60 FR 16069, 16075 (March 29, 1995). In response to objections to this standard, the FDIC scaled back its proposal to something more on par with the requirements of FHFA's 2016 re-proposal, which requires a prior board investigation and good faith findings that the affiliated party acted in good faith, believing the conduct was in the best interest of the regulated entity or the OF, and that the safety and soundness of the regulated entity or the OF will not be materially and adversely affected (and, also requiring a repayment of advances by the affiliated party if the defense is unsuccessful). *See* proposed § 1231.4(c)(1); 81 FR at 64360.

Like the FDIC, FHFA considers the foregoing standard to be reasonable. It encourages consistency in interpretation of indemnification standards under similar statutes administered by different agencies, and FHFA's regulation will apply only in FHFA-initiated matters. As the FDIC observed in its final rule, such matters are first subject to significant investigation by the agency in the context of an extensive regulatory scheme. *See* 61 FR 5926, 5929 (Feb. 15, 1996). At the time of an indemnification or advancement request, substantial factual allegations have been made to focus issues, and nothing inhibits the board from conducting its ''due investigation'' under the circumstances.

Finally, the Banks' repeated broad assertion that ''practical conflicts'' and confusion would result from applying these standards instead of disparate and less stringent state standards is unpersuasive for many of the same reasons discussed above regarding the scope of the indemnification prohibition. FHFA again agrees with the FDIC that applying an entity's state law choice for governance issues is inappropriate. *See* 60 FR at 16075 (FDIC rejecting suggestion to use state law); *see also* 61 FR at 5929 (FDIC rejecting proposal to adopt Model Business Corporation Act standards). FHFA considers a single federal standard, under a federal statute, implemented by FHFA as a federal agency, applying only to matters initiated by FHFA, and involving institutions chartered by Congress, to be superior to a regulation deferring to disparate state law standards for indemnification payments. This final rule may be more stringent than state law, but FHFA considers it appropriate given the federal interests involved.

3. Insurance Coverage Issues

The Banks correctly observed that the rule would allow regulated entities to pay insurance premiums for policies that provide reimbursement of costs and expenses, but would not allow them to use the proceeds of the policies to pay or reimburse for civil money penalties or an adverse judgment. They also correctly interpreted the proposed rule as prohibiting payment of insurance premiums on any policy that would cover civil money penalties or judgments. Such a ban means that costs and expenses could not be insured against through a policy that by its terms *could* cover civil money penalties, even if the Banks agreed to take steps to ensure policy proceeds were not actually used to pay those penalties. The Banks contend that if they are prohibited from purchasing policies that include the broader coverage, they may be forced to forgo insurance policies that would cover even those fines and penalties that are not FHFA-related.

FHFA is not persuaded to change the regulation to permit the regulated entities and the OF to pay premiums for insurance policies with the broad coverage requested by the Banks. The various alternatives they offer do not address the purpose of this provision—to avoid back-door payment of civil money penalties and judgments in favor of FHFA through the use of insurance policies. FHFA is concerned that insurance coverage provided by a regulated entity or the OF for the benefit of its affiliated parties would be enforceable directly by the affiliated party, thereby evading the proposed rule's indemnification restrictions. FHFA believes that its goal is best accomplished by prohibiting any insurance coverage of civil money penalties assessed by FHFA or judgments in FHFA's favor.

However, FHFA is not unsympathetic to the larger concerns implicit in the Banks' comment, namely, that the regulated entities and the OF not be unduly limited from accessing a broad insurance market particularly if they might be required to forego certain insurance policies in order to remain compliant with the regulation. FHFA has determined to counter this concern by expanding the market of available insurance products beyond ''professional liability insurance'' to also entitle the regulated entities and the OF to pay premiums on ''any commercial insurance policy'' so long as the other requirements of the final rule are satisfied. In addition to increasing the types of policies that may be employed, this change has the added benefit of aligning the final rule with both the language of the statute and the FDIC's treatment of the issue. *See* 12 U.S.C. 4518(e)(6); *see also* 12 CFR 359.1(l)(2)(i) (the FDIC described the product that may be purchased as ''any commercial insurance policy or fidelity bond.'').

Another insurance issue raised by the Banks (though somewhat obliquely) is whether the prohibition on paying premiums for policies that cover civil money penalties and judgments is intended to prohibit coverage of any civil money penalties, or only those imposed by FHFA. FHFA agrees that the language of the proposed rule is ambiguous and could chill the regulated entities from purchasing insurance coverage covering penalties imposed by other state or federal regulators, which is not in keeping with FHFA's intent. The final rule therefore expressly clarifies in § 1231.4(b)(1) that the prohibition on indemnification payments only applies to a civil money penalty when it is ''imposed by FHFA.''

4. Partial Indemnification and Expenses

The Banks' comments on the partial indemnification provisions of the proposed rule covered three distinct objections: first, that the rule's standard for ''exoneration'' is too narrowly crafted; second, that the obligation to repay is capable of being prematurely triggered; and third, that the rule does not sufficiently account for the precise allocation of defense expenses when an affiliated party faces more than one charge.

The Banks objected to the exoneration standard in the proposed rule—expressed in the rule as ''not exonerated''—as being too narrowly tailored and unlikely to permit, in keeping with the proposed rule's presumed intent, an affiliated party to retain expenses advanced to it in connection with charges for which it ultimately is not found to be at fault. They expressed concern that an affiliated party often will not receive an affirmative ruling of exoneration with respect to charges against it, and in such circumstances, there would be few if any judicial or administrative processes available at a reasonable cost to obtain such an affirmative ruling. The Banks

also included a hypothetical example to demonstrate their concerns, describing a situation where an affiliated party is initially investigated on three different claims and advanced the expenses to defend against them. The Banks argued that if only two of the claims were pursued and the affiliated party ultimately was found liable on only one claim, the proposed rule's exoneration standard would produce an inequitable result by requiring repayment of all of the expenses advanced despite the affiliated party having been found culpable on only one of the three original claims. The Banks therefore suggested it is more appropriate to replace the ''exoneration'' standard with a more conventional legal standard, namely, one examining ''whether the party is found to be liable based on a judgment not subject to judicial review.'' Joint Comment p.4.

FHFA agrees with the Banks' conclusions and acknowledges that the exoneration standard under the proposed rule could have led to the undesirable outcomes set out in their hypothetical example. In fact, the standard itself is too amorphous to be useful; it resists consistent interpretation from case-to-case and year-to-year, and thus may very often lead to an application of the regulation that is inconsistent with the Agency's intent. The Agency therefore finds that the term ''not exonerated'' under the proposed rule warrants reconsideration and revision. FHFA has determined to revise § 1231.4(b)(2)(i) to make the final rule clearer, more in keeping with familiar standards already in the regulation and more definitive in its application. The final rule turns the question of exoneration (or rather, non-exoneration) into one of ''culpab[ility] for violating a law or regulation that is the basis for the charges to which the expenses specifically relate'' thereby clarifying the standard to be that for which culpability is assessed and unambiguously linking it to the charges at hand. The concept of culpability is also a more familiar benchmark in that it ties in to the standard used for indemnification after settlements (has not ''admit[ted]''). *See* § 1231.4(b)(2)(ii). Perhaps even more importantly, the final rule adopts a concept of finality, requiring an order to be final and non-reviewable before a lack of culpability qualifies an affiliated party for partial indemnification. *See* § 1231.4(b)(2)(i).

In making these changes, FHFA acknowledges that it is diverging from the FDIC's parallel provision requiring ''a formal and final adjudication or finding in connection with a settlement that the [affiliated party] has not violated certain banking laws or regulations or has not engaged in certain unsafe or unsound banking practices'' to describe the standard that qualifies for partial reimbursement. 12 CFR 359.1(*l*)(2)(ii). FHFA's final rule diverges from the FDIC's regulation by: (1) Temporarily relieving the financial burden of defense on an affiliated party pending a proceeding's finality; and (2) creating a scope of permissible indemnification beyond that available under the FDIC's regulation. With these changes, indemnification becomes permissible if the party to be indemnified is not held responsible for a violation of law or regulation. In contrast, the FDIC regulation is constructed to prohibit indemnification unless the party is found (presumably via an express determination) not to have violated a law or regulation at issue. In the potentially very large zone in which there is no determination or admission that the affiliated party has engaged in wrongdoing, but similarly no exoneration, FHFA's final rule permits the affiliated party to keep the indemnification payments for expenses of defense, while the FDIC's regulation requires that he or she repay them. FHFA's changes as reflected in the final rule provide clearer regulatory standards and greater certainty to FHFA, the regulated entities, and affiliated parties, and do not require explanatory hypotheticals. FHFA believes that the balance of interests in this instance is in favor of greater certainty and clarity.

The Banks' second objection to the partial indemnification provisions in the proposed rule concerns the possibility that an affiliated party's obligation to repay advanced expenses would be triggered prematurely upon the issuance of an unfavorable order, even when that order is not final. The commenters argued that such a trigger does not allow for appeal or review, nor any possible changes before the order becomes final, essentially cutting off funding before the legal process is complete. The Banks instead suggested that proposed § 1231.4(b)(2)(i) be changed from ''results in an order'' to ''results in a final order not subject to judicial review.'' They also argued for a corresponding change to § 1231.4(b)(2)(iii), relating to the issuance of a prohibition order to prevent an affiliated party having to repay advances pending resolution of any request for a judicial stay with respect to such order.

FHFA agrees with the Banks that the obligation to repay advances should not be triggered upon the issuance of an order until the order is final and no longer subject to review. Such a change is consistent with the Agency's intent regarding application of the final rule generally, as well as with the rule changes discussed above and made in the context of the ''exoneration'' standard. In the discussion accompanying the 2016 re-proposal, FHFA responded to several Bank commenters' requests to clarify what was meant by ''final prohibition order'' and in doing so relied on a reference to section 1377(c)(5) of the Act.[8] FHFA's clarification at that time did not adopt the measure of finality sought by the Banks. To account for the Banks' concerns and also to reflect the Agency's intent with regard to when advanced expenses ought to be repaid, FHFA is revising proposed § 1231.4(b)(2)(i) to require that repayment be based on a ''final and non-reviewable order.'' For the sake of consistency, FHFA is also revising proposed § 1231.4(b)(2)(iii) to reference a ''final and non-reviewable prohibition order.''

The Banks' third objection to the partial indemnification provisions concerns the appropriate apportionment of expenses when multiple charges are at issue against an affiliated party. The commenters correctly noted that the proposed rule would have permitted partial indemnification of defense costs and expenses only when they ''specifically relate to'' a charge or charges on which an affiliated party is exonerated, if the proceeding results in an order; or on which the affiliated party enters a settlement without admitting culpability. *See* proposed § 1231.4(b), 81 FR at 64360. The Banks contend that this narrow construction is insufficient to account for a precise allocation of defense expenses among multiple charges where each charge may result in a different outcome for the affiliated party. To the extent that this comment suggests partial indemnification should permit an affiliated party to recover the proportion of all costs and expenses represented by the charge(s) on which he or she is successful, FHFA already considered and rejected the suggestion in the 2016 proposed rule[9] and finds no reason to reconsider the comment here.

[8] FHFA expressly defined ''final prohibition order'' as ''an order under section 1377 of the [Safety and Soundness] Act (12 U.S.C. 4636a) prohibiting . . . [an affiliated party] from continuing or commencing to hold any office in, or participate in any manner in the conduct of the affairs of, a regulated entity, which order has become and remains effective as described in section 1377(c)(5) of the Safety and Soundness Act (12 U.S.C. 4636a(c)(5)).'' 81 FR at 64358.

[9] As FHFA noted in the preamble to the Proposed Rule: ''In many cases the appropriate amount of

Continued

However, in reviving this allocation issue the Banks are asserting a slightly different proposition than the earlier comment, one not necessarily resulting in the same proportional allocation of expenses permitted for partial indemnification. In their latest comment, the Banks recommended that FHFA allow the board of directors of the regulated entity or the OF to determine the weight of each charge and accordingly allow indemnification of expenses for the proportion of the charges otherwise satisfying the rule's standards. According to the Banks, the board is in the best position to conduct such an apportionment. The Banks contend that without a board-driven allocation of costs and expenses, the proposed rule would be a disincentive to settlement of charges, since the affiliated party would not have certainty in advance as to that portion of expenses for which he or she could expect reimbursement or be required to repay.

FHFA does not believe the Banks' comment is sufficiently distinct to warrant a change to the final rule. It remains a proportional allocation, just one determined by the board's collective perception of value instead of one based on a simple arithmetic formula. In reality, the Banks' proposal provides less certainty than a formula-driven proposal and no more certainty than the proposed rule, unless the board's apportionment is known in advance of a settlement or final order. This lack of certainty was among the reasons FHFA rejected the analogous comment to the proposed rule.[10] Moreover, it is far from clear that, as the Banks assert, the board would be in a better position to assign weight to different charges than would the parties involved in negotiating a settlement or a judge receiving evidence. Permitting the board to tip the scales in this manner would improperly substitute the board's judgment for the Agency of the parties involved or usurp the authority of the judge presiding over the matter. FHFA therefore continues to believe, as it noted when it issued the 2016 re-proposal, ''that the appropriate amount of any partial indemnification is best determined on a case-by-case basis rather than by applying a predetermined formula.'' 81 FR at 64359.

5. Treatment of Pre-Existing Indemnification Arrangements

The Banks also objected to the proposed rule's treatment of pre-existing indemnification agreements. They generally restated earlier objections to the text and the effect of the indemnification agreement grandfathering provision in § 1231.4(b)(3), *see* 81 FR at 64360, which would have permitted payment of amounts due under individualized indemnification agreements with a named affiliated party. The commenters argued that the proposed rule did not define an indemnification ''agreement'' sufficiently to inform affected parties about what would, or would not, be grandfathered. The Banks further protested that individualized indemnification agreements are rare since most state laws would consider a regulated entity's bylaws provisions on indemnification to be enforceable contractual obligations to officers, directors, employees and agents, as exercises of the Banks' express authority under section 7 of the Federal Home Loan Bank Act, 12 U.S.C. 1427(k). Consequently, the Banks urged FHFA to consider bylaws provisions on indemnification to be ''agreements'' entitled to grandfathering under the rule. In the alternative, they asked that FHFA delay the effective date of this final rule for 60 days during which regulated entities could execute individualized indemnification agreements that then will be subject to grandfathering. Finally, the Banks requested that FHFA confirm that those whose agreements are grandfathered will not also be subject to any new limitation that did not exist before the effective date of the final rule.[11]

As the Banks themselves admitted in their comment letter, FHFA has already addressed many of their stated objections in the preamble discussion accompanying the 2016 re-proposal. *See* Joint Comment p.5. At that time, FHFA rejected those comments, and the Banks have not presented any new arguments warranting reconsideration of this Agency's position. FHFA identified indemnification agreements as ''specific indemnification agreements entered into by a regulated entity with a named [affiliated party] on or before the day this proposed amendment is published'' and clarified that ''only agreements of that type . . . justify grandfathering.'' 81 FR at 64359. This definition of what constitutes an ''indemnification agreement'' subject to grandfathering is clear enough that the Banks should need no further explanation. The commenter's observation that the Bank Act offers the Banks express authority to determine indemnification terms and conditions, does not in any way limit the Director's unambiguous authority to introduce additional prohibitions on indemnification pursuant to section 4518(e) of the Act. Finally, the commenters' request for a delay in the Final Rule's effective date, to permit execution of new agreements that would be subject to grandfathering but no new rule restrictions, is but a minor variation on comments previously submitted and dismissed. FHFA dismissed those comments in the 2016 proposed rule and in so doing rejected any circumstances leading to a scenario like the one proposed by the Banks that would permit a Bank to immunize ''[its] entire corps of managers and directors from the effect of this regulation in perpetuity.'' 81 FR at 64359. FHFA rejects the Banks' requests to change the final rule in any manner with respect to the treatment of pre-existing indemnification agreements. The final rule retains September 20, 2016 (the 2016 re-proposal's publication date) as the grandfathering date for pre-existing individualized indemnification agreements. *See* § 1231.4(b)(3).

6. Deterrent Effects on Service as a Bank Director

The Banks' final objection to the proposed rule concerns its potential detrimental impact. The commenters contended that because the proposal departs from current corporate governance and indemnification practices, recruiting for, and the continuing service of, directors, officers, and employees could be adversely affected.

FHFA is not persuaded by this objection. Although FHFA recognizes the risk of deterrence, the Banks offer no evidence to demonstrate that the risk is as great as they suggest, and FHFA remains unconvinced that the asserted deterrent effect is likely to materialize. As noted above, FDIC-insured banks and savings associations have been operating under the equivalent FDIC rule for the past 20 years and have been able consistently to recruit well-qualified directors and officers. FHFA believes it has struck the correct balance between traditional state law-based indemnification and a regime that is appropriate for these institutions, specially subject to and created under

partial indemnification will be difficult to ascertain with certainty. The value of each charge might not equal each other charge. Services provided often will relate to multiple charges or all charges and cannot conveniently be segregated.'' 81 FR at 64359.

[10] In this view, FHFA again aligns with the FDIC's views as reflected in its corresponding regulation. Even the Banks note that the FDIC also recognized the lack of certainty in determining partial indemnification amounts. Joint Comment p.3 n.2. The FDIC, like FHFA, decided not to constrain partial indemnification determinations with an artificial and predetermined formula.

[11] In effect, such a confirmation would override the proposed grandfathering date and replace it with the effective date of the final rule, unless extended.

federal law, and therefore has not made an accommodation for this comment.

IV. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act, as amended, requires the Director, when promulgating regulations relating to the Banks, to consider the differences between Fannie Mae and Freddie Mac (collectively, the Enterprises) and the Banks with respect to: The Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; joint and several liability; and any other differences the Director considers appropriate. *See* 12 U.S.C. 4513(f). The Director considered the differences between the Banks and the Enterprises as they relate to the above criteria and determined that the Banks should not be treated differently from the Enterprises for purposes of this final rule. Any regulated entity in conservatorship (or receivership or a limited-life regulated entity), whether a Bank or an Enterprise, would be outside the scope of the rule.

V. Paperwork Reduction Act

This final rule does not contain any information collection requirement that requires the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review with respect to information collection.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of this final rulemaking under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that this final rule is not likely to have a significant economic impact on a substantial number of small entities because it would apply primarily to the regulated entities and the OF, which are not small entities for purposes of the Regulatory Flexibility Act.

VII. Congressional Review Act

In accordance with the Congressional Review Act, FHFA has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB). *See* 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1231

Golden parachutes, Government-sponsored enterprises, Indemnification payments.

Accordingly, for the reasons stated in the preamble, and under the authority of 12 U.S.C. 4511, 4513, 4517, 4518, 4518a, and 4526, FHFA amends part 1231 of subchapter B of chapter XII of title 12 of the CFR as follows:

PART 1231—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

■ 1. The authority citation for part 1231 is revised to read as follows:

Authority: 12 U.S.C. 4511; 4513; 4517; 4518; 4518a; and 4526.

■ 2. In part 1231, wherever they occur:
■ a. Revise all references to ''entity-affiliated party'' to read ''affiliated party'';
■ b. Revise all references to ''entity-affiliated parties'' to read ''affiliated parties''; and
■ c. Revise all references to ''entity-affiliated party's'' to read ''affiliated party's''.

■ 3. Revise § 1231.1 to read as follows:

§ 1231.1 Purpose.

The purpose of this part is to implement section 1318(e) of the Safety and Soundness Act (12 U.S.C. 4518(e)) by setting forth the standards that the Director will take into consideration in determining whether to limit or prohibit golden parachute payments and by setting forth conditions for prohibited and permissible indemnification payments that regulated entities and the Office of Finance may make to affiliated parties.

■ 4. In § 1231.2 add definitions for ''Indemnification payment'' and ''Liability or legal expense'' in alphabetical order to read as follows:

§ 1231.2 Definitions.

* * * * *

Indemnification payment means any payment (or any agreement to make any payment) by any regulated entity or the OF for the benefit of any current or former affiliated party, to pay or reimburse such person for any liability or legal expense.

Liability or legal expense means—

(1) Any legal or other professional expense incurred in connection with any claim, proceeding, or action;

(2) The amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

(3) The amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

* * * * *

■ 5. Add § 1231.4 to read as follows:

§ 1231.4 Indemnification payments.

(a) *Prohibited indemnification payments.* Except as permitted in paragraph (b) of this section, a regulated entity or the OF may not make indemnification payments with respect to an administrative proceeding or civil action that has been initiated by FHFA.

(b) *Permissible indemnification payments.* A regulated entity or the OF may pay:

(1) Premiums for any commercial insurance policy or fidelity bonds for directors and officers, to the extent that the insurance or fidelity bond covers expenses and restitution, but not a judgment in favor of FHFA or a civil money penalty imposed by FHFA.

(2) Expenses of defending an action, subject to the affiliated party's agreement to repay those expenses if the affiliated party either:

(i) When the proceeding results in a final and non-reviewable order, is found culpable for violating a law or regulation that is the basis for the charges to which the expenses specifically relate; or

(ii) Enters into a settlement of those charges in which the affiliated party admits culpability with respect to them; or

(iii) Is subject to a final and non-reviewable prohibition order under 12 U.S.C. 4636a.

(3) Amounts due under an indemnification agreement entered into with a named affiliated party on or prior to September 20, 2016.

(c) *Process; factors.* With respect to payments under paragraph (b)(2) of this section:

(1) The board of directors of the regulated entity or the OF must conduct a due investigation and make a written determination in good faith that:

(i) The affiliated party acted in good faith and in a manner that he or she reasonably believed to be in the best interests of the regulated entity or the OF; and

(ii) Such payments will not materially adversely affect the safety and

soundness of the regulated entity or the OF.

(2) The affiliated party may not participate in the board's deliberations or decision.

(3) If a majority of the board are respondents in the action, the remaining board members may approve payment after obtaining a written opinion of outside counsel that the conditions of this regulation have been met.

(4) If all of the board members are respondents, they may approve payment after obtaining a written opinion of outside counsel that the conditions of this regulation have been met.

(d) *Scope.* This section does not apply to a regulated entity operating in conservatorship or receivership or to a limited-life regulated entity.

Dated: September 28, 2018.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 170630613–8749–02]

RIN 0648–BH02

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 116 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). Amendment 116 and this final rule limit access to the Bering Sea and Aleutian Islands (BSAI) Trawl Limited Access Sector (TLAS) yellowfin sole directed fishery by vessels that deliver their catch of yellowfin sole to motherships for processing. This final rule establishes eligibility criteria based on historical participation in the BSAI TLAS yellowfin sole directed fishery; issues an endorsement to those groundfish License Limitation Program (LLP) licenses that meet the eligibility criteria; and authorizes delivery of BSAI TLAS yellowfin sole to motherships by only those vessels designated on a groundfish LLP license that is endorsed for the BSAI TLAS yellowfin sole directed fishery. This action is necessary to prevent increased catcher vessel (CV) participation from reducing the benefits the fishery provides to historic and recent participants, mitigate the risk that a ''race for fish'' could develop, and help to maintain the consistently low rates of halibut bycatch in the BSAI TLAS yellowfin sole directed fishery. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, Amendment 116, the BSAI FMP, and other applicable laws.

DATES: This rule is effective November 5, 2018.

ADDRESSES: Electronic copies of Amendment 116 and the Environmental Assessment/Regulatory Impact Review (collectively the ''Analysis'') prepared for this action may be obtained from *www.regulations.gov.* A Small Entity Compliance Guide for this final rule is available on the NMFS Alaska Region website at *https://alaskafisheries.noaa.gov/.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov*; or by fax to (202)–395–5806.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the BSAI FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI FMP appear at 50 CFR parts 600 and 679.

This final rule implements Amendment 116. The Council submitted Amendment 116 for review by the Secretary of Commerce, and the notice of availability of this amendment was published in the **Federal Register** on May 18, 2018 (83 FR 23250), with comments invited through July 17, 2018. NMFS published the proposed rule for this action on June 6, 2018 (83 FR 26237), with comments invited through July 6, 2018. A correction notice to the proposed rule was published on June 20, 2018 (83 FR 28604). The Secretary of Commerce approved Amendment 116 on August 10, 2018. NMFS received five comment letters containing nine individual comments from five unique individuals during the comment periods for Amendment 116 and the proposed rule. The five commenters consisted of three individuals and two companies representing CVs. A summary of these comments and the responses by NMFS are provided under the heading ''Comments and Responses'' below.

A detailed review of the provisions of Amendment 116, the proposed regulations to implement Amendment 116, and the rationale for this action is provided in the preamble to the proposed rule and is briefly summarized in this final rule.

Background

The BSAI yellowfin sole directed fishery is managed under a total allowable catch (TAC) limit with portions of the TAC allocated to the Community Development Quota (CDQ) Program, the Amendment 80 sector, and the BSAI TLAS. The BSAI TLAS comprises all BSAI trawl fishery participants not in the CDQ Program or Amendment 80 sector. The Council's intent in establishing the BSAI TLAS was to provide harvesting opportunities for American Fisheries Act (AFA) catcher/processors (CPs), AFA CVs, and non-AFA CVs. The current BSAI TLAS yellowfin sole directed fishery is almost entirely an offshore fishery composed of two primary harvesting groups: (1) AFA CPs, and (2) AFA and non-AFA CVs delivering yellowfin sole to AFA and Amendment 80 CPs or stationary floating processors operating as motherships. A ''mothership'' is defined as a vessel that receives and processes groundfish from other vessels (see definition at 50 CFR 679.2) and for purposes of this rule includes stationary floating processors.

Since 2015, the BSAI TLAS yellowfin sole directed fishery has seen dramatic increases in CV and mothership participation as compared to the first seven years of the fishery (2008 through 2014). Also since 2015, the BSAI TLAS yellowfin sole TAC has been more fully harvested and the fishing season has grown shorter as the TAC has been reached earlier. The Analysis prepared

for this action notes that the potential exists for up to seven additional Amendment 80 CPs to participate as motherships in the fishery, providing processing capacity for up to 21 additional CVs, which would put greater fishing pressure on the fishery. The Council determined and NMFS agrees that limiting access to the BSAI TLAS yellowfin sole directed fishery by CVs delivering to motherships is needed given the expectation of additional capacity entering the fishery. The Council adopted its preferred alternative for Amendment 116 at its June 2017 meeting.

This final rule balances protections for the benefits from the fishery for long-time, historic, and recent participants, given the increasing number of participants in the fishery and shorter fishing seasons. This final rule promotes stability in the fishery by reducing the risk of a race for fish, lengthening the fishing season, and creating a safer, more predictable fishery. That stability will also minimize the potential for increased halibut prohibited species catch (PSC) rates, which could lead to closure of the fishery before the TAC is fully harvested.

This final rule establishes the requirement that a vessel used to harvest yellowfin sole in the BSAI TLAS yellowfin sole directed fishery and deliver that catch to a mothership must be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement. This final rule also establishes the eligibility criteria and issuance process for this new endorsement. Vessels not designated on groundfish LLP licenses that receive the endorsement are prohibited from participating in the BSAI TLAS yellowfin sole directed fishery and delivering their catch to a mothership for processing. This final rule does not preclude any vessel from delivering BSAI TLAS yellowfin sole to a shoreside processor. This final rule also does not preclude a vessel without a BSAI TLAS yellowfin sole directed fishery endorsement from delivering incidental catch of yellowfin sole that is caught while participating in other directed fisheries to a mothership for processing. Finally, this final action does not preclude a vessel from participating as a CP and processing its own catch in the BSAI TLAS yellowfin sole directed fishery.

Under this action, NMFS will issue a BSAI TLAS yellowfin sole directed fishery endorsement to a groundfish LLP license with a Bering Sea trawl endorsement if (1) the groundfish LLP license is credited with at least one legal trip target landing in the BSAI TLAS yellowfin sole directed fishery; and (2) the credited legal trip target landing was to a mothership in any one year of the qualifying period (2008 through 2015). Under this final rule, the term ''trip target'' is defined as a groundfish species that is retained in an amount greater than the retained amount of any other groundfish species for that trip. Where a vessel that made at least one trip target landing in the BSAI TLAS directed fishery from 2008 through 2015 was designated on more than one groundfish LLP license during the qualifying period, all groundfish LLP licenses on which the vessel was designated and was used to make a trip target landing in a BSAI TLAS fishery during the qualifying period are eligible to be credited with the qualifying landings made by the vessel. However, none of these groundfish LLP licenses will be credited with a qualifying landing and receive an endorsement from NMFS until the vessel owner notifies NMFS in writing to identify which single groundfish LLP license is to be credited with the qualifying landing(s). NMFS anticipates that a total of eight groundfish LLP licenses will receive a BSAI TLAS yellowfin sole directed fishery endorsement under this final rule, resulting in up to eight vessels that may participate in the BSAI TLAS yellowfin sole directed fishery and deliver their catch to a mothership.

Overview of Measures Implemented by This Rule

This final rule limits access to the BSAI TLAS yellowfin sole directed fishery by CVs delivering to motherships to those CVs designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.

In order to implement Amendment 116, this final rule—

- Authorizes delivery of BSAI TLAS yellowfin sole to motherships by only those vessels designated on a groundfish LLP license endorsed for the BSAI TLAS yellowfin sole directed fishery.
- Includes the provisions that are necessary for a groundfish LLP license to qualify for and receive a BSAI TLAS yellowfin sole directed fishery endorsement.
- Prohibits the delivery of yellowfin sole harvested with trawl gear in the BSAI TLAS directed fishery to a mothership without a copy of a valid LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.
- Lists those groundfish LLP licenses that NMFS has determined are eligible, will be credited with qualifying landings, and will receive a BSAI TLAS yellowfin sole directed fishery endorsement under this final rule.
- Lists those pairs of groundfish LLP licenses that NMFS has determined are eligible, but will not be credited with qualifying landings and will not receive a BSAI TLAS yellowfin sole directed fishery endorsement until the vessel owner notifies NMFS which single groundfish LLP license on which the vessel was designated during the qualifying period NMFS should credit with the qualifying landings.
- Establishes the process for notifying groundfish LLP license holders of eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.
- Establishes the process for the issuance of revised groundfish LLP licenses with a BSAI TLAS yellowfin sole directed fishery endorsement.
- Establishes an administrative adjudicative process to challenge NMFS's determinations on eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.

Additional detail about the rationale for and effect of the regulatory changes in this rule is provided in the preamble to the proposed rule and in the Analysis for this action.

Summary of Regulatory Changes

The following provides a brief summary of the regulatory changes made by this final rule.

Revisions to Prohibitions at § 679.7

This final rule adds § 679.7(i)(11) to prohibit the delivery of yellowfin sole harvested with trawl gear in the BSAI TLAS directed fishery to a mothership without a copy of a valid LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement except as provided in § 679.4(k)(2).

Revisions to Permits at § 679.4

This final rule adds § 679.4(k)(14) to include the provisions that are necessary to qualify for, and receive, a BSAI TLAS yellowfin sole directed fishery endorsement. Section 679.4(k)(14) establishes a notification process for holders of groundfish LLP licenses eligible and ineligible for a BSAI TLAS yellowfin sole directed fishery endorsement. This section also establishes an administrative adjudicative process to challenge NMFS's determinations on eligibility for a BSAI TLAS yellowfin sole directed fishery endorsement.

Revisions to Tables to Part 679

This final rule adds Table 52 to part 679 to list those groundfish LLP licenses that NMFS has determined are eligible, will be credited with qualifying

landings, and will receive a BSAI TLAS yellowfin sole directed fishery endorsement under this final rule.

This final rule also adds Table 53 to part 679 to list those pairs of groundfish LLP licenses that NMFS has determined are eligible, but are not credited with qualifying landings. One groundfish LLP license from each pair in Table 53 will be credited with qualifying landings and will receive a BSAI TLAS yellowfin sole directed fishery endorsement once the vessel owner notifies NMFS in writing which one of the pair is selected to be credited with the qualifying landings and receive the BSAI TLAS yellowfin sole directed fishery endorsement.

Comments and Responses

NMFS received five comment letters containing nine individual comments from five unique individuals during the comment periods for Amendment 116 and the proposed rule. The five commenters consisted of three individuals and two companies. Four comments did not support this action, three comments supported this action, and two comments addressed topics that were outside the scope of this action.

In responding to these comments, reference to Amendment 116, unless otherwise noted, means Amendment 116 and this final rule implementing Amendment 116.

Comment 1: This rule would eliminate most of the AFA and non-AFA CVs from harvesting yellowfin sole in the trawl limited access fishery and allow AFA CPs to continue to harvest as much as they can. That means the elimination of a very good fishing opportunity for most of the small CVs, in favor of further consolidation among the AFA CPs, which violates AFA Section 211. This proposed action is a de-facto exclusive allocation to a small, closed class of participants who have already shown their intention to privately organize and manage the fishery with harvest allocation agreements in 2016 and before. In addition, this proposed action conflicts with NMFS's policy allowing Amendment 80 vessels to participate as motherships in the BSAI TLAS fishery by limiting the opportunities for Amendment 80 vessels to partner with CVs.

Response: NMFS disagrees that this final rule violates AFA section 211, creates a de-facto allocation, or conflicts with NMFS policy regarding the ability of Amendment 80 vessels to act as motherships. AFA section 211(a) specifies that: ''The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.'' This provision is intended to protect non-AFA vessels from potential negative impacts associated with the directed pollock fishery created by the AFA.

This action is consistent with the provisions of section 211 of the AFA for several reasons. This action does not modify (*i.e.,* increase) the amount of BSAI TLAS yellowfin sole that may be harvested by AFA CPs or CVs. Further, this action does not change (*i.e.,* decrease) the allocation of BSAI yellowfin sole to the Amendment 80 sector or the BSAI TLAS yellowfin sole directed fishery. In developing this action, the Council considered and recommended management measures for the BSAI TLAS yellowfin sole fishery that it determined were necessary to protect both AFA and non-AFA vessels from the negative impacts of a potential race for fish in the BSAI TLAS yellowfin sole directed fishery. The final rule does not provide benefits to AFA vessels related to their rights in the directed pollock fishery, nor does it provide benefits to AFA vessels at the expense of non-AFA vessels. Under this action, AFA CPs and CVs are still subject to the sideboard provisions that limit harvests of AFA CPs and CVs established by the final rule implementing Amendment 80 (72 FR 52668, September 14, 2007) and in regulations at § 679.64(a) and (b), which were created to minimize potential adverse impacts caused by the AFA pursuant to AFA section 211. In the final rule implementing Amendment 80, NMFS noted that the Council considered and recommended ''management measures applicable to the AFA sector that it determined necessary to protect other fisheries during the development of the [Amendment 80] Program'' (see 72 FR 5267).

This final rule is not expected to significantly alter the amount of yellowfin sole that is harvested by AFA CPs. Since 2015, the proportion of harvest by AFA CPs has decreased, not increased, relative to the proportion of harvest by CVs. Section 2.7.1.1 of the Analysis states that, from 2008 through 2014, AFA CPs harvested approximately 85 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery. In 2015, 2016, and 2017 (the last year of complete data), AFA CPs have harvested 55 percent, 51 percent, and 42 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery, respectively (see Section 2.7.1.1). This final rule limits the number of CVs that may deliver catch in the BSAI TLAS yellowfin sole directed fishery to motherships to approximately the number of CVs that have participated in recent years. This final rule is not expected to result in an increase in catch by AFA CPs.

This final rule does not create a closed class of participants in the fishery. This final rule does not limit the number or specific AFA or non-AFA CPs that can participate in the BSAI TLAS yellowfin sole directed fishery, although AFA CPs are constrained by sideboard limits established under Amendment 80. This final rule does not establish a closed class of AFA or non-AFA CVs, because it does not preclude CVs from delivering catch in the BSAI TLAS yellowfin sole directed fishery to shoreside processors; this action limits only the number of CVs that deliver to motherships. Although the Analysis notes that currently CVs are not delivering harvests in the BSAI TLAS yellowfin sole directed fishery to shoreside processors, should such markets develop, this final rule would not limit the ability of existing or new CVs from harvesting and delivering BSAI TLAS yellowfin sole to shoreside processors.

This final rule does not establish or require any private agreements among fishery participants in order to participate in the BSAI TLAS yellowfin sole directed fishery. This final rule was developed in response to the Council's and NMFS's concerns over the developing ''race for fish,'' which has already shortened the fishing season and raised management, conservation, and safety issues detailed in the preamble to the proposed rule (83 FR 26237, June 6, 2018). Because these concerns stem directly from the recent, dramatic increase in participation in this fishery by CVs delivering to motherships, the Council and NMFS determined that the appropriate response is to limit additional participation to provide stability to the fishery and predictability for participants and managers. This limitation allows for continued participation by the majority of CVs that have historically fished BSAI TLAS yellowfin sole and delivered to motherships. Only two CVs that have shown interest in participating in the fishery, notably after the Council signaled its intent to limit participation by CVs in the BSAI TLAS yellowfin sole fishery, are precluded from future participation under this rule.

This final rule is consistent with the establishment of the BSAI TLAS under Amendment 80, defined in regulations at § 679.2 as all other BSAI trawl fishery participants not in the Amendment 80 or CDQ sectors, and specifically includes AFA CPs, AFA CVs, and non-AFA CVs. The final rule implementing Amendment 80 makes clear that the BSAI TLAS fisheries were created specifically to preserve the opportunity for such vessels to fish in the non-pollock trawl fisheries in the BSAI. This action does not favor AFA or non-AFA CVs. NMFS has determined that of the ten groundfish LLP licenses with CV designations eligible for a BSAI TLAS yellowfin sole directed fishery endorsement, three are endorsed as AFA groundfish LLP licenses, while the remaining seven have no AFA or Amendment 80 endorsement.

This final rule implementing Amendment 116 is also consistent with the determination under Amendment 80 that Amendment 80 vessels could be used as motherships to receive harvest from CVs fishing in the BSAI TLAS fisheries. The final rule implementing Amendment 80 noted that it allowed the continued participation of one Amendment 80 vessel that had historically been used as a mothership and acknowledged potential future growth in the use of Amendment 80 vessels as motherships in the BSAI TLAS. Under this rule Amendment 80 vessels can still act as motherships and receive deliveries of BSAI TLAS yellowfin sole from CVs with a BSAI TLAS yellowfin sole directed fishery endorsement. However, NMFS and the Council believe that further growth of CVs delivering to motherships must be limited at this time to maintain a balance between the ability of participants to fully harvest the TAC and the management, conservation, and safety concerns that result from accelerated harvest caused by continued increase in participation.

Comment 2: As originally intended by NMFS, the partnerships between CVs and Amendment 80 mothership operations are lucrative for CVs, their crews, and the State of Alaska. Partnerships between Amendment 80 vessels and CVs allow CVs the opportunity to harvest yellowfin sole and earn revenue during times they would not otherwise be fishing. This puts Alaskan vessels and crew to work during times that they would otherwise be sitting idle and collecting unemployment. The BSAI TLAS yellowfin sole fishery provides CVs significant, predictable income that CV owners can invest into Alaska and for new halibut reduction technology. Restricting the CV fleet to eight vessels under this proposed rule will divert this revenue to the largest fishing companies, the AFA CP owners, who already receive massive revenue from their protected pollock monopoly.

Response: Capping the number of CVs delivering TLAS yellowfin sole to motherships will not significantly reduce CV participation in the fishery from historic levels. Under this rule, it is anticipated that eight groundfish LLPs will qualify for a BSAI TLAS yellowfin sole directed fishery endorsement. CV participation in the fishery has never exceeded nine vessels in any one year. As noted in the response to Comment 1, the AFA CP sector is still subject to BSAI TLAS yellowfin sole sideboard limits as required at § 679.64(a) and (b). Also noted in the response to Comment 1, the harvest has shifted from CPs harvesting the majority of the BSAI TLAS yellowfin sole to CVs harvesting a slight majority of the BSAI TLAS yellowfin sole TAC in recent years. The Analysis (Section 2.7.1.1) states that from 2008 through 2014 AFA CPs harvested approximately 85 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery. In 2015, 2016, and 2017 (the last year of complete data), AFA CPs have harvested 55 percent, 51 percent, and 42 percent of the total catch in the BSAI TLAS yellowfin sole directed fishery, respectively (see Section 2.7.1.1). This final rule limits the number of CVs that may deliver catch in the BSAI TLAS yellowfin sole directed fishery to motherships to approximately the number of CVs that have participated in recent years, and is not expected to result in an increase in catch by AFA CPs. Therefore, this rule is not expected to divert revenue from the CV sector to the CP sector.

Comment 3: The proposed rule described the Council's concern regarding ''the likelihood of decreasing benefits from the yellowfin sole TLAS fishery for long-time, historic, and recent participants given the increasing number of participants in the fishery and shorter fishing seasons.'' The proposed action should not proceed based on ''dependency'' because (a) there is no legal ''dependency'' by the AFA CPs on the BSAI TLAS yellowfin sole directed fishery, and (b) mere ''dependency'' of a favored set of companies is not a legally sufficient reason under the Magnuson-Stevens Act to exclude their competitors from a fishery.

Response: This action does not protect any particular group of vessels based on dependency on this fishery. As explained in the response to Comment 1, this action is consistent with the final rule implementing Amendment 80, which established criteria for participation in the BSAI TLAS fisheries. In developing this final rule to implement Amendment 116, the Council and NMFS based eligibility qualifications on historic participation, which is described in the rule as at least one legal trip target landing of BSAI TLAS yellowfin sole directed catch to a mothership in any one year during the qualifying period (2008 through 2015). The Council and NMFS did not consider dependency on this fishery by participants and did not equate the fishery's benefits to long-time, historic, and recent participants with dependency on the fishery by those participants. To the extent that historic participation was taken into account in the development of this rule, it was the historic participation of CVs, rather than the historic participation of CPs. Further, in considering historic participation, the Council chose the more inclusive alternative that required participation in the fishery in any one year during the qualifying period, rather than any two years. For the eight CVs designated on a groundfish LLP license eligible to participate in the BSAI TLAS yellowfin sole directed fishery endorsement under this final rule, participation in the fishery ranged from one to seven years. Of those eight vessels, five participated in the fishery for only one of the eight qualifying years.

Comment 4: These regulations should not proceed in the guise of a halibut bycatch (PSC) management program. The Analysis states that under the status quo management, halibut PSC usage in the fishery will likely continue at similar levels. There are no data to support the creation of a closed class of participants on the basis of halibut bycatch concerns in the status quo fishery. Halibut bycatch has been reduced with CVs competing for lower halibut PSC in the TLAS. The entrance of new CVs into the fishery has created a new tool promoting bycatch reduction through competition between harvesters for the lowest halibut bycatch rates. The proposed regulations may actually reverse the bycatch reduction gains achieved by the competition between CPs and CVs.

Response: NMFS acknowledges that the halibut PSC in the BSAI TLAS yellowfin sole directed fishery varies from year-to-year for a variety of reasons. With the exception of 2013, halibut PSC rates are generally low and within the PSC limits set through the annual specifications process. However, the preamble to the proposed rule states

that this action is necessary to mitigate the risk that a ''race for fish'' could develop, which could increase halibut PSC rates. The Analysis (Section 2.7.1.2) notes that overall, under status quo, halibut PSC usage in the BSAI TLAS yellowfin sole directed fishery will likely continue at similar levels if participation is stable. However, the Council noted the increase in the number of participating CVs that deliver to motherships in recent years and anticipated that such participation would continue to increase without action to curtail the increase. The recent increased participation, combined with recent lower BSAI TLAS yellowfin sole allocations, has resulted in a fully utilized fishery with increasingly shorter fishing seasons. Shorter fishing seasons can enhance the incentives for vessels to harvest quickly in order to gain a greater share of the TAC before it is fully harvested and the fishery is closed. These circumstances create a substantial disincentive for harvesters to take actions to reduce bycatch use and waste, particularly if those actions could reduce groundfish catch rates. This increases the potential for higher halibut PSC rates. Accordingly, the Analysis (Section 2.7.1.2 and 3.2.2.1) notes that by limiting the level of participation by CVs, this action has the potential to mitigate future increases in halibut PSC in this fishery by relieving the harvest pressure and providing more flexibility in fishing operations, which allows vessels to better avoid halibut PSC. In this way, this action may help maintain current low levels or even decrease halibut PSC in the fishery.

Further, NMFS believes that limiting the number of CVs delivering to motherships provides more stability and predictability in the fishery over the long term. This can facilitate better communication among participants and provide a better opportunity to implement a voluntary best practices agreement. Section 2.7.1.2 of the Analysis describes this best practices agreement as ''target rates of halibut mortality, reporting real-time halibut mortality and location of the mortality, and established procedures for sharing halibut mortality information via Sea-State [a private third-party data manager]. In some years, the agreement has also included informal apportionment of remaining halibut mortality among participating vessels that fish late in the year.'' This action does not preclude competition between CPs and CVs to reduce halibut PSC rates from continuing to help maintain the consistently low rates of halibut bycatch in the BSAI TLAS yellowfin sole directed fishery.

Comment 5: The proposed rule states that this action does not create a Limited Access Privilege (LAP) program. We believe the proposed action is a LAP program. The AFA–CP companies have previously operated in the TLAS subject to a voluntary cooperative agreement that these companies have refused to produce to NMFS or other participants. We believe that this cooperative agreement included allocation of harvest among its members. Thus, this action likely will have the effect of allocating species to the participants who may revert to their previously agreed and undisclosed allocation agreement.

Response: As noted in the proposed rule, Section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802) defines a LAP as a Federal permit issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the TAC of the fishery that may be received or held for exclusive use by a person and includes an individual fishing quota but does not include community development quotas. This final rule limits the number of groundfish LLP licenses, and therefore the number of CVs, that could be used to harvest BSAI TLAS yellowfin sole and deliver that harvest to a mothership, but it does not assign a portion of the BSAI TLAS yellowfin sole TAC for exclusive use by a person. An individual owner of a groundfish LLP license that receives an endorsement would not be allocated a specific amount of BSAI TLAS yellowfin sole for the owner's exclusive use. All vessels eligible to participate in the offshore BSAI TLAS yellowfin sole directed fishery, including CPs as well as CVs designated on groundfish LLP licenses with the BSAI TLAS yellowfin sole directed fishery endorsement, will continue to compete with each other in harvesting the BSAI TLAS yellowfin sole TAC rather than act together as one entity. Additionally, although CVs have not historically delivered their catch of yellowfin sole to shore-based processing plants, this proposed action does not preclude CVs from conducting directed fishing for BSAI TLAS yellowfin sole and delivering that harvest to shore-based processing plants. This proposed action does not limit the amount of BSAI TLAS yellowfin sole that can be harvested by a CV designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement; rather, it limits the number of CVs that are eligible to participate in the directed fishery and deliver their harvest to a mothership. This action does not limit CPs participating in the BSAI TLAS yellowfin sole fishery or assign a portion of the TAC for exclusive use by individual CPs or any specific group of CPs. Voluntary cooperative agreements are not equivalent to a LAP program created by NMFS. Moreover, NMFS maintains the ability to reallocate BSAI TLAS yellowfin sole TAC to the Amendment 80 sector, if NMFS determines that it will go unharvested.

Comment 6: We support this action, because it tightens eligibility of CVs and will decelerate the race for fish to avoid the ''Tragedy of the Commons,'' whereby the common resource is depleted as the number of vessels harvesting fish increases, and over time the survival of the fish species itself is threatened. The recent influx of CV effort has resulted in shortened seasons and affects participants historically dependent on the fishery. The additional CV effort also reduces incentives and opportunities for participants to adopt measures to reduce halibut bycatch and associated mortality.

Response: NMFS acknowledges the comment in support of Amendment 116.

Comment 7: We support this action, because it will (1) allow for a reasonable level of CV participation in the offshore sector without limiting potential markets for sales of catch by qualifying vessels, (2) maintain competition for catches and landings of those catches, (3) reduce the race for fish, (4) protect historically dependent participants, and (5) allow for reasonable measures to reduce halibut bycatch mortality. The commenter also noted that the onshore sector is not constrained by this rule and that there is no restriction on the number of CVs that could deliver shoreside, which would allow for new entrants.

Response: NMFS acknowledges the comment in support of Amendment 116.

Comment 8: The correction to the proposed rule (83 FR 28604; June 20, 2018) is appropriate, as is NMFS's interpretation of the Council's motion overall. Further, NMFS's interpretation of the Council's motion to treat stationary floating processors as motherships is consistent with the analysis of alternatives and the purpose and need statement of the Council, which explicitly mentioned a concern with CV deliveries to floating processors.

Response: NMFS acknowledges the comment in support of the correction to the proposed rule. The definition of a

''mothership'' in 679.2 includes vessels that are operating as ''stationary floating processors'' as that term is defined in 679.2. In addition, Section 2.7.1.1 of the Analysis notes that two stationary floating processors participated in the fishery as motherships in 2008. Although those stationary floating processors did not participate in the fishery after 2008, data from landings to those vessels were included in the analysis of impacts of the alternatives.

Comment 9: NMFS received two comments addressing issues outside the scope of this action. One commenter did not support this action because of the effects of fishing on natural resources, including marine mammals, and suggested that NMFS cut the yellowfin sole quota by 50 percent. One commenter did not support this action and suggested that NMFS further limit industrial-level commercial fishing in favor of small, traditional fishing boats to reduce the impact of overfishing on natural resources and revitalize local fishing economy and tourism.

Response: These comments address management issues that are beyond the scope of Amendment 116 and this regulatory action. This final rule does not change the process of allocating quota or establishing TACs or sideboard limits under the AFA or Amendment 80 Programs, nor will this final rule change specific management measures that govern the harvest of BSAI TLAS yellowfin sole, such as fishing location, timing, effort, or authorized gear types. This final rule limits access to the BSAI TLAS yellowfin sole fishery by CVs that deliver to motherships by requiring that those CVs be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole CV endorsement and establishes eligibility criteria for such an endorsement.

OMB Revisions to PRA References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires that agencies inventory and display a current control number assigned by the Director of the Office of Management and Budget (OMB), for each agency's information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds a new collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the section resulting from this final rule.

Changes From the Proposed Rule

This final rule contains no substantive changes from the proposed rule, as corrected by the correction notice published on June 20, 2018 (83 FR 28604). The final rule includes minor changes to the proposed rule text to correct citations and remove redundant language. These changes include: (1) Removed ''as defined at 679.2'' throughout the final rule; (2) Corrected incorrect references to other sections of the rule; and (3) Removed the word ''proposed'' when referring to new Tables 52 and 53.

Classification

The Administrator, Alaska Region, NMFS, has determined that Amendment 116 to the BSAI FMP and this final rule are necessary for the conservation and management of the groundfish fishery and are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to groundfish LLP license holders that also serves as small entity compliance guide (the guide) was prepared. Copies of the guide, *i.e.,* groundfish LLP license holder letter, will be sent to all holders of groundfish LLP license for the Bering Sea trawl fisheries. The guide and this final rule will be available upon request from the Alaska Regional Office (see **ADDRESSES**). This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule, the correction notice, and this final rule are available from the NMFS website at *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis (FRFA)

This FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support this action.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for and objectives of the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made to the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in this final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to this final rule and the preambles to the proposed rule (83 FR 26237, June 6, 2018) and the correction notice (83 FR 28604, June 20, 2018), and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

NMFS published the proposed rule on June 6, 2018 (83 FR 26237), and a correction notice to the proposed rule on June 20, 2018 (83 FR 28604). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period for the proposed rule closed on July 6, 2018. The comment period for the notice of availability for

Amendment 116 closed on July 17, 2018. NMFS received five letters of public comment on the proposed rule and Amendment 116. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

NMFS received no comments specifically on the IRFA. However, one of the comments supported this action, because it provides operational relief to the owners and operators of trawl CVs.

Number and Description of Small Entities Regulated by This Final Action

This final rule directly regulates (1) holders of groundfish LLP licenses that authorize a vessel designated on the LLP license to harvest groundfish using trawl gear in the Bering Sea, and (2) vessel owners that must choose one of two LLP licenses on which the vessel was designated during the qualifying period. Based on the best available and most recent complete data from 2008 through 2017, 163 groundfish LLP license holders and five vessel owners will be directly regulated by this action.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The RFA requires consideration of affiliations between entities for the purpose of assessing whether an entity is classified as small. The AFA pollock and Amendment 80 cooperatives are types of affiliation between entities. All of the AFA and Amendment 80 cooperatives have gross annual revenues that are substantially greater than $11 million. Therefore, NMFS considers members in these cooperatives ''affiliated'' large (non-small) entities for RFA purposes.

Of the 163 groundfish LLP license holders directly regulated by this action, 128 were members of an AFA cooperative and 26 were members of an Amendment 80 cooperative in 2017. Therefore, NMFS considers those 154 groundfish LLP license holders to be ''affiliated'' large (non-small) entities for RFA purposes. All of the groundfish LLP licenses with designated vessels that participated in the BSAI TLAS yellowfin sole directed fishery and delivered catch to a mothership from 2008 through 2017 were affiliated with either an AFA or an Amendment 80 cooperative in 2017. NMFS therefore considers these LLP license holders to be ''affiliated'' large (non-small) entities for RFA purposes.

The remaining nine groundfish LLP license holders are not affiliated with AFA or Amendment 80 cooperatives and are assumed to be small entities directly regulated by this action for purposes of the RFA. All five vessel owners who are considered regulated entities under this final rule were affiliated with either an AFA pollock or an Amendment 80 cooperative in 2017. Therefore, NMFS considers them ''affiliated'' large (non-small) entities for RFA purposes. This FRFA assumes that each vessel owner and each groundfish LLP license holder is a unique entity; therefore, the total number of directly regulated entities may be an overestimate because some vessel owners and groundfish LLP license holders are likely affiliated through common ownership. These potential affiliations are not known with the best available data and cannot be predicted.

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule does not add additional reporting or recordkeeping requirements for the vessels that choose to submit an appeal. An appeal process exists for LLP license endorsement issuance. No small entity is subject to reporting requirements that are in addition to or different from the requirements that apply to all directly regulated entities. No unique professional skills are needed for the LLP license or vessel owners or operators to comply with the reporting and recordkeeping requirements associated with this final rule. This final rule does not implement or increase any fees that NMFS collects from directly regulated entities. The Analysis identifies no operational costs of the endorsement (see **ADDRESSES**).

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

None of the nine regulated small entities identified by NMFS have previously delivered TLAS YFS to a mothership. This rule will not affect existing delivery patterns of those vessels, and possible future impacts to these vessels could not be quantified. However, none of the alternatives considered by the Council that would have avoided regulating these small entities would have accomplished the stated objectives of the rule. Each of those alternatives would have allowed increased catcher vessel participation under certain conditions and thereby failed to mitigate the risk of a race for fish. The Council and NMFS selected the alternative in this rule because it best achieves their stated policy objectives.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the PRA, which have been approved by OMB under Control Number 0648–0766. The public reporting burden for the collection-of-information requirements in this final rule is estimated to average 2 hours per response for a one-time Election to Assign Qualifying Landings to an LLP license and 4 hours per response to submit an appeal, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments on these or any other aspects of the collection of information to NMFS Alaska Region at the **ADDRESSES** above, and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 1, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', revise the entry for ''679.4'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.4	–0206, –0272, –0334, –0393, –0513, –0545, –0565, –0665, and –0766
* * * * *	

* * * * *

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 4. In § 679.4, add paragraph (k)(14) to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(14) *Yellowfin sole trawl limited access sector (TLAS) directed fishery endorsement in the BSAI*—(i) *General.* In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(2) of this section, a vessel must be designated on a groundfish LLP license that has a BSAI TLAS yellowfin sole directed fishery endorsement in order to conduct directed fishing for yellowfin sole with trawl gear in the BSAI Trawl Limited Access Sector fishery and deliver the catch to a mothership. A vessel designated on a groundfish LLP license with trawl and catcher/processor vessel designations and a BSAI TLAS yellowfin sole directed fishery endorsement may operate as a catcher vessel and deliver its catch of yellowfin sole harvested in the directed BSAI TLAS fishery to a mothership, or operate as a catcher/processor and catch and process its own catch in this fishery.

(ii) *Eligibility requirements for a BSAI TLAS yellowfin sole directed fishery endorsement.* (A) A groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement if the groundfish LLP license:

(*1*) Had a vessel designated on it, in any year from 2008 through 2015, that made at least one legal trip target landing of yellowfin sole in the BSAI TLAS directed fishery to a mothership in any one year from 2008 through 2015, inclusive, where a trip target is the groundfish species for which the retained amount of that groundfish species is greater than the retained amount of any other groundfish species for that trip;

(*2*) Has a Bering Sea area endorsement and a trawl gear designation; and

(*3*) Is credited by NMFS with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(*1*) of this section.

(B) If a vessel specified in paragraph (k)(14)(ii)(A)(*1*) of this section was designated on more than one groundfish LLP license from 2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must specify to NMFS only one of those groundfish LLP licenses to receive credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(*1*) of this section.

(iii) *Explanations for BSAI TLAS yellowfin sole directed fishery endorsement.* (A) NMFS will determine whether a groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement under paragraph (k)(14)(ii) of this section based only on information contained in the official record described in paragraph (k)(14)(v) of this section.

(B) NMFS will credit a groundfish LLP license with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(*1*) of this section if that groundfish LLP license was the only groundfish LLP license on which the vessel was designated from 2008 through 2015. If a vessel that made at least one legal trip target landing specified in paragraph (k)(14)(ii)(A)(*1*) of this section was designated on more than one groundfish LLP license from 2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must notify NMFS which one of those groundfish LLP licenses NMFS is to credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(*1*) of this section.

(C) Trip target landings will be determined based on round weight equivalents.

(iv) *Exemptions to BSAI TLAS yellowfin sole endorsements.* Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section is exempted from the requirement to have a BSAI TLAS yellowfin sole endorsement to deliver catch of BSAI TLAS yellowfin sole to a mothership for processing.

(v) *BSAI TLAS yellowfin sole participation official record.* (A) The official record will contain all information used by the Regional Administrator that is necessary to administer the requirements described in paragraph (k)(14) of this section.

(B) The official record is presumed to be correct. A groundfish LLP license holder has the burden to prove otherwise.

(C) Only legal landings as defined in § 679.2 and documented on State of Alaska fish tickets or NMFS weekly production reports will be used to determine legal trip target landings under paragraph (k)(14)(ii)(A)(*1*) of this section.

(vi) *Process for issuing BSAI TLAS yellowfin sole endorsements.* (A) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 52 to this part a notice of eligibility to receive a BSAI TLAS yellowfin sole directed fishery endorsement and a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.

(B) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 53 to this part a notice of eligibility to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(*1*) of this section.

(1) NMFS will also issue to the owner of the vessel designated on the groundfish LLP licenses in Column A of Table 53 a notice of eligibility for the two listed groundfish LLP licenses to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(*1*) of this section. The notice to the vessel owner will provide instructions for the vessel owner to select the one groundfish LLP

license that NMFS is to credit with the legal trip target landing specified in (k)(14)(ii)(A)(*1*) of this section.

(2) The holder of a groundfish LLP license in Column A of Table 53 will receive a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement if:

(i) The owner of the vessel designated on the groundfish LLP license requests in writing that NMFS credit that groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(*1*) of this section;

(ii) The vessel owner, or the authorized agent, signs the request;

(iii) The written request is submitted to NMFS using one of the following methods: Mail at Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; fax at 907–586–7352; or hand delivery or carrier at NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801;

and

(iv) NMFS receives the written request and credits the groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(*1*) of this section.

(3) The holder of a groundfish LLP license in Column A of Table 53 that is not selected by the vessel owner will receive a notice, using the address on record at the time the notification is sent, informing the holder that the groundfish LLP license was not selected by the vessel owner, will not be credited with a legal trip target landing, and will not receive a BSAI TLAS yellowfin sole endorsement. The notice will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.

(C) NMFS will issue to the holder of a groundfish LLP license with a Bering Sea trawl designation and that is not listed in either Table 52 or 53 a notice informing that holder that the groundfish LLP license is not eligible to be credited with a legal trip target landing or receive a BSAI TLAS yellowfin sole directed fishery endorsement based on the official record, using the address on record at the time the notification is sent. The notice will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section, as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.

(D) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination (IAD).

(E) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period, if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information or evidence submitted. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to 15 CFR part 906. NMFS will issue a non-transferable interim license that is effective until final agency action on the IAD to an applicant who avails himself or herself of the opportunity to appeal an IAD and who has a credible claim to eligibility for a BSAI TLAS yellowfin sole endorsement.

* * * * *

■ 5. In § 679.7, add paragraph (i)(11) to read as follows;

§ 679.7 Prohibitions.

* * * * *

(i) * * *

(11) *Prohibitions specific to the BSAI Trawl Limited Access Sector yellowfin sole directed fishery.* Deliver yellowfin sole harvested with trawl gear in the BSAI Trawl Limited Access Sector yellowfin sole directed fishery to a mothership without a legible copy of a valid groundfish LLP license with a BSAI Trawl Limited Access Sector yellowfin sole directed fishery endorsement, except as provided in § 679.4(k)(2).

* * * * *

■ 6. Add Table 52 to part 679 to read as follows:

TABLE 52 TO PART 679—GROUNDFISH LLP LICENSES ELIGIBLE FOR A BSAI TRAWL LIMITED ACCESS SECTOR YELLOWFIN SOLE DIRECTED FISHERY ENDORSEMENT

[X indicates that Column A applies]

Column A	Column B
The Holder of Groundfish License Number . . .	Is eligible under 50 CFR 679.4(k)(14)(ii) to be assigned an Endorsement for the BSAI Trawl Limited Access Sector Yellowfin Sole Fishery.
LLG 3944	X.
LLG 2913	X.
LLG 1667	X.
LLG 3714	X.
LLG 1820	X.
LLG 3741	X.

■ 7. Add Table 53 to part 679 to read as follows:

TABLE 53 TO PART 679—GROUNDFISH LLP LICENSES THAT REQUIRE QUALIFIED LANDINGS ASSIGNMENT TO BE ELIGIBLE FOR A BSAI TRAWL LIMITED ACCESS SECTOR YELLOWFIN SOLE DIRECTED FISHERY ENDORSEMENT

[X indicates that Column A applies]

Column A	Column B
A single vessel was designated on the following pairs of groundfish LLP licenses during the qualifying period identified in 50 CFR 679.4(k)(14)(ii)(A)(*1*) . . .	The owner of the vessel designated on the pair of LLP licenses in Column A must notify NMFS which LLP license from each pair in Column A is to be credited with qualifying landing(s) under 50 CFR 679.4(k)(14)(vi)(B)(*2*).
LLG 3838 and LLG 2702	X.
LLG 3902 and LLG 3826	X.

[FR Doc. 2018–21632 Filed 10–3–18; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Parts 121 and 123

[Public Notice 10349]

RIN 1400–AE52

Regulatory Reform Revisions to the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Interim final rule; request for comments.

SUMMARY: In response to public comments, the Department of State removes certain notification requirements from the International Traffic in Arms Regulations and revises several entries on the United States Munitions List to remove items that do not warrant continued inclusion. Specifically, this rule adds notes to USML Category IV and V, revises control text in USML Categories VIII, XI and XV, and revises a section of the regulations.

DATES:

Effective date: This rule is effective on October 4, 2018.

Comments due date: Interested parties may submit comments by November 19, 2018.

ADDRESSES: Interested parties may submit comments by one of the following methods:

- *Email: DDTCPublicComments@state.gov* with the subject line, ''Regulatory Reform Revisions''
- *Internet:* At *www.regulations.gov,* search for this notice using Docket DOS–2018–0020.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Monjay, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2817; email *monjayr@state.gov.* ATTN: Regulatory Reform Revisions.

SUPPLEMENTARY INFORMATION:

Responses to Regulatory Reform Comments and Other Feedback

On January 30, 2017, the President issued Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. On February 24, 2017, the President issued Executive Order 13777, Enforcing the Regulatory Reform Agenda.

On July 14, 2017, the Department published a Request for Comments in the **Federal Register** (82 FR 32493) to get feedback from the public on how it could achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations. The Department sought comments on the Department regulations, guidance documents, and collections of information that members of the public believe should be removed or modified to alleviate unnecessary burdens. The Department also requested economic data to support any proposed changes.

In response to the July 14, 2017 request for comments, the Department received several comments related to the International Traffic in Arms Regulations (ITAR). The Department has concluded its review of two of the comments and has accepted one of the changes suggested. The Department received several additional comments, which we are beginning to review. Any response to these additional comments, none of which are relevant to this rulemaking, will be done via a separate rule. These comments and the Department's responses are set forth below. The Department has also received feedback from the public, the regulated industry, and other government and private sector experts, through a variety of formal and informal channels, that several entries on the United States Munitions List (USML) are controlling items that are, or soon will be, in normal commercial use. The Department has determined that it can revise certain entries in a manner consistent with the objectives set forth in Executive Order 13777 to remove the controls on these items, while maintaining control on those items that warrant continued control on the USML.

One commenter requested that the Department eliminate the requirement to return licenses for tech data, in § 123.22(b)(3)(i) and (c)(2) (all citations are to 22 CFR). Exporters are required to return licenses for the export of technical data to the Department after the initial export of all of the approved technical data. Exporters are also required to return all licenses that are exported against, but not electronically decremented. The Department has reviewed the comments and the use of the returned licenses and has determined that it can garner the necessary information via other means. The Department accepts these changes and will remove the relevant language in § 123.22(b)(3)(i) and (c)(2).

Two commenters requested that the Department eliminate the Initial Export Notification in § 123.22(b)(3)(ii). The Department does not accept these changes. Section 123.22(b)(3)(ii) requires that prior to the initial export of any technical data or defense services under an Agreement, the Agreement holder inform DDTC that exports are beginning. These notifications are for exports of defense articles and defense services that are generally not reported to the U.S. government through the Automated Export System and as such, these notifications are often the only way that the Department knows that the export has occurred.

Two commenters requested that the Department eliminate the notification of termination in § 124.6. The Department does not accept these changes. Section 124.6 requires that an Agreement holder inform DDTC of the impending termination of the agreement not less than 30 days prior to the expiration date of such agreement. The Department uses this notification as part of its compliance assessment practices. However, the Department is undertaking a modernization of its IT systems for export licensing and will review whether an IT solution can be put in place to allow the elimination of this notification requirement.

Two commenters requested that the Department eliminate the annual status letter on agreements in § 124.4(a). The Department does not accept these changes. Section 124.4(a) requires that if the agreement is not concluded within one year of the date of approval, the applicant notify DDTC in writing and provide the status of the agreement, unless and until the agreement is concluded, or a decision is made not to conclude the agreement. The Department uses this notification as part of its compliance assessment practices.

Two commenters requested that the Department eliminate the requirement in § 123.1(c)(4) that purchase documents be submitted with licenses in furtherance of agreements. The Department does not accept these changes. Submitting purchase documentation with a license application is an important tool to ensure only bona fide transactions are approved and to minimize the risk of diversion of approved exports.

One commenter requested that the Department eliminate the requirement that defense articles be U.S. origin to use the temporary import exemption in § 123.4(a)(1). The Department does not accept this change. Non-U.S.-origin defense articles sent to the United States for repair and maintenance do not require approval from the U.S. government for future reexports and retransfers, the way that U.S.-origin defense articles do. Therefore, the Department does not allow non-U.S. origin defense articles to be sent to the United States for servicing without individually approving the end-use and end-user.

One commenter requested that the Department create an exemption for temporary exports of defense articles for repair/replacement by foreign Original Equipment Manufacturer (''OEM''). The Department believes that it may be possible to implement such an exemption in a way that maintains U.S. foreign policy and national security interests. The Department is working on this effort and any change to the ITAR to this effect will be published separately.

One commenter requested that the Department streamline the Canadian Exemption in § 126.5 by integrating the excluded technologies list (ETL), currently in Supplement No. 1 to part 126, into § 126.5. The Department does not accept this change. The ETL applies to the Canadian Exemption, as well as the Defense Trade Cooperation Treaties with Australia and the United Kingdom; therefore, the utility of the ETL would be reduced if it were moved out of Supplement No. 1 to part 126 and the Department were required to recreate it in the sections for the treaties as well.

One commenter requested that the Department implement certain definitions that were proposed in the Department's June 6, 2015 **Federal Register** proposed rule (80 FR 31525). The Department continues to work on the definitions that were not included in the June 3, 2016 interim final rule (81 FR 35611) or the September 8, 2016 final rule (81 FR 62004). Any change to the ITAR to this effect will be published separately.

One commenter requested that the Department establish a definition of manufacturing. The Department believes that the implementation of a definition for manufacturing is a matter that should be subject to public review and comment. Any change to the ITAR to this effect will be published separately.

One commenter asserted that the definition of U.S. person in the ITAR does not include U.S. citizens. This is incorrect. Section 120.15 defines U.S. persons to include protected individuals as defined by 8 U.S.C. 1324b(a)(3). This provision includes all U.S. citizens within the scope of protected individuals.

One commenter asserted that there is an inconsistency between the definition of defense service in § 120.9 and the definition of export in § 120.17 and requested that the Department revise them. The Department does not accept this change. The definition of defense service defines when a defense service occurs. The definition of export, in part, describes when the performance of a defense service constitutes an export and requires approval from the Department prior to performance.

One commenter noted that there is an inconsistency between the text in USML Category IV(i) and XV(f) related to mission integration and launch failure analysis, as the text in Category IV(i) includes the limiter ''to a foreign person,'' which the text in Category XV(f) does not. The commenter suggested resolving this inconsistency. The Department accepts this change, and revises USML Category XV(f) to achieve consistency between the provisions. However, the Department notes that this does not change the scope of the controls. The definition of export, as detailed above, provides that an export of a defense service occurs when it is performed for, or on behalf of, a foreign person.

One commenter requested that the Department remove the record-keeping requirement in § 125.6(a) and (b), asserting that they are duplicative of the record keeping requirement in § 123.22(b)(3)(ii). The Department does not accept this change. The requirement in § 123.22(b)(3)(ii) is only to maintain records that exist. The requirement in § 125.6 is to create documents that provide the necessary assurance against diversion and information about the transaction to allow these exports to occur under exemptions, without individual licenses for each export.

One commenter requested that the Department implement an IT system that includes a single input and single output, to reduce compliance burdens. The Department is undertaking to modernize its IT systems for export licensing and will review whether an IT solution can be put in place to allow a single output document that sufficiently protects U.S. foreign policy and national security interests.

The Department received feedback from industry that industry is not certain as to the jurisdiction of certain satellites and spacecraft thrusters. Some manufacturers reclassified satellites and spacecraft thrusters, formerly controlled under USML Category XV, as rocket engines under USML Category IV(d), following the revisions to USML Category XV in 2014 and 2017. Some manufacturers reclassified these same, or similar, thrusters as subject to the Export Administration Regulations (EAR) under ECCN 9A515. Thrusters for satellites and spacecraft may meet certain USML Category IV(d) controls, such as based on total impulse, but such thrusters are not rocket or missile power plants per se. Therefore, the Department is adding Note 2 to USML Category IV(d) to clarify that it does not control such thrusters. For controls on satellite and spacecraft thrusters, exporters should review USML Category XV(e)(12) and ECCN 9A515.

The Department received feedback from industry that, as currently structured, USML Category V maintains control over the items described in the EAR on the Commerce Control List (CCL) in Export Control Classification Number (ECCN) 1C608, if they include a material described in USML Category V. The Department added a new Note 3 to USML Category V to clarify that for materials described in USML Category V, except for the materials described in paragraph (c)(6), (h), or (i), approval from the Department is not required for any export, reexport, or retransfer when the defense articles are incorporated into an item subject to the EAR and classified under ECCN 1C608.

The Department received feedback from industry that commercial drone technologies have progressed to the state where the industry is developing flight control systems for cooperative

operations, and there is concern that the control text in USML Category VIII(h)(12), for unmanned aerial vehicle (UAV) flight control systems and vehicle management systems with swarming capability, will capture these commercial drone flight control systems and vehicle management systems. The Department believes that swarming is a military capability that continues to warrant control on the USML. However, the current text describes swarming capabilities as UAVs interacting with each other to avoid collisions and stay together, or, if weaponized, coordinate targeting. The Department believes that this control could be more precise.

Swarming is not simply the ability to avoid collisions, maintain formation, and work cooperatively. Swarming requires the ability to adapt in real-time to changes in operational/threat environment or to deliver munitions on a target. Therefore, the Department updated USML Category VIII(h)(12).

The Department received feedback from industry that commercial drones will make use of airborne radars that are currently described by the control text in USML Category XI(a)(3)(i) and XI(a)(3)(xii). The Department recognizes the importance of commercial drones to the U.S. economy and the importance that those drones have effective detect-and-avoid radar to minimize collisions. Therefore, the Department has added a note to USML Category XI(a)(3)(i), to allow commodity jurisdiction reviews for radars, such as those meeting the criteria of the forthcoming Federal Aviation Administration (FAA) Minimum Operational Performance Standards (MOPS) to support sense and avoid operations of UAVs, and revised the Note to USML Category XI(a)(3)(xii) to increase the power threshold of articles that are not controlled by the paragraph.

The Department received feedback from industry that the control text in USML Category XI(c)(4) will capture electronic components required for 5G wireless technology. The Department does not intend the USML to include civil communications systems. Therefore, the Department revised USML Category XI(c)(4) to implement power thresholds that will exclude those components necessary for 5G wireless technology, but maintain control on those items that do provide the United States a critical military or intelligence advantage.

Comment Submissions

Interested parties may submit comments within 45 days of the date of publication. Comments received after that date may be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls website at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself.

Regulatory Findings

Administrative Procedure Act

This rulemaking is exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department is publishing this rule as a final rule with 45-day provision for public comment, without prejudice to its determination that controlling the import and export of defense services is a military or foreign affairs function. The Department will review and respond to all relevant comments and make any necessary amendments.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule under the criteria of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is being treated as a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB). The Department believes that benefits of the rulemaking, narrowing and clarifying the scope of existing USML controls and removing certain notification requirements, outweigh any costs to implement these changes.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

Executive Order 13771

This final rule is being reviewed as an E.O. 13771 deregulatory action. This rule will remove regulatory uncertainty regarding the controls on the

commercial aspects of these technologies that could prevent U.S. companies from investing in next generation technologies.

List of Subjects

22 CFR Part 121

Arms and munitions, Classified information, Exports.

22 CFR Part 123

Arms and munitions, Exports, Reporting and recordkeeping.

For reasons stated in the preamble, the State Department amends 22 CFR parts 121 and 123 as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 121.1 is amended as follows:

■ a. In Category IV, redesignate Note to Paragraph (d) as Note 1 to Paragraph (d) and add Note 2 to paragraph (d);

■ b. In Category V, add Note 3 to USML Category V;

■ c. In Category VIII, revise paragraph (h)(12);

■ d. In Category XI, add Note to Paragraph (a)(3)(i), revise Note to Paragraph (a)(3)(xii), and revise paragraph (c)(4); and

■ e. In Category XV, revise the second and third sentences of paragraph (f).

The additions and revisions read as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines

* * * * *

(d) * * *

Note 2 to Paragraph (d): This paragraph does not control thrusters for spacecraft.

* * * * *

Category V—Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents

* * * * *

Note 3 to USML Category V: Items controlled in this Category, except for materials described in paragraph (c)(6), (h), or (i), are licensed by the Department of Commerce when incorporated into an item subject to the EAR and classified under ECCN 1C608.

* * * * *

Category VIII—Aircraft and Related Articles

* * * * *

(h) * * *

(12) Unmanned aerial vehicle (UAV) flight control systems and vehicle management systems with swarming capability (*i.e.* UAVs that operate autonomously (without human input) to interact with each other to avoid collisions, fly in formations, and are capable of adapting in real-time to changes in operational/threat environment, or, if weaponized, coordinate targeting) (MT if for an aircraft, excluding manned aircraft, or missile that has a ''range'' equal to or greater than 300 km);

* * * * *

Category XI—Military Electronics

(a) * * *

* (3) * * *

(i) * * *

Note to Paragraph (a)(3)(i): This paragraph does not control radars that: (1) Are incapable of free space detection of 1 square meter Radar Cross Section (RCS) target beyond 8 nautical miles (nmi); (2) contain a radar update rate of not more than 1Hz; and (3) employ a design determined to be subject to the EAR via a commodity jurisdiction determination (see § 120.4 of this subchapter).

* * * * *

(xii) * * *

Note to Paragraph (a)(3)(xii): This paragraph does not control radars not otherwise controlled in this subchapter, operating with a peak transmit power less than or equal to 550 watts, and employing a design determined to be subject to the EAR via a commodity jurisdiction determination (see § 120.4 of this subchapter).

* * * * *

(c) * * *

(4) Transmit/receive modules, transmit/receive monolithic microwave integrated circuits (MMICs), transmit modules, and transmit MMICs having all of the following:

(i) A peak saturated power output (in watts), Psat, greater than 505.62 divided by the maximum operating frequency (in GHz) squared [Psat > 505.62 W * GHz2/fGHz2] for any channel;

(ii) A fractional bandwidth of 5% or greater for any channel;

(iii) Any planar side with length d (in cm) equal to or less than 15 divided by the lowest operating frequency in GHz [d ≤ 15cm * GHz/fGHz]; and

(iv) At least one electronically variable phase shifter per channel.

Note 1 to Paragraph (c)(4): A MMIC: (a) Is formed by means of diffusion processes, implantation processes, or deposition processes in or on a single semiconducting piece of material; (b) can be considered as indivisibly associated; (c) performs the function(s) of a circuit; and (d) operates at microwave frequencies (*i.e.,* 300 MHz to 300 GHz).

Note 2 to Paragraph (c)(4): A transmit/receive module is a multifunction electronic assembly that provides bi-directional amplitude and phase control for transmission and reception of signals.

Note 3 to Paragraph (c)(4): A transmit module is an electronic assembly that provides amplitude and phase control for transmission of signals.

Note 4 to Paragraph (c)(4): A transmit/receive MMIC is a multifunction MMIC that provides bi-directional amplitude and phase control for transmission and reception of signals.

Note 5 to Paragraph (c)(4): A transmit MMIC is a MMIC that provides amplitude and phase control for transmission of signals.

Note 6 to Paragraph (c)(4): USML Category XI(c)(4) applies to transmit/receive modules and to transmit modules, with or without a heat sink. The value of length d in USML Category XI(c)(4)(iii) does not include any portion of the transmit/receive module or transmit module that functions as a heat sink.

Note 7 to Paragraph (c)(4): Transmit/receive modules, transmit modules, transmit/receive MMICs, and transmit MMICs may or may not have N integrated radiating antenna elements, where N is the number of transmit or transmit/receive channels.

Note 8 to Paragraph (c)(4): Fractional bandwidth is the bandwidth over which output power remains constant within 3 dB (without the adjustment of other operating parameters), divided by the center frequency, and multiplied by 100. Fractional bandwidth is expressed as a percentage.

* * * * *

Category XV—Spacecraft and Related Articles

* * * * *

(f) * * * Defense services include the furnishing of assistance (including training) to a foreign person in the integration of a satellite or spacecraft to a launch vehicle, including both planning and onsite support, regardless of the jurisdiction, ownership, or origin of the satellite or spacecraft, or whether technical data is used. It also includes the furnishing of assistance (including training) to a foreign person in the launch failure analysis of a satellite or spacecraft, regardless of the jurisdiction, ownership, or origin of the satellite of

spacecraft, or whether technical data is used. * * *

* * * * *

PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

■ 3. The authority citation for part 123 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107–228; Sec. 520, Pub. L. 112–55; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 4. Section 123.22 is amended by revising paragraphs (b)(3)(i) and (c)(2) to read as follows:

§ 123.22 Filing, retention, and return of export licenses and filing of export information.

* * * * *

(b) * * *

(3) * * *

(i) *Technical data license.* Prior to the permanent export of technical data licensed using a Form DSP–5, the applicant shall electronically provide export information using the system for direct electronic reporting to DDTC of export information and self-validate the original of the license. Exports of copies of the licensed technical data should be made in accordance with existing exemptions in this subchapter. Should an exemption not apply, the applicant may request a new license.

* * * * *

(c) * * *

(2) Licenses issued by DDTC but not decremented by U.S. Customs and Border Protection through its electronic system(s) (*e.g.,* oral or visual technical data releases) must be maintained by the applicant in accordance with § 122.5 of this subchapter.

* * * * *

Andrea Thompson,

Under Secretary for Arms Control and International Security, U.S. Department of State.

[FR Doc. 2018–21422 Filed 10–3–18; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0925]

Drawbridge Operation Regulation; Trent River, New Bern, NC

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 U.S. 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, at New Bern, NC. The deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 2018 Mumfest celebration. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 9:30 a.m. on October 13, 2018, to 6:30 p.m. on October 14, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0925], 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. Mickey Sanders, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6587, email *Mickey.D.Sanders2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Event Director, Swiss Bear Inc., with approval from the North Carolina Department of Transportation, who owns and operates the U.S. 70 (Alfred C. Cunningham) Bridge, has requested a temporary deviation from the current operating regulations to accommodate the free movement of pedestrians and vehicles during the 2018 Mumfest. The bridge is a double bascule bridge and has a vertical clearance in the closed position of 14 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.843(a). Under this temporary deviation, the bridge will be maintained in the closed-to-navigation position and open every two hours, on the hour, from 9:30 a.m. to 7:30 p.m. on Saturday, October 13, 2018, and from 9:30 a.m. to 6:30 p.m. on Sunday, October 14, 2018. From 7:30 p.m. on Saturday, October 13, 2018, to 9:30 a.m. on Sunday, October 14, 2018, the drawbridge will open on signal.

The Alfred C. Cunningham Bridge is used by a variety of vessels including 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 in publishing this temporary deviation.

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 unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways 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.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–21620 Filed 10–3–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0233; FRL–9982–44–Region 9]

Air Plan Approval; California; San Diego County Air Pollution Control District; Stationary Source Permits and Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve and conditionally approve revisions to the San Diego County Air Pollution Control District (SDAPCD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) and part D of title I of the Clean Air Act (CAA or the Act). This action updates the SDAPCD's applicable SIP with current SDAPCD permitting rules.

DATES: These rules will be effective on November 5, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0233. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ya-Ting Tsai, EPA Region IX, (415) 972–3328, *Tsai.Ya-Ting@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. Proposed Action

On June 25, 2018 (83 FR 29483) the EPA proposed to approve and conditionally approve the following rules into the California SIP.

Rule number	Rule title	Adopted date	Submitted date
11	Exemptions from Rule 10 Permit Requirements	05/11/2016	08/22/2016
20	Standards for Granting Permits	06/10/1986	11/21/1986
20.1	New Source Review—General Provisions	04/27/2016	06/17/2016
20.2*	New Source Review—Non-Major Stationary Sources	04/27/2016	06/17/2016
20.3*	New Source Review—Major Stationary Sources and PSD Stationary Sources	04/27/2016	06/17/2016
20.4*	New Source Review—Portable Emission Units	04/27/2016	06/17/2016
20.6	Standards for Permit to Operate Air Quality Analysis	04/27/2016	06/17/2016
24	Temporary Permit to Operate	06/29/2016	08/22/2016

* The following subsections of the Rules 20.2–20.4 were not submitted to the EPA for inclusion in the San Diego SIP: Rule 20.2 Subsections (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); Rule 20.3 Subsections (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); and Rule 20.4 Subsections (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5).

We determined that these rules generally comply with most applicable CAA requirements, but that they do not satisfy the requirements at 40 CFR 51.165(a)(6) and (7) and section 173(a)(4) of the Act. First, the submitted rules do not contain recordkeeping and reporting requirements for sources using an actual-to-potential-actual test to determine applicability of major source requirements. Second, the rules do not incorporate the requirement at section 173(a)(4) of the Act, which states that nonattainment NSR permit programs shall provide that permits to construct and operate may not be issued if the EPA Administrator has determined that the applicable implementation plan for the nonattainment area is not being adequately implemented. These deficiencies are the basis for the EPA's final conditional approval of the District's June 17, 2016 submittal. The District and the California Air Resources Board (CARB) have committed to adopt and submit revisions to address the identified deficiencies by July 31, 2019, consistent with the requirements at CAA section 110(k)(4) for conditional approval. Based on our evaluation of the submitted rules, the EPA proposed to fully approve the SDAPCD's August 22, 2016 and November 21, 1986 submittals (consisting of Rules 11, 20, and 24), and to conditionally approve the District's June 17, 2016 submittal (consisting of Rules 20.1, 20.2, 20.3, 20.4, and 20.6).

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment. This comment raised issues outside the scope of this rulemaking, including renewable energy spending in other countries. This comment is not germane to our evaluation of these SDAPCD NSR Rules.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) and (k)(4) of the Act, the EPA is approving and conditionally approving these rules into the California SIP as proposed. While we cannot grant full approval of the June 17, 2016 submittal at this time, the SDAPCD and CARB have satisfactorily committed to address deficiencies listed in our proposed action by providing the EPA with a SIP submittal by July 31, 2019, which will include specific rule revisions that would adequately address the deficiencies. If the State submits the rule revisions that it has committed to submit by this deadline and the EPA approves the submission, then these deficiencies will be cured. However, if the State fails to submit these revisions within the required timeframe, the conditional approval will become a disapproval, and the EPA will issue a finding of disapproval. The EPA is not required to propose the finding of disapproval. A finding of disapproval would start an 18-month clock to apply sanctions under CAA section 179(b) and a two-year clock for a Federal implementation plan under CAA section 110(c)(1).

In this action, the EPA is also correcting an error in the existing regulatory text. On June 21, 2017 (82 FR 28240) we approved regulatory materials from CARB's submittal dated August 22, 2016 into 40 CFR 52.220 at paragraph (c)(488). We inadvertently provided an incorrect date of April 21, 2016, for the CARB submittal in the June 21, 2017 regulatory text. As this action addresses additional materials that were submitted on August 22, 2016, we are taking action today to correct this error under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act, which authorizes agencies, upon finding ''good cause,'' to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this correction is unnecessary because this action merely corrects an inadvertent error in the regulatory text added by the June 21, 2017 rulemaking, and is consistent with that action as described in the preamble. The EPA can identify no particular reason why the public would be interested in having the

opportunity to comment on the correction prior to this action being finalized, since this action does not change the EPA's analysis or overall action as stated in the June 21, 2017 rulemaking. This correction will become effective on the same date as the other changes to the regulatory text, as set out above.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the San Diego Air Pollution Control District rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 6, 2018.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(6)(i)(E), (c)(51)(vii)(E), (c)(64)(i)(B), (c)(171)(i)(E), and (c)(241)(i)(A)(*8*), revising paragraph (c)(488) introductory text, and adding paragraphs (c)(488)(i)(A)(*3*) and (*4*) and (c)(508) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(6) * * *

(i) * * *

(E) Previously approved on September 22, 1972 and now deleted with replacement in paragraph (c)(171)(i)(E)(*1*) of this section, Rule 20.

* * * * *

(51) * * *

(vii) * * *

(E) Previously approved on July 6, 1982 in paragraph (c)(51)(vii)(C) of this section, and now deleted with replacement in paragraph (c)(488)(i)(A)(*3*) of this section, Rule 11.

* * * * *

(64) * * *

(i) * * *

(B) Previously approved on April 14, 1981 in paragraph (c)(64)(i)(A) of this section, and now deleted with replacement in paragraph (c)(508)(i)(A) of this section, Rules 20.1, 20.2, 20.3, 20.4, and 20.6.

* * * * *

(171) * * *

(i) * * *

(E) San Diego County Air Pollution Control District.

(*1*) Rule 20, ''Standards for Granting Permits,'' revision adopted on June 10, 1986.

* * * * *

(241) * * *

(i) * * *

(A) * * *

(*8*) Previously approved on October 24, 2007 in paragraph (c)(241)(i)(A)(*6*) of this section, and now deleted with replacement in paragraph (c)(488)(i)(A)(*4*) of this section, Rule 24, ''Temporary Permit to Operate,'' adopted on March 20, 1996.

* * * * *

(488) New and amended regulations were submitted on August 22, 2016 by the Governor's designee.

(i) * * *

(A) * * *

(*3*) Rule 11, ''Exemptions from Rule 10 Permit Requirements,'' revision adopted on May 11, 2016.

(*4*) Rule 24, ''Temporary Permit to Operate,'' revision adopted on June 29, 2016.

* * * * *

(508) New or amended regulations for the following APCD was submitted on June 17, 2016 by the Governor's designee.

(i) *Incorporation by reference.* (A) San Diego County Air Pollution Control District.

(*1*) Rule 20.1, ''New Source Review—General Provisions,'' revision adopted on April 27, 2016.

(*2*) Rule 20.2, ''New Source Review—Non-Major Stationary Sources'' (except subsections (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on April 27, 2016.

(*3*) Rule 20.3, ''New Source Review—Major Stationary Sources and PSD Stationary Sources'' (except subsections (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on April 27, 2016.

(*4*) Rule 20.4, ''New Sources Review—Portable Emission Units'' (except subsections (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5)), revision adopted on April 27, 2016.

(*5*) Rule 20.6, ''Standards for Permit to Operate Air Quality Analysis,'' revision adopted on April 27, 2016.

■ 3. Section 52.248 is amended by adding paragraph (e) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(e) The EPA is conditionally approving California State Implementation Plan (SIP) revisions submitted on June 17, 2016, updating New Source Review permitting rules for the San Diego Air Pollution Control District (SDAPCD). The conditional approval is based on a commitment from the State to submit a SIP revision that will correct identified deficiencies in the following rules for the SDAPCD:

(1) Rule 20.1, ''New Source Review—General Provisions'';

(2) Rule 20.2, ''New Source Review—Non-Major Stationary Sources'' (except subsections (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3));

(3) Rule 20.3, ''New Source Review—Major Stationary Sources and PSD Stationary Sources'' (except subsections (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3));

(4) Rule 20.4, ''New Sources Review—Portable Emission Units'' (except subsections (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5)); and

(5) Rule 20.6, ''Standards for Permit to Operate Air Quality Analysis.'' If the State fails to meet its commitment by July 31, 2019, the conditional approval is treated as a disapproval.

[FR Doc. 2018–21470 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC105–2053; FRL–9983–57–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the District of Columbia State implementation plan (SIP). The regulations affected by this update have been previously submitted by the District of Columbia Department of Energy and Environment (DoEE) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective October 4, 2018.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and 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/code_of_federal_regulations/ibr_locations.html.* EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814–2023 or by email at *trouba.erin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given State regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which a State revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-

approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for the District of Columbia. On August 6, 2004 (69 FR 47773), September 6, 2005 (70 FR 52919), March 19, 2009 (74 FR 11647), February 22, 2011 (76 FR 9652), and March 21, 2017 (82 FR 14458), EPA published updates to the IBR material for the District of Columbia. Since the publication of the last IBR update, EPA has approved into the SIP the following regulatory changes to the following District of Columbia regulations:

A. Added Regulations

None.

B. Revised Regulations

1. Chapter 1 Section 199 (Definitions and Abbreviations).
2. Chapter 5 Section 502.1 through 502.15 (Sampling, Tests, and Measurements).
3. Chapter 8 Section 801 (Sulfur Content of Fuel Oils).
4. Chapter 8 Section 899 (Definitions and Abbreviations).

C. Removed Regulations

None.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of May 14, 2018 and revising the text within 40 CFR 52.470(b).

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the District of Columbia and federally effective prior to May 14, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the District of Columbia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of

plan'' update action for the District of Columbia.

List of Subjects in 40 CFR Part 52

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

Dated: August 27, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart J—District of Columbia

■ 2. Section 52.470 is amended by revising paragraph (b) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to May 14, 2018, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after May 14, 2018 for the District of Columbia, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1) of this section. No additional revisions were made to paragraph (d) of this section between July 1, 2016 and May 14, 2018.

(3) Copies of the materials incorporated by reference into the State implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to July 1, 2016 for the District of Columbia at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

[FR Doc. 2018–21471 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE105–1105; FRL–9983–49–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Delaware State implementation plan (SIP). The regulations affected by this update have been previously submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective October 4, 2018.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and 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/code_of_federal_regulations/ibr_locations.html.* EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814–2023 or by email at *trouba.erin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given State regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which a State revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. On June 21, 2004 (69 FR 34285), April 3, 2007 (72 FR 15839), April 17, 2009 (74 FR 17771), May 2, 2011 (76 FR 24372), September 24, 2013 (78 FR 58465), and May 30, 2017 (82 FR 24529) EPA published updates to the IBR material for Delaware.

Since the publication of the last IBR update, EPA has not made any regulatory changes to paragraph (c) of the Delaware SIP. However, in paragraph (c), EPA is correcting the title in section 1112 to read, Control of Nitrogen Oxides Emissions. In paragraph (d) of the Delaware SIP, source specific requirements, EPA incorporated a Secretary's Order for Delaware City Refining and removed Secretary's orders for SPI Polyols, Inc. and General Chemical Corporation.

A. Added Regulations

In paragraph (d) of the Delaware SIP, source specific requirements, EPA incorporated a Secretary's Order for Delaware City Refining.

B. Revised Regulations

None.

C. Removed Regulations

In paragraph (d) of the Delaware SIP, source specific requirements, EPA removed Secretary's orders for SPI Polyols, Inc. and General Chemical Corporation.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of May 25, 2018 and revising the text within 40 CFR 52.420(b), (c), and (d).

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the State of Delaware and federally effective prior to May 25, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Delaware SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Delaware.

List of Subjects in 40 CFR Part 52

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

Dated: August 21, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I: Delaware

■ 2. Section 52.420 is amended by:
■ a. Revising paragraph (b).
■ b. In paragraph (c), revising the table heading for section 1112.

The revisions read as follows:

§ 52.420 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to May 25, 2018, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after May 25, 2018 for the State of Delaware have been approved by EPA for inclusion in the State implementation plan and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region III certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference into the State implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to May 25, 2018 for the State of Delaware at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State citation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation/ citation
*	*	*	*	*
1112 Control of Nitrogen Oxides Emissions				
*	*	*	*	*

* * * * *

[FR Doc. 2018–21472 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0546; FRL–9984–53–Region 4]

Air Plan Approval; MS; Section 128 Board Requirements for Infrastructure SIPs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) submission, submitted by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), on June 26, 2018. This SIP submission addresses specific Clean Air Act (CAA or Act) requirements applicable to Mississippi state boards or bodies that approve CAA permits or enforcement orders. This submission also specifically addresses related requirements for implementation of the following national ambient air quality standards (NAAQS): 2008 8-hour Ozone, 2008 Lead, 2010 Nitrogen Dioxide (NO_2), 2010 Sulfur Dioxide (SO_2), and 1997, 2006 and 2012 fine particulate matter ($PM_{2.5}$). Whenever EPA promulgates a new or revised NAAQS, the CAA requires the state to make a new SIP submission establishing that the existing SIP meets the various applicable requirements, or revising the SIP to meet those requirements. This type of SIP submission is commonly referred to as an ''infrastructure'' SIP. In this final action, EPA is approving the June 26, 2018, submission with respect to the CAA requirements applicable to state boards; and the related state board infrastructure SIP requirements for the 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, 2010 SO_2 and 1997, 2006 and 2012 $PM_{2.5}$, NAAQS. This action removes EPA's obligation to promulgate a Federal Implementation Plan (FIP) to address these CAA state board requirements for Mississippi.

DATES: This rule will be effective November 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0546. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

States must submit infrastructure SIP submissions meeting the applicable requirements of sections 110(a)(1) and (2) of the CAA within three years after EPA's promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the new or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIP submissions. Section 110(a)(2) lists specific requirements that states must meet for ''infrastructure'' SIP purposes, as applicable, related to the newly established or revised NAAQS. In particular, section 110(a)(2)(E)(ii) requires states to include provisions in their SIP to address the state board requirements of section 128. Section 128 of the CAA requires that states include provisions in their SIP that require that any state board or body which approves permits or enforcement orders shall have a majority of members who represent the public interest and do not receive a significant portion of their income from parties subject to such permits or enforcement orders (section 128(a)(1)); and require that the members of any such board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall adequately disclose potential conflicts of interest (section 128(a)(2)).

In a notice of proposed rulemaking (NPRM) published on March 30, 2018 (83 FR 13712), EPA proposed to approve Mississippi's June 23, 2017, and February 2, 2018, parallel processing submissions related to the state board requirements as meeting the significant portion of income requirements of section 128(a)(1), and also as meeting the infrastructure requirements of section 110(a)(2)(E)(ii) for the 1997, 2006, and 2012 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. In the NPRM, EPA also proposed approval of the new supplemental provisions regarding representation of the public interest of section 128(a)(1) for the MDEQ Permit Board and Mississippi Commission on Environmental Quality, and disclosure of potential conflicts of interest of section 128(a)(2) for the Mississippi Commission on Environmental Quality. The details of Mississippi's submissions and the rationale for EPA's actions related to how Mississippi addressed the requirements of section 128 and the related infrastructure section 110(a)(2)(E)(ii) requirements for the aforementioned NAAQS are explained in the NPRM.

EPA is finalizing its proposed approval of Mississippi's June 26, 2018 [1] submission to incorporate into its SIP certain regulatory provisions to address the significant portion of income requirement of section 128(a)(1). As a result of the addition of these new SIP provisions to meet the requirements of section 128(a)(1), EPA is also finalizing approval of this submission as satisfying the section 110(a)(2)(E)(ii) infrastructure requirement for the 1997, 2006, and 2012 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. This final action fully addresses the SIP deficiencies related to section 110(a)(2)(E)(ii) and section 128 from EPA's prior disapprovals of infrastructure SIP submissions for the 2008 8-hour Ozone NAAQS on March 2, 2015 (80 FR 11133), 2008 lead NAAQS on March 30, 2015 (80 FR 16566), 2010 NO_2 NAAQS on August 16, 2016 (81 FR 63705), 2010 SO_2 NAAQS on September 30, 2016 (81 FR 67171), and 2012 $PM_{2.5}$ NAAQS on December 12, 2016 (81 FR 89391). Thus, this final action also satisfies EPA's FIP obligation with regard to that infrastructure SIP requirement for these NAAQS based on the prior disapprovals.

II. Response to Comments

EPA received comments from a total of nine commenters, but only one commenter submitted comments relevant to this action.

Comment 1: With regard to the parallel proceedings process used in the proposed rulemaking, the Commenter states that: ''[b]ecause EPA is required to allow the public to submit meaningful comments, we cannot comment on any changes the State may make after we submit these comments. Therefore, if the State makes any changes after EPA's public comment period is up, EPA could not approve the submittal with those changes without a new public comment period.''

Response to Comment 1: EPA notes that the final SIP revision adopted and submitted to EPA by Mississippi is identical to the draft regulations EPA described in the proposal. As a result, the potential scenario described by the Commenter does not exist in the instant action, as the Commenter and others had the opportunity to comment on the exact regulatory language that was adopted by Mississippi in its final submission and is approved in this final rulemaking action. Nevertheless, EPA takes this opportunity to confirm its longstanding interpretation of parallel processing requirements as allowing EPA to finalize a proposal without further public comment where there are no significant changes in the state's final submission, *i.e.,* when the state's final submission is substantively similar to the draft state regulations on which the NPRM was based. To the extent the Commenter suggests otherwise, EPA disagrees. EPA's established procedures for parallel processing are codified at 40 CFR part 51, appendix V, 2.3 and serve to expedite review of SIP submissions. Under parallel processing, a state will submit a draft SIP revision to EPA prior to final adoption of that revision by the state. If EPA believes the draft SIP submission is approvable, it publishes a notice of proposed rulemaking prior to finalization at the state level and the public is able to comment on EPA's proposed approval of the state's draft SIP submission. After finalization at the state level and receipt of the final submission from the state, EPA reviews this final submittal and can finalize its prior proposed approval of the submission if it is substantively similar to the draft. If there are significant changes in the state's final submission such that it is not substantively similar to the prior draft, then EPA will issue a subsequent proposal to solicit comment on those changes or other issues that were not included in the initial proposed action. By this process, commenters are provided an opportunity to comment on all pertinent issues related to the SIP submission, as mandated under Federal law establishing procedural requirements for agency rulemakings. EPA notes that this approach was reflected in the proposed rulemaking for this action wherein we stated that if the State's SIP submission as finally adopted and submitted to EPA is changed in aspects other than those identified in the proposed rulemaking, then ''EPA will evaluate those changes, and if necessary and appropriate, issue

[1] The three components of Mississippi's June 26, 2018 submission became state effective on July 1, 2016, May 11, 2018, and June 25, 2018.

another notice of proposed rulemaking.'' *See* 83 FR 13713.

Comment 2: The Commenter notes that the submission does not include evidence of adoption of the SIP revision and states that EPA cannot approve the SIP submittal without this evidence.

EPA Response to Comment 2: Because SIP submissions that a state submits for parallel processing are by definition not yet final at the state level, 40 CFR part 51, appendix V, 2.3 provides exceptions from the SIP completeness criteria specified in 40 CFR part 51, appendix V, 2.0. Appendix V, 2.3.1(b) does not require a state to provide evidence of adoption of the plan in final form at the state level in a SIP submission submitted for parallel processing. The state, however, is required to submit a SIP submission meeting these completeness requirements before EPA can make a final determination of approvability. *See* 40 CFR part 51, appendix V, 2.3.2. For this action, Mississippi's final submission includes the required evidence of adoption of the SIP revisions in Attachment 3 of the Technical Support Document.

Comment 3: The Commenter states that EPA should include the dates of the version of the State's code and regulations it is incorporating by reference so that future readers can determine exactly what language is incorporated by reference. More specifically the Commenter states that: ''EPA should specify that it is incorporating by reference the July 1, 2016 version of paragraph 6 of Section 49–2–5 and the effective date, which we cannot determine by the documents in the current docket, of the Mississippi Administrative Code.''

EPA Response to Comment 3: EPA agrees that incorporations by reference should specify the appropriate state law effective date as a means of identifying the precise version of the statutory or regulatory requirements at issue in a SIP submission. In this instance, July 1, 2016, is the state law effective date for Mississippi Code section 49–2–5(6). This final action specifies the provisions that are being incorporated into the Code of Federal Regulation (CFR) at 40 CFR 52.1270 and identifies them by their state law effective dates. EPA notes that SIP submissions that states submit for parallel processing are not required to identify the state effective date (*see* 40 CFR part 51, appendix V, 2.3.1(b)). In fact the state law effective date of draft SIP submissions that a state submits for parallel processing would typically not be known at the time of submission, because submissions for parallel processing will often (if not always) predate adoption at the state level. But again, EPA cannot make a final determination of plan approvability until the state adopts the final version of the state law at issue in the SIP submission and submits evidence of adoption with the state law effective date in its final submission.

Comment 4: The Commenter also notes a typographical error in EPA's proposed action in the second column of 83 FR13715. Specifically, the Commenter notes that the proposal states: ''and a process for replacing members as needed to ensure that a majority does derive a significant portion of income from regulated entities,'' but should state: ''and a process for replacing members as needed to ensure that a majority does *not* derive a significant portion of income from regulated entities. (Emphasis added)''

EPA Response to Comment 4: EPA acknowledges that the omission of the word ''not'' from the preamble to EPA's proposed action was a scrivener's error and that the Commenter is correct that the word ''not'' should be inserted into this statement, consistent with EPA's discussion of the SIP revision in the proposal and the actual provisions EPA is incorporating in this action.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Mississippi Code section 49–2–5, state effective date July 1, 2016, which includes certain section 128 requirements for the MDEQ Commission on Environmental Quality. EPA is also finalizing the incorporation by reference of ''Air Emissions Regulations for the Prevention, Abatement, and Control of Air Contaminants'' Title 11, Part 2, Chapter 1, Rule 1.1, state effective date June 25, 2018; and ''Regulations Regarding Administrative Procedures Pursuant to the Mississippi Administrative Procedures Act'', Title 11, Part 1 Chapter 5, Rule 5.1, state effective date May 11, 2018, which both include certain section 128 requirements for the MDEQ Permit Board. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated in the next update to the SIP compilation.[2]

IV. Final Action

As described above, EPA is taking action to approve SIP revisions needed to assure that Mississippi's SIP meets the significant portion of income requirements of 128(a)(1) of the CAA. Approval of Mississippi's June 26, 2018 submission also meets the section 110(a)(2)(E)(ii) requirements for the 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, 2010 SO_2, and 1997, 2006 and 2012 $PM_{2.5}$, NAAQS for section 110(a)(2)(E)(ii). With this approval, the deficiencies that EPA identified in the previous partial disapprovals of Mississippi's infrastructure SIP submissions related to the significant portion of income requirements respecting state boards for the 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, 2010 SO_2, and 1997, 2006 and 2012 $PM_{2.5}$, NAAQS are resolved. This action therefore removes EPA's obligation to promulgate a FIP to address these CAA state board requirements for Mississippi. Finally, EPA is also approving the new supplemental provisions regarding representation of the public interest of section 128(a)(1) for the MDEQ Permit Board and Mississippi Commission on Environmental Quality, and disclosure of potential conflicts of interest of section 128(a)(2) for the Mississippi Commission on Environmental Quality.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

[2] *See* 62 FR 27968 (May 22, 1997).

action because SIP approvals are exempted under Executive Order 12866;

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 10, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Z—Mississippi

■ 2. Section 52.1270 is amended by:
■ a. In paragraph (c) table:
■ i. Adding under the heading ''Mississippi Code'' the entry ''Section 49–2–5'' in numerical order;
■ ii. Adding at the end of the table the undesignated heading ''11 MAC—Part 2—Chapter 1 Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants'' and the entry ''Rule 1.1''; and
■ iii. Adding at the end of the table the undesignated heading ''11 MAC—Part 1—Chapter 5 Mississippi Environmental Quality Permit Board: Regulations Regarding Administrative Procedures Pursuant to the Mississippi Administrative Procedures Act,'' and the entry ''Rule 5.1''; and
■ b. In paragraph (e) table by adding entries ''110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2012 24-hour $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'', and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS'' at the end of the table.

The additions read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	*	*	*	*
Mississippi Code				
* * *	*	*	*	*
Section 49–2–5	Commission on Environmental Quality.	7/1/2016	10/4/2018, [Insert **Federal Register** citation].	

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
11 MAC—Part 2—Chapter 1 Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants				
Rule 1.1	General	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	
11 MAC—Part 1—Chapter 5 Mississippi Environmental Quality Permit Board: Regulations Regarding Administrative Procedures Pursuant to the Mississippi Administrative Procedures Act				
Rule 5.1	Description of Mississippi Environmental Quality Permit Board.	5/11/2018	10/4/2018, [Insert **Federal Register** citation].	

* * * * * (e) * * *

EPA APPROVED MISSISSIPPI NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*	*	* *	*
110(a)(1) and (2) Infrastructure Requirements for the 1997 Annual $PM_{2.5}$ NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2012 24-hour $PM_{2.5}$ NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	Mississippi ...	6/25/2018	10/4/2018, [Insert **Federal Register** citation].	Addressing the state board requirements of sections 128 and 110(a)(2)(E)(ii) only.

■ 3. Section 52.1272 is revised to read as follows:

§ 52.1272 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Mississippi's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

[FR Doc. 2018–21193 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R6–OAR–2018–0386; FRL–9983–93–Region 6]

Air Plan Approval; Texas; Control of Air Pollution from Motor Vehicles with Mobile Source Incentive Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas that pertain to regulations to control air pollution from motor vehicles with mobile source incentive programs.

DATES: This rule is effective on January 2, 2019 without further notice, unless the EPA receives relevant adverse comment by November 5, 2018. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R6–OAR–2018–0386, at *http://www.regulations.gov* or via email to *pitre.randy@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed

from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Mr. Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov*. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov*. To inspect the hard copy materials, please schedule an appointment with Mr. Randy Pitre or Mr. Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

A. CAA and SIPs

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards. These ambient standards currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA approved SIP regulations and control strategies are federally enforceable.

B. Texas' Submittal

Texas submitted a revision to its SIP to update and improve the mobile source incentive program regulations for diesel vehicles, clean fleets and drayage trucks.[1] Specifically, on May 25, 2018, the State of Texas through the Texas Commission on Environmental Quality (TCEQ) submitted revisions to its Mobile Source Incentive Programs that are found in Title 30 of the Texas Administrative Code (30 TAC), Chapter 114 (Control of Air Pollution from Motor Vehicles), Subchapter K (Mobile Source Incentive Programs). The May 25, 2018, submittal revised regulations for the (1) Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles (Division 3), (2) Texas Clean Fleet Program (Division 5), and (3) Drayage Truck Incentive Program (Division 8, renamed as ''Seaport and Rail Yard Areas Emissions Reduction Program'').

C. What Criteria must be met for the EPA to Approve this SIP revision?

In general, economic and mobile source incentive programs are programs that provide economic incentives for reducing air pollution emissions from on-road heavy-duty motor vehicles and non-road equipment emission sources. Because the SIP submittal revision pertains to economic incentive programs to reduce air pollution emissions from mobile sources, we evaluated them using (1) CAA section 182(g) (Economic Incentive Program) (2) our policy guidance on economic incentive programs found in 40 CFR part 51, subpart U (Economic Incentive Programs) and (3) our guidance document ''*Improving Air Quality with Economic Incentive Programs*'' (EPA–452/R–01–001, January 2001, *www.epa.gov/sites/production/files/2015-07/documents/eipfin.pdf*). An economic incentive program achieves an air quality objective by providing market-based incentives or information to emission sources. Three fundamental principles apply to all approvable economic incentive programs: Integrity, equity, and environmental benefit.

Pursuant to 40 CFR part 51.493 (State Program Requirements), Economic Incentive Programs (EIPs) shall be (1) State and federally enforceable, (2) nondiscriminatory, and (3) consistent with the timely attainment of national ambient air quality standards, all applicable reasonable further progress and visibility requirements, applicable prevention of significant deterioration increments, and all other requirements of the CAA. Programs in nonattainment areas for which credit is taken in attainment and RFP demonstrations shall be designed to ensure that the effects of the program are quantifiable and permanent over the entire duration of the program, and that the credit taken is limited to that which is surplus. Statutory programs shall be designed to result in quantifiable, significant reductions in actual emissions.[2] As discussed below, we find the State's SIP revision submittal is consistent with above-referenced elements and our review and evaluation of the revisions are discussed in detail in our Technical Support Document (TSD).

II. The EPA's Evaluation

We have prepared a TSD for this rulemaking which details our evaluation of the SIP revisions. Our TSD may be accessed online at *http://www.regulations.gov,* Docket No. EPA–R06–OAR–2018–0386. As detailed more below, and in our TSD, we believe the SIP revisions to the Texas mobile source incentive programs meet the federal EIP requirements and are approvable. The Texas Mobile Source Economic Incentive Programs are consistent with the CAA as they will reduce air pollution and emissions of nitrogen oxides (NO_X), which is a precursor to ozone and particulate matter. The emission reductions from replacing vehicles or replacing, repowering or retrofitting engines can be quantified, and provide an environmental benefit by reducing air pollution emissions by encouraging the use of newer diesel technologies in the Texas nonattainment areas. If Texas includes emission reductions from these programs in future attainment or reasonable further progress SIPs, EPA will evaluate the amount of reductions it achieves at that time. We are approving the Texas SIP submittal as part of the Texas SIP.

As stated earlier, we have previously approved the Texas mobile source incentive program regulations as meeting CAA and 40 CFR 51.493 regulatory requirements (See 82 FR 26756, June 9, 2017; 79 FR 5287, January 31, 2014; 75 FR 18061, April 9, 2010; 70 FR 18308, April 11, 2005). The

[1] The revisions to the Texas SIP submitted to EPA as part of this action were in response to the adoption of Senate Bill 1731 enacted by the 85th Texas Legislature, 2017, Regular Session, which amended the statutory provisions pertaining to programs that are part of the Texas Emissions Reduction Plan (TERP). The mobile incentive programs implemented by the SIP revision are part of the TERP. For more information on TERP, please see: *www.tceq.texas.gov/airquality/terp.*

[2] As explained in more detail in the technical support document (and below), we have previously approved the Texas mobile source economic incentive program regulations, as we found that the regulations met the CAA and 40 CFR 51 Subpart U (Economic Incentive Programs) requirements. We have provided references to those prior approvals upon which these revisions are based.

May 25, 2018 SIP revision continues to meet these federal requirements.

A summary of our evaluation is discussed below:

A. Diesel Emission Reduction Incentive Program for On-Road and Non-Road Vehicles

The Diesel Emission Reduction Incentive Program for On-Road and Non-Road Vehicles provides funding for businesses to reduce emissions from diesel engines. The program includes a component that applies to small businesses. The revisions to this program revise 30 TAC Sections 114.620, 114.622 and 114.623. The revisions amended the 30 TAC 114.622(h) Incentive Program Requirements from the Executive Director ''shall'' to ''may'' waive certain program eligibility criteria ''on a finding of good cause.'' [3] The revisions amended the definition of a ''Small Business'' to a business that (1) owns or operates not more than five vehicles (previously 2), (2) owns or operates an on-road diesel vehicle (previously one with a pre-1994 engine model) or a non-road diesel (previously one with uncontrolled emissions) and (3) has owned the on-road or non-road diesel subject to the funding for more than two years (previously one year). This revision would expand the small business component of the program and make it more efficient by focusing on older diesel engines. An itemized list of the revisions, with our evaluation of each, is provided in the TSD.

B. Texas Clean Fleet Program

The Texas Clean Fleet Program provides funding to businesses with a fleet of 75 or more vehicles to replace diesel vehicles with a lower emitting hybrid or alternative fuel vehicle. The revisions to this program revise 30 TAC Sections 114.650–114.653. The number of vehicles qualifying for replacement was revised to 10 or more (previously 20 or more). This revision would allow for more replacements to be eligible for the program. The revisions include a change in definition from ''clean transportation triangle'' to ''clean transportation zone'' that would include additional counties that were not a part of the previous ''clean transportation triangle.'' The revisions include a change to 30 TAC 114.653(e) from the executive director ''shall'' to ''may'' waive certain specified eligibility criteria upon ''a finding of good cause.'' [4] An itemized list of the revisions, with our evaluation of each, is provided in the TSD.

C. Seaport and Rail Yard Areas Emissions Reduction Program

The Seaport and Rail Yard Areas Emissions Reduction Program (formerly the Drayage Truck Incentive Program) provides funding to encourage owners to reduce emissions from drayage trucks at seaports and rail yards. Drayage refers to the transport of goods over a short distance. The revisions to this program revise 30 TAC Sections 114.680–114.682. In addition to changing the name of the program, the revisions changed the requirements for replacing or repowering drayage trucks. As revised, the replacement engine must: (1) Be powered by an electric motor or contain an engine certified to current federal emissions standards and (2) emit at least 25% less NO_X. In addition, unless otherwise determined by the commission, the NO_X emissions rate of engines replaced or purchased under this program will be based on the emissions standard or family emissions limit to which the engine is certified or, for replacement of an uncontrolled engine, a baseline emissions rate established by the commission.[5] The previous requirements were that: (1) The replacement drayage truck have an engine of model year 2010 or later and (2) the drayage truck being replaced must have an engine of model year 2006 or earlier. This revision would set a minimum in the amount of NO_X reduced (at least 25% less). An itemized list of the revisions, with our evaluation of each, is provided in the TSD.

D. CAA 110(l) Demonstration

Section 110 (l) of the CAA requires that each revision to an implementation plan submitted by a State under the CAA shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a SIP if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in Section 7501 of the CAA) or any other applicable requirements of the CAA. As the regulation revisions discussed above pertain to voluntary incentive programs for reducing emissions, they will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. EPA approval of the revisions is consistent with CAA 110(l).

III. Final Action

We are approving revisions to the Texas SIP that pertain to regulations to control air pollution from motor vehicles with mobile source incentive programs. Specifically, we are approving revisions to 30 TAC Sections 114.620, 114.622, 114.623, 114.650–114.653, and 114.680–114.682.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on January 2, 2019 without further notice unless we receive relevant adverse comment by November 5, 2018. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as

[3] The original 30 TAC 114.622(h) provision was approved in a previous regulatory action (79 FR 67068) on November 12, 2014. We find the change from ''shall'' to ''may'' continues to be approvable. In determining good cause and deciding whether to grant a waiver, the executive director shall ensure that the emissions reductions that will be attributed to the project will still be valid and, where applicable, meet the conditions for assignment for credit to the state implementation plan. See our TSD for a detailed history and rationale for approval of this provision.

[4] EPA previously approved the original 30 TAC 114.653(e) provision at 79 FR 5287 on January 31, 2014. This provision change from ''shall'' to ''may'' continues to be approvable. Similar to 114.622(h), we interpret that the executive director shall ensure that the projected emissions reductions will be valid and, where applicable, meet the conditions for assignment for credit to the state implementation plan. See our TSD for a detailed history and rationale for approval of this provision.

[5] Similar to 30 TAC 114.622(h) and 30 TAC 114.653(e), we interpret this provision so that the executive director shall ensure that the projected emissions reductions will be valid and, where applicable, meet the conditions for assignment for credit to the state implementation plan. See our TSD for a detailed history and rationale for approval of this provision.

described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov* for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 26, 2018.

Anne Idsal,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270, in paragraph (c), the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entries for sections 114.620, 114.622, 114.623, 114.650–114.653 and 114.680–114.682; and for Division 8 of Subchapter K in Chapter 114 to read as follows.

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ Submittal date	EPA approval date	Explanation
*	*	*	*	*
Section 114.620	Definitions	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
*	*	*	*	*
Section 114.622	Incentive Program Requirements.	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ Submittal date	EPA approval date	Explanation
Section 114.623	Small Business Incentives	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
*	* * *	*	* * *	*
Section 114.650	Definitions	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
Section 114.651	Applicability	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
Section 114.652	Qualifying Vehicles	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
Section 114.653	Grant Eligibility	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
*	* * *	*	* * *	*
Division 8: Seaport and Rail Yard Areas Emissions Reduction Program				
Section 114.680	Definitions	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
Section 114.681	Applicability	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
Section 114.682	Eligible Vehicle Models	4/4/2018	10/4/2018; [Insert **Federal Register** citation].	
*	* * *	*	* * *	*

* * * * *

[FR Doc. 2018–21453 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0395; FRL–9984–89–Region 4]

Air Plan Approval; TN; Revisions to Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a portion of a revision to the Chattanooga/Hamilton County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on behalf of Chattanooga/Hamilton County Air Pollution Control Bureau (Chattanooga/Hamilton County) on June 25, 2008. The changes to the SIP that EPA is taking final action to approve include changes to Chattanooga/Hamilton County's air quality standards for carbon monoxide, lead, nitrogen dioxide, particulate matter, ozone, and sulfur dioxide to reflect the current National Ambient Air Quality Standards (NAAQS). The portions of the SIP revision that EPA is approving are consistent with the requirements of the Clean Air Act (CAA or Act).

DATES: This rule will be effective November 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0395. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Bell can be reached by phone at (404) 562–9088 or via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR part 50—*National Primary and Secondary Ambient Air Quality Standards.*

In a proposed rulemaking published on May 21, 2018 (83 FR 23407), EPA proposed to approve into the Tennessee SIP a portion of a revision to Chattanooga/Hamilton County's air quality rules in Chapter 4 of Part II, Section 4–41, submitted by TDEC on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau on June 25, 2008. Specifically, EPA proposed to approve a new version of Chapter 4 of Part II, Section 4–41, Rule 21 of the Chattanooga City Code

''Ambient Air Quality Standards,'' [1] which was updated to be consistent with the Federal NAAQS in effect at the time of the SIP submittal in 2008. The details of Tennessee's submission and the rationale for EPA's action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before June 20, 2018. EPA did not receive any adverse comments on the proposed action. EPA is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Chattanooga/Hamilton Regulation Chapter 4 of Part II, Section 4–41, Rule 21, ''Ambient Air Quality Standards,'' State effective on June 11, 2008. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

III. Final Action

EPA is taking final action to approve a change to the Chattanooga/Hamilton County portion of the Tennessee SIP for Chapter 4 of Part II, Section 4–41, Rule 21. EPA has evaluated the relevant portion of Tennessee's June 25, 2008, SIP revision and has determined that it meets the applicable requirements of the CAA and EPA regulations.

IV. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 19, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 2. In § 52.2220(c), Table 4 is amended under the heading ''Article II. Section 4–41 Rules, Regulations, Criteria, Standards'' by revising the entry for ''Section 4–41 Rule 21'' to read as follows:

[1] EPA will consider the other changes included in Tennessee's June 25, 2008, SIP revision in a future rulemaking.

[2] *See* 62 FR 27968 (May 22, 1997).

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 4—EPA APPROVED CHATTANOOGA REGULATIONS

State section	Title/subject	Adoption date	EPA approval date	Explanation
*	*	*	*	*
Article II. Section 4–41 Rules, Regulations, Criteria, Standards				
*	*	*	*	*
Section 4–41 Rule 21	Ambient Air Quality Standards	6/11/2008	10/4/2018, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2018–21473 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R07–OAR–2018–0532; FRL–9984–64–Region 7]

Air Plan Approval; State of Iowa; Attainment Redesignation for 2008 Lead NAAQS and Associated Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the State of Iowa's request to redesignate portions of Pottawattamie County, Council Bluffs, Iowa to attainment for the 2008 lead (Pb) National Ambient Air Quality Standards (NAAQS). EPA's approval of the redesignation request is based on the determination that the Council Bluffs area has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that the area has attained the standard. Additionally, EPA is granting final approval of the State's plan for maintaining the 2008 Pb NAAQS in the Council Bluffs area for ten years beyond redesignation.

DATES: This final rule is effective on November 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2018–0532. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551–7719 or by email at *doolan.stephanie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP submission been met?
III. EPA's Response To Comments
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What action is being addressed in this document?

EPA is granting final approval of Iowa's request to redesignate the Council Bluffs area to attainment for the 2008 Pb NAAQS. On September 18, 2017, the State submitted a request for redesignation that demonstrates NAAQS attainment and an associated maintenance plan to ensure that the area continues to attain the standard. The basis for EPA's final approval is that the area met the requirements of the Clean Air Act (CAA) for approval as discussed below.

II. Have the requirements for approval of a SIP submission been met?

On October 15, 2008, EPA promulgated a revision to the Pb NAAQS, lowering the standard from 1.5 micrograms per cubic meter ($\mu g/m^3$) to 0.15 $\mu g/m^3$ (73 FR 66963). The State conducted ambient air monitoring for Pb in the Council Bluffs area near Pb emitting facilities. The 2010 through 2012 design value for Pb at the monitor was 0.26 $\mu g/m^3$, violating the 2008 Pb NAAQS.

Effective December 31, 2011, EPA designated a portion of Pottawattamie County, Council Bluffs, Iowa, as nonattainment for the 2008 Pb NAAQS (76 FR 72097). EPA approved the State's SIP revision for the plan to bring the area into attainment of the Pb NAAQS in a **Federal Register** action dated February 26, 2016 (81 FR 9770). The area attained the 2008 Pb NAAQS by the statutory deadline of December 31, 2016. The 2014 through 2016 design value for the area is 0.10 $\mu g/m^3$.

EPA's proposed approval document dated August 16, 2018, (83 FR 40728) presents a detailed analysis of the CAA requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA. EPA believes the area has met these criteria and that the

State's maintenance plan will ensure that the area continues to attain the standard.

III. EPA's Response to Comments

The public was provided an opportunity to comment on the proposed document from August 16, 2018, through September 17, 2018. During this period, EPA received one comment which is available in the docket but outside of the scope of the proposed rule. Therefore, EPA will not provide a specific response to the comment.

IV. What action is EPA taking?

EPA is granting final approval of Iowa's request to redesignate the Council Bluffs area to attainment for the 2008 Pb NAAQS. Based on the detailed analysis presented in its proposed approval document dated August 16, 2018, (83 FR 40728), EPA believes that the State's September 18, 2017, request for redesignation demonstrates NAAQS attainment and the associated maintenance plan will ensure that the area continues to attain the standard. Thus, EPA is approving the redesignation request for the area and associated maintenance plan.

EPA has determined that these actions are effective immediately upon publication under the authority of 5 U.S.C. 553(d). The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(1) allows an effective date less than 30 days after publication if a substantive rule ''relieves a restriction.'' These actions qualify for the exception under section 553(d)(1) because they relieve the State of various requirements for the Area. Furthermore, section 553(d)(3) allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' EPA finds good cause to make these actions effective immediately pursuant to section 553(d)(3) because they do not create any new regulatory requirements such that affected parties would need time to prepare before the actions take effect.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: September 26, 2018.

James B. Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q-Iowa

■ 2. In § 52.820, the table in paragraph (e) is amended by adding the entry ''(50) Lead Redesignation SIP and Maintenance Plan'' in numerical order to read as follows:

§ 52.820 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
* *	*	*	*	* *
(50) Lead Redesignation SIP and Maintenance Plan.	Portions of Pottawattamie County.	9/18/2017	10/4/2018, [Insert **Federal Register** citation].	[EPA–R07–OAR–2018–0532; FRL–9984–64–Region 7].

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.316, the table entitled ''Iowa-2008 Lead NAAQS'' is amended by revising the entry ''Pottawattamie County, IA:'' to read as follows:

§ 81.316 Iowa.

* * * * *

IOWA-2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS [a]	
	Date [1]	Type
Pottawattamie County, IA:		
Pottawattamie County (part)	10/4/2018	Attainment.
Area bounded by Avenue G on the north, N 16th/S 16th street on the east, 23rd Avenue on the south, and N 35th/S 35th street on the west.		
* * * * * * *		

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] December 31, 2011 unless otherwise noted.

[FR Doc. 2018–21433 Filed 10–3–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2003–0118; FRL–9984–77–OAR]

RIN 2060–AG12

Protection of Stratospheric Ozone: Determination 34 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of acceptability.

SUMMARY: This determination of acceptability expands the list of acceptable substitutes pursuant to the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. This action lists as acceptable additional substitutes for use in the refrigeration and air conditioning, foam blowing, fire suppression, cleaning solvents, and aerosols sectors.

DATES: This determination is applicable on October 4, 2018.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at *www.regulations.gov.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the EPA Air Docket (Nos. A–91–42 and EPA–HQ–OAR–2003–0118), EPA Docket Center (EPA/DC), William J. Clinton West, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460. 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Gerald Wozniak by telephone at (202) 343–9624, by email at *wozniak.gerald@epa.gov,* or by mail at U.S. Environmental Protection Agency, Mail Code 6205T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 1201 Constitution Avenue NW, Washington, DC 20004.

For more information on the Agency's process for administering the SNAP program or criteria for the evaluation of substitutes, refer to the initial SNAP rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available at EPA's Ozone Layer Protection website at *www.epa.gov/ozone-layer-protection* including the SNAP portion at *www.epa.gov/snap/.*

SUPPLEMENTARY INFORMATION:

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C. Fire Suppression and Explosion Protection
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I. Listing of New Acceptable Substitutes [1]

This action is limited to listing as acceptable additional substitutes for use in the refrigeration and air conditioning, foam blowing, fire suppression, cleaning solvents, and aerosols sectors. This action presents EPA's most recent decision to list as acceptable several substitutes throughout different SNAP end-uses. New substitutes are:

- R–448A in ice skating rinks (retrofit equipment only);
- R–449A in ice skating rinks (retrofit equipment only);
- R–449B in ice skating rinks (retrofit equipment only);
- R–450A in ice skating rinks (new and retrofit equipment);
- R–513A in ice skating rinks (new and retrofit equipment);
- Acetone/isopentane blend in rigid polyurethane and polyisocyanurate laminated boardstock;
- Powdered Aerosol E in total flooding fire suppression (normally occupied areas); and
- HFO–1336mzz(Z) in electronics cleaning, metals cleaning, and precision cleaning and aerosol solvents.

EPA's review of certain substitutes listed in this document is pending for other end-uses. Listing in the end-uses and applications in this document does not prejudge EPA's listing decision for these substitutes for other end-uses. For many of the substitutes being added through this document to the acceptable lists for specific end-uses, there are other listed substitutes for the end-use whose overall risk is comparable except that they have a lower risk in one SNAP criterion, for example toxicity or global warming potential (GWP). However, for the end-uses addressed in this action, those alternatives have not yet proven feasible in those specific end-uses.

For additional information on SNAP, visit the SNAP portion of EPA's Ozone Layer Protection website at: *www.epa.gov/snap.* Copies of the full lists of acceptable substitutes for ozone depleting substances (ODS) in all industrial sectors are available at *www.epa.gov/snap/substitutes-sector.* For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the initial SNAP rulemaking published March 18, 1994 (59 FR 13044), codified at 40 CFR part 82, subpart G. SNAP decisions and the appropriate **Federal Register** citations are found at: *www.epa.gov/snap/snap-regulations.* Substitutes listed as unacceptable; acceptable, subject to narrowed use limits; or acceptable, subject to use conditions are also listed in the appendices to 40 CFR part 82, subpart G.

The sections below discuss each substitute listing in detail. Appendix A contains tables summarizing this action's listing decisions. The statements in the ''Further Information'' column in the tables provide additional information but these are not legally binding under section 612 of the Clean Air Act (CAA). In addition, the ''Further Information'' column may not include a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the ''Further Information'' column of the table to use a substitute consistent with section 612 of the CAA, some of these statements may refer to obligations that are enforceable or binding under federal or state programs other than the SNAP program. In many instances, the information simply refers to standard operating practices in existing industry standards and/or building codes. When using these substitutes, EPA strongly encourages you to apply the information in this column. Many of these recommendations, if adopted, would not require significant changes to existing operating practices.

You can find submissions to EPA for the substitutes listed in this document, as well as other materials supporting the decisions in this action, in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov.*

A. Refrigeration and Air Conditioning

1. R–448A

EPA's decision: EPA finds R–448A acceptable as a substitute for use in:

- Ice Skating Rinks (Retrofit Equipment Only)

R–448A, marketed under the trade name Solstice® N–40, is a weighted blend of 26 percent hydrofluorocarbon (HFC)-32, which is also known as difluoromethane (Chemical Abstracts Service Registry Number [CAS Reg. No.] 75–10–5); 26 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 21 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); 20 percent hydrofluoroolefin (HFO)-1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No 754–12–1); and seven percent HFO–1234ze(E), which is also known as *trans*-1,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 29118–24–9).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 30 Listing of R–448A (N–40) in Certain Refrigeration and Air Conditioning End-Uses Submission Received May 29, 2014.'' EPA performed assessments to examine the health and environmental risks of this substitute. These assessments are available in Docket EPA–HQ–OAR–2003–0118 under the following name:

- ''Risk Screen on Substitutes in Ice Skating Rinks Substitute: R–448A (Solstice® N–40)''

EPA previously listed R–448A as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses (*e.g.,* July 16, 2015, 80 FR 42053; October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809).

Environmental information: R–448A has an ozone depletion potential (ODP) of zero. Its components, HFC–32, HFC–125, HFC–134a, HFO–1234yf, and HFO–1234ze(E) have GWPs of 675; 3,500; 1,430; one to four; [2] [3] and one to six; [4] respectively. If these values are weighted by mass percentage, then R–448A has a GWP of about 1,390. The components of R–448A are excluded from the definition of volatile organic compounds (VOC) under CAA regulations (see 40 CFR 51.100(s)) addressing the development of state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS). Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of

[1] On April 27, 2018 (83 FR 18431) EPA provided information on the Agency's plan to address the decision of the Court of Appeals for the District of Columbia Circuit in the case of Mexichem Fluor, Inc. v. EPA. That decision vacated the 2015 Rule (80 FR 42870) ''to the extent it requires manufacturers to replace HFCs with a substitute substance'' and remanded the rule to EPA for further proceedings. EPA plans to issue a proposed rule to address the court's vacatur and remand in early 2019.

[2] Hodnebrog Ø., Etminan, M., Fuglestvedt, J.S., Marston, G., Myhre, G., Nielsen, C.J., Shine, K.P., Wallington, T.J.: Global Warming Potentials and Radiative Efficiencies of Halocarbons and Related Compounds: A Comprehensive Review, *Reviews of Geophysics,* 51, 300–378, doi:10.1002/rog.20013, 2013.

[3] Nielsen, O.J., Javadi, M.S., Sulbaek Andersen, M.P., Hurley, M.D., Wallington, T.J., Singh, R. Atmospheric chemistry of $CF_3CF{=}CH_2$: Kinetics and mechanisms of gas-phase reactions with Cl atoms, OH radicals, and O_3. *Chemical Physics Letters* 439, 18–22, 2007.

[4] Hodnebrog *et al.,* 2013 and Atmospheric chemistry of trans-CF3CH=CHF: products and mechanisms of hydroxyl radical and chlorine atom initiated oxidation'', M.S. Javadi, R. Søndergaard, O.J. Nielsen, M.D., Hurley, and T.J. Wellington, *Atmospheric Chemistry and Physics Discussions* 8, 1069–1088, 2008.

the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–448A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The American Industrial Hygiene Association (AIHA) has established workplace environmental exposure limits (WEELs) of 1,000 ppm as an eight-hour time-weighted (TWA) for HFC–32, HFC–125, and HFC–134a; 500 ppm for HFO–1234yf; and 800 ppm for HFO–1234ze(E), the components of R–448A. The manufacturer of R–448A recommends an acceptable exposure limit (AEL) of 890 ppm on an 8-hour TWA for the blend. EPA anticipates that users will be able to meet the AIHA WEELs and manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's safety data sheet (SDS), in the American Society for Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–448A has an ODP of zero, comparable to or lower than other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–448A's GWP of 1,390 is lower than or comparable to that of acceptable substitutes for ice skating rinks (retrofit), such as HFC–134a, R–407C, and R–507A, with GWPs ranging from 1,430 to 3,990. R–448A's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (retrofit), including R–401A and R–401B with GWPs ranging from 1,182 to 1,288.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–448A acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

2. R–449A

EPA's decision: EPA finds R–449A acceptable as a substitute for use in:

• Ice Skating Rinks (Retrofit Equipment Only)

R–449A, marketed under the trade name Opteon® XP 40, is a weighted blend of 24.3 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); 24.7 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 25.7 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and 25.3 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 754–12–1).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 30 Listing of R–449A (XP40) in Certain Refrigeration and Air Conditioning End-Uses. SNAP Submission Received August 6, 2014.'' EPA performed assessments to examine the health and environmental risks of this substitute. These assessments are available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes in Ice Skating Rinks Substitute: R–449A (Opteon® XP40)''

EPA previously listed R–449A as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses (*e.g.,* July 16, 2015, 80 FR 42053; October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809).

Environmental information: R–449A has an ODP of zero. Its components, HFC–32, HFC–125, HFC–134a, and HFO–1234yf, have GWPs of 675; 3,500; 1,430; and one to four,[5] respectively. If these values are weighted by mass percentage, then R–449A has a GWP of about 1,400. The components of R–449A are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–449A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–32, HFC–125, and HFC–134a and 500 ppm for HFO–1234yf, the components of R–449A. The manufacturer of R–449A recommends an AEL of 830 ppm on an 8-hour TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–449A has an ODP of zero, comparable to or lower than the other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–449A's GWP of 1,400 is lower than or comparable to that of acceptable substitutes for ice skating rinks (retrofit), such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–449A's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (retrofit), including R–401A and R–401B with GWPs ranging from 1,182 to 1,288.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-uses. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–449A acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

3. R–449B

EPA's decision: EPA finds R–449B acceptable as a substitute for use in:

[5] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

• Ice Skating Rinks (Retrofit Equipment Only)

R–449B, marketed under the trade name Forane® 449B, is a weighted blend of 25.2 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); 24.3 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 27.3 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and 23.2 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 754–12–1).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 32 Listing of R–449B in Refrigeration and Air Conditioning. SNAP Submission Received October 2, 2015.'' EPA performed assessments to examine the health and environmental risks of this substitute. These assessments are available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes in Ice Skating Rinks Substitute: R–449B (Forane® 449B)''

EPA previously listed R–449B as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses (*e.g.,* October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809).

Environmental information: R–449B has an ODP of zero. Its components, HFC–32, HFC–125, HFC–134a, and HFO–1234yf, have GWPs of 675; 3,500; 1,430; and one to four,[6] respectively. If these values are weighted by mass percentage, then R–449B has a GWP of about 1,410. The components of R–449B are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–449B, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–32, HFC–125, and HFC–134a and 500 ppm for HFO–1234yf, the components of R–449B. The manufacturer of R–449B recommends an AEL of 865 ppm on an 8-hour TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–449B has an ODP of zero, comparable to or lower than the other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–449B's GWP of 1,410 is lower than or comparable to that of acceptable substitutes for ice skating rinks (retrofit), such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–449B's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (retrofit), including R–401A and R–401B with GWPs ranging from 1,182 to 1,288.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–449B acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

4. R–450A

EPA's decision: EPA finds R–450A acceptable as a substitute for use in:

• Ice Skating Rinks (New and Retrofit Equipment)

R–450A, marketed under the trade name Solstice® N–13, is a weighted blend of 42 percent HFC–134a, which is also known as 1,1,1,2 tetrafluoroethane (CAS Reg. No. 811–97–2), and 58 percent HFO–1234ze(E), which is also known as *trans*-1,3,3,3-tetrafluoropro-l-ene (CAS Reg. No. 29118–24–9).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Materials for Notice 30 Listing of R–450A in Vending Machines.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes for Use in Ice Skating Rinks Substitute: R–450A''

EPA previously listed R–450A as acceptable for use as a refrigerant in several refrigeration and air conditioning end-uses (October 21, 2014, 79 FR 62863; July 16, 2015, 80 FR 42053).

Environmental information: R–450A has an ODP of zero. Its components, HFC–134a and HFO–1234ze(E), have GWPs of 1,430 and one to six,[7] respectively. If these values are weighted by mass percentage, then R–450A has a GWP of about 600. The components of R–450A are both excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–450A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm and 800 ppm as an 8-hour TWA for HFC–134a and HFO–1234ze(E), respectively, the components of R–450A. The manufacturer of R–450A recommends an AEL of 880 ppm on an 8-hour TWA for the blend. EPA anticipates that users will be able to meet each of the manufacturer's AEL and AIHA WEELs and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

[6] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

[7] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

Comparison to other substitutes in this end-use: R–450A has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–450A's GWP of 600 is lower than that of other acceptable substitutes (for new and retrofit use for ice skating rinks) such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–450A's GWP is higher than the GWPs of other acceptable substitutes for new ice skating rinks, including ammonia absorption, ammonia vapor compression and carbon dioxide with GWPs ranging from zero to 1.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15, and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–450A acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

5. R–513A

EPA's decision: EPA finds R–513A acceptable as a substitute for use in:

• Ice Skating Rinks (New and Retrofit Equipment)

R–513A, marketed under the trade name Opteon® XP 10, is a weighted blend of 44 percent HFC–134a, which is also known as 1,1,1,2 tetrafluoroethane (CAS Reg. No. 811–97–2), and 56 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 754–12–1).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 30 Listing of R–513A (XP10) in Certain Refrigeration and Air Conditioning End-Uses. SNAP Submission Received July 24, 2014.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes for Use in Ice Skating Rinks Substitute: R–513A''

EPA previously listed R–513A as acceptable for use as a refrigerant in several refrigeration and air conditioning end-uses (July 16, 2015, 80 FR 42053; May 23, 2016, 81 FR 32241; July 21, 2017, 82 FR 33809).

Environmental information: R–513A has an ODP of zero. Its components, HFC–134a and HFO–1234yf, have GWPs of 1,430 and one to four,[8] respectively. If these values are weighted by mass percentage, then R–513A has a GWP of about 630. The components of R–513A are both excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–513A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm and 500 ppm as an 8-hour TWA for HFC–134a and HFO–1234yf, respectively, the components of R–513A. The manufacturer of R–513A recommends an AEL of 653 ppm on an 8-hour TWA for the blend. EPA anticipates that users will be able to meet each of the manufacturer's AEL and AIHA WEELs and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–513A has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–513A's GWP of 630 is lower than that of other acceptable substitutes for new and retrofit use for ice skating rinks, such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–513A's GWP is higher than the GWPs of other acceptable substitutes for new ice skating rinks, including ammonia absorption, ammonia vapor compression and carbon dioxide with GWPs ranging from zero to 1.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15, and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–513A acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

B. Foam Blowing

1. Acetone/Isopentane Blend

EPA's decision: EPA finds Acetone/Isopentane blend acceptable as a substitute for use in:

• Rigid Polyurethane and Polyisocyanurate Laminated Boardstock

Acetone/Isopentane, is a weighted blend of 10–30 percent acetone (CAS Reg. No. 67–64–1) and 70–90 percent isopentane (CAS Reg. No. 78–78–4).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 34 Listing of Acetone/Isopentane blend in rigid polyurethane and polyisocyanurate laminated boardstock. SNAP Submission Received August 8, 2017.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes for Use in Rigid Polyurethane and Polyisocyanurate Laminated Boardstock Substitute: Acetone/Isopentane Blend''

EPA previously listed acetone as acceptable for use as a foam-blowing agent in flexible polyurethane and in integral skin polyurethane (March 18, 1994, 59 FR 13044; February 24, 1998, 63 FR 9151). EPA previously listed C3–C6 light saturated hydrocarbons, which include isopentane, as acceptable for use as a foam-blowing agent in a number of foam-blowing end-uses. (August 26, 1994, 59 FR 44240; April 11, 2000, 65 FR 19327).

Environmental information: Acetone/isopentane blend has an ODP of zero. Its components, acetone and isopentane, have GWPs of 0.5 and <10, respectively.[9] Acetone is excluded from

[8] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

[9] GWP for acetone comes from IPCC, 2007. GWP for isopentane is estimated based on GWP of butane from IPCC, 2007 and the relative atmospheric

the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS, while isopentane is defined as VOC under those regulations.

Flammability information: Acetone/isopentane blend is flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. Higher concentrations may cause central nervous system depression and loss of consciousness. The substitute may also irritate the skin or eyes. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many foam-blowing agents.

For acetone, the Occupational Safety and Health Administration (OSHA) has established a permissible exposure limit (PEL) of 1000 ppm and the American Conference of Governmental Industrial Hygienists (ACGIH) has established a threshold limit value (TLV) of 750 ppm, both on an 8-hr TWA. For isopentane, ACGIH has established a TLV of 600 ppm on an 8-hr TWA. EPA anticipates that users will be able to meet the ACGIH's TLVs for both components and address potential health risks by following requirements and recommendations in the manufacturer's SDS and other safety precautions common to the foam-blowing industry.

Comparison to other substitutes in this end-use: Acetone/isopentane blend has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.012.

For rigid polyurethane and polyisocyanurate laminated boardstock, acetone/isopentane blend's GWP of <10 is comparable to the GWPs of other acceptable substitutes for rigid polyurethane and polyisocyanurate laminated boardstock, including Ecomate™, CO_2, HFO–1336mzz(Z) and C3–C6 light saturated hydrocarbons with GWPs ranging from less than 1 to approximately 12.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the ACGIH TLVs, recommendations in the manufacturer's SDS, and other safety precautions common in the foam-blowing industry.

EPA finds acetone/isopentane blend acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

C. Fire Suppression and Explosion Protection

1. Powdered Aerosol E (FirePro™)

EPA's decision: EPA finds Powdered Aerosol E acceptable as a substitute for:

- Total Flooding Uses

Powdered Aerosol E is generated in an automated manufacturing process during which the chemicals, in powder form, are mixed and then supplied to end users as a solid contained within a fire extinguisher. In the presence of heat, the solid converts to an aerosol consisting mainly of potassium salts. EPA previously listed Powdered Aerosol E as acceptable subject to use conditions in areas that are not normally occupied (71 FR 56359; September 27, 2006). Based on a review of additional information from the submitter to support the safe use of Powdered Aerosol E in normally occupied spaces, EPA now determines that Powdered Aerosol E is also acceptable for use in total flooding systems for normally occupied spaces, and EPA is adding Powdered Aerosol E to the list of acceptable substitutes for total flooding uses, which would include both unoccupied and occupied spaces. In a subsequent rulemaking EPA will remove the previous listing as acceptable subject to use conditions. In the ''Further Information'' column of the tables summarizing today's listing decisions and found at the end of this document, we also state that use of this agent should continue to be in accordance with the safety guidelines in the latest edition of the National Fire Protection Association (NFPA) 2010 Standard for Aerosol Extinguishing Systems.

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 34 Listing of Powdered Aerosol E (FirePro) in Fire Suppression. SNAP Submission Received November 17, 2016.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

- ''Risk Screen on Substitutes for Total Flooding Systems in Occupied Spaces Substitute: Powdered Aerosol E (FirePro)''

Environmental information: The active ingredients of Powdered Aerosol E are solids both before and after use; thus, their ODP and GWP are both zero. The gaseous post-activation products for Powdered Aerosol E also have zero ODP and GWPs of 120 or less. The solid active ingredients and particulate post-activation products do not participate in atmospheric photochemical reactions and are not VOCs. The gaseous post-activation products are either not organic or excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS.

Flammability information: Powdered Aerosol E's post-activation products are nonflammable.

Toxicity and exposure data: Exposure to Powdered Aerosol E after activation may cause temporary, mild irritation of the mucous membrane. If eye or skin contact occurs, end users should flush eyes with water or wash skin with soap and water. If inhaled, end users should be removed and exposed to fresh air. Exposure to the post-discharge products is expected to be below the relevant workplace exposure limits for those compounds. Because it is housed in a hermetically sealed container, exposure should not occur unless the system is activated.

The post-activation components of the proposed substitute are common compounds that are not expected to exceed immediately dangerous to life or health (IDLH) levels from the National Institute for Occupational Safety and Health (NIOSH) that apply to occupational and end use exposure.

Information on additional safety recommendations: The discharge of the aerosol results in a reduction of visibility in the protected space due to the uniform distribution of the particulate generated. Use according to the NFPA 2010 Standard will reduce any safety risks due to reduced visibility. In addition, EPA recommends that cross-zone detection systems and abort switches located near an exit from the protected space be employed; improved detection systems within the protected space and manual abort switches outside of the space could help avoid inadvertent discharge.

In the ''Further Information'' column of the tables summarizing today's listing decisions, EPA recommends the following for establishments manufacturing Powdered Aerosol E and

lifetimes of butane and isopentane from: *Safeguarding the Ozone Layer and the Global Climate System.* IPCC/TEAP, 2005—Bert Metz, Lambert Kuijpers, Susan Solomon, Stephen O. Anderson, Ogunlade Davidson, Jose Pons, David de Jager, Tahl Kestin, Martin Manning, and Leo Meyer (Eds.). *Cambridge University Press,* UK. pp 478. Available from Cambridge University Press, The Edinburgh Building Shaftesbury Road, Cambridge CB2 2RU ENGLAND Available online at *https://www.ipcc.ch/report/sroc.*

filling containers to be used in total flooding applications:

—Workers should use appropriate safety and protective equipment (*e.g.,* protective gloves, tightly sealed goggles, protective work clothing, and particulate-removing respirators using NIOSH type N95 or better filters) consistent with OSHA guidelines.
—A local exhaust system should be installed and operated to provide adequate ventilation to reduce airborne exposure to Powdered Aerosol E constituents.
—An eye wash fountain and quick drench facility should be close to the production area.
—Training for safe handling procedures should be provided to all employees that would be likely to handle the containers of the agent or extinguishing units filled with the agent.
—Workers responsible for cleanup should allow particulates to settle before reentering area and wear appropriate personal protective equipment.
—All spills should be cleaned up immediately in accordance with good industrial hygiene practices.

EPA expects that procedures identified in the SDS for Powdered Aerosol E and good manufacturing practices will be adhered to, and that the appropriate safety and personal protective equipment (PPE) consistent with OSHA guidelines will be used during installation, servicing, post-discharge clean-up and disposal of total flooding systems using Powdered Aerosol E. The manufacturer should provide guidance upon installation of the system regarding the appropriate time after which workers may re-enter the area for disposal to allow the maximum settling of all particulates.

Comparison to other substitutes in this end-use: Powdered Aerosol E has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.048.

For total flooding agents, Powdered Aerosol E's GWP of 0 (and 1 to 120 for certain post-activation products) is lower than that of other acceptable substitutes, such as HFC–227ea, other HFCs, and some HCFC fire suppressants, with GWPs which range from about 1,550 to 14,800. Other acceptable substitutes in this end-use have comparable GWPs ranging from zero to one, such as water, inert gases, and a number of other powdered aerosol fire suppressants.

Toxicity risks can be minimized by use consistent with the NFPA 2010 standard, recommendations in the SDS, and other safety precautions common in the fire suppression industry. The potential toxicity risks due to inhalation exposure are common to many total flooding agents, including those already listed as acceptable under SNAP for this same end-use. Powdered Aerosol E's post-activation products are nonflammable, as are all other available total flooding agents.

EPA finds Powdered Aerosol E acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

D. Cleaning Solvents

1. HFO–1336mzz(Z)

EPA's decision: EPA finds HFO–1336mzz(Z)) acceptable as a substitute for use in:

- Electronics cleaning
- Metals cleaning
- Precision cleaning

HFO–1336mzz(Z) is also known as (Z)-1,1,1,4,4,4-hexafluoro-2-butene and *cis*-1,1,1,4,4,4-hexafluoro-2-butene (CAS Reg. No. 692–49–9).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 34 Listing of HFO–1336mzz(Z) in Cleaning Solvents and Aerosol Solvents. SNAP Submission Received June 19, 2017.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

- ''Risk Screen on Substitutes for Use in Cleaning Solvents Substitute: HFO–1336mzz(Z)''

EPA previously listed HFO–1336mzz(Z) as acceptable for use in several refrigeration and air conditioning and foam-blowing end-uses (October 21, 2014, 79 FR 62863; July 16, 2015, 80 FR 42053; May 23, 2016, 81 FR 32241).

Environmental information: HFO–1336mzz(Z) has an ODP of zero. It has a 100-year GWP of about nine.[10] HFO–1336mzz(Z) is a VOC, and it is not exempted from the definition of VOC under CAA regulation (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. EPA has issued a proposed rule that, if finalized as proposed, would exclude HFO–1336mzz(Z) from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS (May 1, 2018; 83 FR 19026).

Flammability information: HFO–1336mzz(Z) is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include skin or eye irritation or frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. EPA issued a Significant New Use Rule under the Toxic Substances Control Act on June 5, 2015, to require persons to submit a Significant New Use Notice to EPA at least 90 days before they manufacture or process HFO–1336mzz(Z) for uses other than those described in the Premanufacture Notice (80 FR 32003).

EPA anticipates that HFO–1336mzz(Z) will be used consistent with the recommendations specified in the SDS. The WEEL committee of the Occupational Alliance for Risk Science (OARS) recommends a WEEL for the workplace of 500 ppm on an 8-hour TWA. EPA anticipates that users will be able to meet the WEEL and address potential health risks by following requirements and recommendations in the SDS and other safety precautions common to the cleaning solvents industry.

Comparison to other substitutes in this end-use: HFO–1336mzz(Z) has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.033.

For cleaning solvents, HFO–1336mzz(Z)'s GWP of about nine is lower than that of other acceptable substitutes, such as HFE–7200, HFE–7100, HFC–365mfc and HFC–4310mee with GWPs ranging from 59 to 1,640. HFO–1336mzz(Z)'s GWP is higher than or comparable to the GWPs of other acceptable substitutes for cleaning solvents, including acetone, methoxytridecafluoroheptene isomers (MPHE), and trans-1-chloro-3,3,3-trifluoroprop-1-ene with GWPs ranging from less than 1 to 7.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the OARS WEEL, recommendations in the manufacturer's SDS, and other safety precautions common in the cleaning solvents industry; moreover, those risks are common to many cleaning solvents,

[10] Baasandorj, M., Ravishankara, A.R., Burkholder, J.B., Atmospheric Chemistry of (*Z*)-CF3CHŌCHCF3: OH Radical Reaction Rate Coefficient and Global Warming Potential, *Journal of Physical Chemistry A,* 2011, 115, 10,539–10,549, 2011.

including many of those already listed as acceptable under SNAP for this end-use.

EPA finds HFO–1336mzz(Z) acceptable in the end-uses listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-uses.

E. Aerosols

1. HFO–1336mzz(Z)

EPA's decision: EPA finds HFO–1336mzz(Z) acceptable as a substitute for use in:

• Aerosol Solvents

HFO–1336mzz(Z) is also known as (Z)-1,1,1,4,4,4-hexafluoro-2-butene and *cis*-1,1,1,4,4,4-hexafluoro-2-butene (CAS Reg. No. 692–49–9).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 34 Listing of HFO–1336mzz(Z) in Cleaning Solvents and Aerosol Solvents. SNAP Submission Received June 19, 2017.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 under the following name:

• ''Risk Screen on Substitutes for Use in Aerosol Solvents Substitute: HFO–1336mzz(Z)''

EPA previously listed HFO–1336mzz(Z) as acceptable for use in several refrigeration and air conditioning and foam-blowing end-uses (October 21, 2014, 79 FR 62863; July 16, 2015, 80 FR 42053; May 23, 2016, 81 FR 32241).

Environmental information: The environmental information for this substitute is set forth in the ''Environmental information'' section in listing I.D.1.

Flammability information: HFO–1336mzz(Z) is not flammable.

Toxicity and exposure data: The toxicity information for this substitute is set forth in the ''Toxicity and exposure data'' section in listing I.D.1, above.

EPA anticipates that HFO–1336mzz(Z) will be used consistent with the recommendations specified in the SDS. The WEEL committee of the Occupational Alliance for Risk Science (OARS) recommends a WEEL for the workplace of 500 ppm on an 8-hour TWA. EPA anticipates that users will be able to meet the WEEL and address potential health risks by following requirements and recommendations in the SDS and other safety precautions common to the aerosols industry.

Comparison to other substitutes in this end-use: HFO–1336mzz(Z) has an ODP of zero, comparable to other listed substitutes in this end-use, with ODPs ranging from zero to 0.033.

For aerosol solvents, HFO–1336mzz(Z)'s GWP of about nine is lower than that of other acceptable substitutes, such as HFE–7200, HFE–7000, HFC–365mfc and HFC–4310mee with GWPs ranging from 59 to 1,640. HFO–1336mzz(Z)'s GWP is higher than or comparable to the GWPs of other acceptable substitutes for aerosol solvents, including acetone, MPHE, and trans-1-chloro-3,3,3-trifluoroprop-1-ene with GWPs ranging from less than 1 to 7.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the OARS WEEL, recommendations in the manufacturer's SDS, and other safety precautions common in the aerosols industry; moreover, those risks are common to many aerosol solvents, including many of those already listed as acceptable under SNAP for this end-use.

EPA finds HFO–1336mzz(Z) acceptable in the end-use listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: September 19, 2018.

Sarah Dunham,

Director, Office of Atmospheric Programs.

Appendix A: Summary of Decisions for New Acceptable Substitutes

End-use	Substitute	Decision	Further Information [1]
Refrigeration and Air Conditioning			
Ice skating rinks *(retrofit equipment only)*.	R–448A	Acceptable	R–448A has a 100-yr global warming potential (GWP) of approximately 1,390. This substitute is a blend of HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); HFO–1234yf, which is also known as 2,3,3,3-tetrafluoro-prop-l-ene (CAS Reg. No. 754–12–1); and HFO–1234ze(E), which is also known as *trans*-1,3,3,3-tetrafluoroprop-l-ene (CAS Reg. No. 29118–24–9). The blend is nonflammable. The American Industrial Hygiene Association (AIHA) has established Workplace Environmental Exposure Limits (WEELs) of 1,000 ppm on an eight-hour time-weighted average (8-hr TWA) basis for HFC–32, HFC–125, and HFC–134a; 500 ppm for HFO–1234yf; and 800 ppm for HFO–1234ze(E). The manufacturer recommends an acceptable exposure limit (AEL) for the workplace for R–448A of 890 ppm (8-hr TWA).
Ice skating rinks *(retrofit equipment only)*.	R–449A	Acceptable	R–449A has a 100-year GWP of approximately 1,400. This substitute is a blend of HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-l-ene (CAS Reg. No. 754–12–1). The blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–32, HFC–125, and HFC–134a; and 500 ppm for HFO–1234yf. The manufacturer recommends an AEL for the workplace for R–449A of 830 ppm (8-hr TWA).

End-use	Substitute	Decision	Further Information [1]
Ice skating rinks *(retrofit equipment only)*.	R–449B	Acceptable	R–449B has a 100-year GWP of approximately 1,410. This substitute is a blend of HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-l-ene (CAS Reg. No. 754–12–1). The blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–32, HFC–125, and HFC–134a; and 500 ppm for HFO–1234yf. The manufacturer recommends an AEL for the workplace for R–449B of 865 ppm (8-hr TWA).
Ice skating rinks *(new and retrofit equipment)*.	R–450A	Acceptable	R–450A has a 100-year GWP of approximately 600. This substitute is a blend of HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and HFO–1234ze(E), which is also known as trans-1,3,3,3, -tetrafluoropro-1-ene (CAS Reg. No. 29118–24–9). This blend is nonflammable. The AIHA has established WEELs of 1,000 ppm and 800 ppm (8-hr TWA) for HFC–134a and HFO–1234yf, respectively. The manufacturer recommends an AEL for the workplace for R–450A of 880 ppm (8-hr TWA).
Ice skating rinks *(new and retrofit equipment)*.	R–513A	Acceptable	R–513A has a 100-year GWP of approximately 630. This substitute is a blend of HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-l-ene (CAS Reg. No. 754–12–1). This blend is nonflammable. The AIHA has established WEELs of 1,000 ppm and 500 ppm (8-hr TWA) for HFC–134a and HFO–1234yf, respectively. The manufacturer recommends an AEL for the workplace for R–513A of 653 ppm (8-hr TWA).
Foam Blowing			
Rigid polyurethane and polyisocyanurate laminated boardstock.	Acetone/ isopentane blend.	Acceptable	Acetone/isopentane blend has no ozone depletion potential (ODP) and a 100-year GWP of approximately <10. Acetone is excluded from the definition of volatile organic compounds (VOC) under CAA regulations (see 40 CFR 51.100(s)) addressing the development of state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS), while isopentane is defined as VOC. This foam-blowing agent is flammable. For acetone, the Occupational Safety and Health Administration (OSHA) has established a permissible exposure limit of 1000 ppm and the American Conference of Governmental Industrial Hygienists (ACGIH) has established a threshold limit value (TLV) of 750 ppm, both on an 8-hr TWA. For isopentane, ACGIH has established a TLV of 600 ppm on an 8-hr TWA.
Fire Suppression			
Total flooding	Powdered Aerosol E.	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the National Fire Protection Association 2010 standard for Aerosol Extinguishing Systems. For establishments manufacturing the agent or filling, installing, or servicing containers or systems to be used in total flooding applications, EPA recommends the following: —The appropriate safety and personal protective equipment (PPE) (*e.g.,* protective gloves, tightly sealed goggles, protective work clothing, and particulate-removing respirators with National Institute for Occupational Safety and Health type N95 or better filters) consistent with Occupational Safety and Health Administration (OSHA) guidelines should be used during manufacture, installation, servicing, and disposal of total flooding systems using the agent; —adequate ventilation should be in place to reduce airborne exposure to constituents of agent; —an eye wash fountain and quick drench facility should be close to the production area; —training for safe handling procedures should be provided to all employees that would be likely to handle containers of the agent or extinguishing units filled with the agent; —workers responsible for clean-up should allow for maximum settling of all particulates before reentering area and wear appropriate personal protective equipment; and —all spills should be cleaned up immediately in accordance with good industrial hygiene practices.

End-use	Substitute	Decision	Further Information [1]
			As required by the manufacturer, units installed in normally occupied spaces will be equipped with features such as a system-isolate switch and cross-zone detection system to reduce risk of accidental activation of an agent generator while persons are present in the protected space. Also required by the manufacturer is warning of pending discharge and delay in release to ensure egress prior to activation of the agent to reduce the risk of exposure. See additional comments 1, 2, 3, 4, 5.

1. The EPA recommends that users consult Section VIII of the OSHA Technical Manual for information on selecting the appropriate types of personal protective equipment for all listed fire suppression agents. The EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (*e.g.,* respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.
2. Use of all listed fire suppression agents should conform to relevant OSHA requirements, including 29 CFR part 1910, subpart L, sections 1910.160 and 1910.162.
3. Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
4. Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
5. The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

End-use	Substitute	Decision	Further Information [1]
Cleaning Solvents			
Electronics cleaning, metals cleaning, precision cleaning.	HFO–1336mzz(Z).	Acceptable	HFO–1336mzz(Z) has no ozone depletion potential (ODP) and a 100-year GWP of approximately nine. EPA has proposed to exclude it from the definition of volatile organic compounds under CAA regulations (see 40 CFR 51.100(s)) addressing the development of state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS). This compound is nonflammable. The Occupational Alliance for Risk Science (OARS) has established a Workplace Environmental Exposure Limit (WEEL) of 500 ppm (8-hr TWA) for HFO–1336mzz(Z). This substitute is subject to a Toxic Substance Control Act (TSCA) section 5(a)(2) Significant New Use Rule (SNUR) (40 CFR 721.10830).
Aerosols			
Aerosol solvents	HFO–1336mzz(Z).	Acceptable	HFO–1336mzz(Z) has no ozone depletion potential (ODP) and a 100-year GWP of approximately nine. EPA has proposed to exclude it from the definition of volatile organic compounds under CAA regulations (see 40 CFR 51.100(s)) addressing the development of state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS). This compound is nonflammable. The OARS has established a Workplace Environmental Exposure Limit (WEEL) of 500 ppm (8-hr TWA) for HFO–1336mzz(Z). This substitute is subject to a Toxic Substance Control Act (TSCA) section 5(a)(2) Significant New Use Rule (SNUR) (40 CFR 721.10830).

[1] Observe recommendations in the manufacturer's SDS and guidance for all listed substitutes.

[FR Doc. 2018–21463 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–153; RM–11801; DA 18–962]

Television Broadcasting Services; Block Island and Newport, Rhode Island

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of ION Television License, LLC (ION), the Commission amends the DTV Table of Allotments to reallot channel 17 from Block Island, Rhode Island, to Newport, Rhode Island. The Commission also grants ION's request to change WPXQ's community of license to Newport, Rhode Island, amending the DTV Table of Allotments to reflect this change while modifying WPXQ's license to reflect that its community of license is Newport, Rhode Island. The new allotment will be mutually exclusive with WPXQ's existing allotment and the reallotment will result in a preferential arrangement of allotments pursuant to the Commission's second allotment priority by providing Newport its first local television service. The reallotment will cause no public harm because Block Island will continue to be served by five full power commercial and one full power non-commercial television stations and receive over-the-air service from WPXQ.

DATES: Effective October 4, 2018.

FOR FURTHER INFORMATION CONTACT: Darren Fernandez, Media Bureau, at *Darren.Fernandez@fcc.gov;* or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order* in MB Docket No. 18–153; RM–11801; DA 18–962, adopted September 18, 2018, and released September 18, 2018. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW, Washington, DC 20554, or online at *http://apps.fcc.gov/ecfs/.* To request materials in accessible formats (braille,

large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Amend § 73.622(i) in the Post-Transition Table of DTV Allotments under Rhode Island by removing Block Island, channel 17, and adding, in alphabetical order, Newport, channel 17.

[FR Doc. 2018–21071 Filed 10–3–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8186–02]

RIN 0648–XG508

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is exchanging allocations of Amendment 80 cooperative quota (CQ) for Amendment 80 acceptable biological catch (ABC) reserves and Community Development Quota (CDQ) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2018 total allowable catch of flathead sole, rock sole, and yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective October 4, 2018 through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2018 flathead sole, rock sole, and yellowfin sole Amendment 80 allocations of the total allowable catch (TAC) specified in the BSAI are 8,949 metric tons (mt), 36,060 mt, and 115,171 mt as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). The 2018 flathead sole, rock sole, and yellowfin sole Amendment 80 ABC reserves are 46,680 mt, 85,728 mt, and 110,286 mt as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). The 2018 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 1,552 mt, 5,040 mt, and 16,478 mt as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). The 2018 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 5,593 mt, 10,272 mt, and 13,215 mt as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018).

The Alaska Seafood Cooperative has requested that NMFS exchange 3,650 mt of rock sole Amendment 80 allocations of the TAC for 2,650 mt of flathead sole and 1,000 mt of yellowfin sole Amendment 80 ABC reserves under § 679.91(i). Therefore, in accordance with § 679.91(i), NMFS exchanges 3,650 mt of rock sole Amendment 80 allocations of the TAC for 2,650 mt of flathead sole and 1,000 mt of yellowfin sole Amendment 80 ABC reserves in the BSAI. This action also decreases and increases the TACs and Amendment 80 ABC reserves by the corresponding amounts.

The Aleutian Pribilof Island Community Development Association has requested that NMFS exchange 250 mt of rock sole CDQ reserves for 250 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 250 mt of rock sole CDQ reserves for 250 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts.

The Coastal Villages Regional Fund has requested that NMFS exchange 45 mt of flathead sole CDQ reserves and 250 mt of rock sole CDQ reserves for 295 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 45 mt of flathead sole CDQ reserves and 250 mt of rock sole CDQ reserves for 295 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts.

Tables 11 and 13 of the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018), are revised as follows:

TABLE 11—FINAL 2018 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	9,000	7,500	9,000	17,105	42,950	155,545
CDQ	963	803	963	1,507	4,540	17,023
ICA	100	120	10	4,000	6,000	4,000
BSAI trawl limited access	794	658	161	0	0	18,351
Amendment 80	7,143	5,920	7,866	11,599	32,410	116,171

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2018 AND 2019 ABC SURPLUS, ABC RESERVES, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2018 Flathead sole	2018 Rock sole	2018 Yellowfin sole	2019 [1] Flathead sole	2019 [1] Rock sole	2019 [1] Yellowfin sole
ABC	66,773	143,100	277,500	65,227	132,000	267,500
TAC	17,105	42,950	155,545	16,500	49,100	156,000
ABC surplus	49,668	100,150	121,955	48,727	82,900	111,500
ABC reserve	49,668	100,150	121,955	48,727	82,900	111,500
CDQ ABC reserve	5,638	10,772	12,670	5,214	8,870	11,931
Amendment 80 ABC reserve	44,030	89,378	109,286	43,513	74,030	99,570

[1] The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the flatfish exchange by the Alaska Seafood Cooperative, the Aleutian Pribilof Island Community Development Association, and the Coastal Villages Regional Fund in the BSAI. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 21, 2018.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 28, 2018.

Margo B. Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–21600 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 193
Thursday, October 4, 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 AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

[FNS–2018–0009]

RIN 0584–AE59

Increasing Flexibility for Verification of For-Profit Center Eligibility in the Child and Adult Care Food Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule.

SUMMARY: USDA proposes a deregulatory action to simplify the requirement for for-profit child care centers, for-profit adult care centers, and sponsoring organizations of for-profit centers in the Child and Adult Care Food Program to verify that they are eligible to submit claims for reimbursement each month. This rule would exempt for-profit centers from monthly verification if they annually demonstrate that at least 50 percent of children served are eligible for free and reduced-price meals or benefits under title XX of the Social Security Act, or at least 50 percent of adult participants are eligible for benefits under title XIX or title XX of the Social Security Act. Monthly verification represents a small but duplicative paperwork burden. Allowing a less frequent verification cycle would reduce the administrative burden for those centers that consistently serve a high percentage of eligible children or adult participants from low-income households.

DATES: Written comments must be received on or before December 3, 2018 to be assured of consideration.

ADDRESSES: USDA invites interested persons to submit written comments on this proposed rule, including the information collection. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to Community Meals Branch, Policy and Program Development Division, USDA Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302.
- All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. USDA will make the written comments publicly available via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrea Farmer, Chief, Community Meals Branch, Policy and Program Development Division, USDA Food and Nutrition Service, 703–305–2590.

SUPPLEMENTARY INFORMATION:

I. Overview

USDA is committed to working with States to highlight flexibilities and local choices that would both ensure that the Child and Adult Care Food Program (CACFP) operates with integrity and alleviate unnecessary regulatory burdens, such as the monthly verification required of private for-profit centers that serve a high percentage of eligible children or adult participants from low-income households. To be eligible to claim reimbursement for meals and snacks served in CACFP, for-profit centers must document that they meet specified criteria, which demonstrates that at least 25 percent of children or adult participants in care are from low-income households. This proposed rule would simplify the requirement for some for-profit child and adult care centers and sponsoring organizations of for-profit centers to verify that the 25 percent standard is met. It would allow a less frequent verification cycle, from monthly to annual verification, in those centers where low-income children or adult participants make up a large proportion of the enrollment. This rule proposes to make the following amendments to CACFP regulations:

1. At 7 CFR 226.10(c), exempt for-profit child or adult care centers from re-verifying their eligibility on monthly claim forms if they annually meet the criteria for for-profit centers to demonstrate that at least 50 percent of children or adult participants in care are from low-income households.

2. At 7 CFR 226.6(f), make verification of eligibility of participating for-profit institutions an annual State agency responsibility.

3. At 7 CFR 226.9(b) and 226.11(c), allow State agencies to use free and reduced-price counts to support the annual eligibility determination for for-profit centers that are assigned claiming percentages or blended rates of reimbursement, when the 50 percent standard is met.

II. Background

CACFP, authorized under section 17 of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1766, supports the efforts of public, private non-profit, and private for-profit child care centers, outside school-hours-care centers, and adult day care centers to provide nutritious foods that contribute to the wellness, healthy growth, and development of young children and the health and wellness of older and chronically impaired adults. Independent public and private non-profit centers and sponsoring organizations of centers submit claims to the State agency for reimbursement each month, based on the number of meals served to eligible children or adult participants and their eligibility for free and reduced-priced meals. However, the claiming process is not as simple for independent for-profit centers and sponsoring organizations of for-profit centers. The Omnibus Reconciliation Act of 1981, Public Law 97–35, established a legislative standard of participation for for-profit centers that would reduce spending and target benefits to low-income children. Consequently, for-profit centers must meet additional criteria and verify each month that they are eligible to submit claims for reimbursement.

Based on informal input from CACFP stakeholders, USDA understands that for-profit centers that have to report information to verify monthly eligibility on their claim forms find it to be an unnecessary administrative burden, particularly for centers where low-income children or adult participants make up a greater proportion of the enrollment. USDA has been working with State agencies and local partners to examine administrative requirements

and explore recommendations for reducing unnecessary paperwork and easing the burden of those requirements.

In 2011, USDA formed the Paperwork Reduction Work Group to explore ways to streamline CACFP. The Work Group consisted of a representative panel of CACFP professionals from State and local agencies and national associations, as well as experts in early childhood education and care, nutrition, and technology to help USDA understand how to make operational requirements more efficient, without compromising the measures we have taken to protect program integrity. Recommendations from the Work Group were included in a report, *Reducing Paperwork in the Child and Adult Care Food Program,* which was submitted to Congress in August 2015.

The Work Group found it confusing and burdensome that CACFP regulations under 7 CFR 226.2 and 226.6 require for-profit centers to verify their eligibility in their applications and then, under 7 CFR 226.10, require for-profit centers to re-verify their eligibility to participate and submit claims for reimbursement each month. The Work Group reasoned that centers do not experience large variability in the percentage of enrollment or licensed capacity and that submitting monthly documentation results in a disproportional amount of work for any center that serves a high number of low-income children or adult participants. To address this paperwork burden, the Work Group considered several recommendations regarding eligibility verification and payments, including proposals to:

- Establish annual eligibility determinations for for-profit centers serving high numbers of low-income children;
- Eliminate requirements to submit monthly backup documentation of attendance, income eligibility forms, or title XX participation;
- Establish a single, blended-rate method of payment, determined annually for centers;
- Compute the blended rates of payment for centers based on an individual center's enrollment; and
- Allow centers the option of amending the rate more frequently than annually.

The report's recommendations urged USDA to work with State agencies to streamline the annual eligibility determinations for participating for-profit centers meeting a 50 percent standard, and eliminate requirements to submit monthly backup documentation of children or adult participants' attendance or eligibility for meal benefits to verify that the 25 percent standard is met. The report also proposed recommendations on the assignment of rates of reimbursement, reflecting the Work Group's broader concerns about the paperwork burden placed on any center, not just for-profit centers, and on sponsoring organizations of centers when payment rates must be re-evaluated monthly. Instead of basing payments on the actual number or a claiming percentage of meals served free, at a reduced-price, or at the paid rate, the report asked State agencies to consider updating computer systems to move toward an annual blended payment rate, based on an individual center's enrollment, and allowing centers the option of amending the rate more frequently than annually.

Through this deregulatory action, USDA proposes to address the verification issue in the report by streamlining reporting requirements of for-profit centers and sponsoring organizations of for-profit centers that meet a 50 percent standard. In those centers where low-income children or adult participants make up a large proportion of the enrollment, the number of times eligibility must be verified would be reduced from monthly to annually.

This rule would exempt for-profit child or adult care centers from re-verifying their eligibility to submit claims each month, if they annually meet the criteria for for-profit centers to demonstrate that at least 50 percent of children or adult participants in care are from low-income households. The 50 percent standard is consistent with the Paperwork Reduction Work Group's recommendation and adopts a benchmark that has been applied by Congress to define low-income areas and determine eligibility in CACFP for streamlined reimbursements for non-profit centers. Corresponding changes would make verification of eligibility of participating for-profit institutions an annual State agency responsibility and provide options that would allow the State agency to use separate free and reduced-price counts that support the for-profit eligibility determination to assign each for-profit center an annual claiming percentage or blended rate.

The amendments proposed in this rule would not change fundamental CACFP requirements. USDA's intent is to find reasonable ways to ease CACFP operational burdens, through State flexibilities and options for child and adult care institutions that would make it easier to demonstrate and verify compliance with for-profit center requirements. For example, this rule would not change the 25 percent standard for application approval or the criteria to verify that each for-profit center is eligible to submit claims for reimbursement. Every for-profit center must continue to meet the 25 percent standard in order to be eligible to claim reimbursement each calendar month. No claims for reimbursement may be paid for meals served at a for-profit center in a calendar month when less than 25 percent of eligible children or adult participants meet this standard.

This rule would also not change the States' responsibilities for the assignment and calculation of rates of reimbursement. To calculate payments for public, private non-profit, and for-profit centers, State agencies receive monthly information from CACFP institutions about the eligibility of children and adult participants. Public and private non-profit institutions will continue to report this information to the State agency each month. For-profit institutions that do not meet the criteria demonstrating that at least 50 percent of children or adult participants in care are from low-income households would also continue to report eligibility information each month.

More than 65,300 child care centers and 2,700 adult care centers participated in CACFP in 2017, according to USDA administrative data released in April 2018. The numbers represent independent centers and centers that participate under a sponsoring organization, which the data collectively refer to as outlets—the individual child or adult care centers where meals are actually served. Of these outlets, USDA estimates that 18,841, or about 28 percent, were for-profit centers. In North Carolina, Georgia, and Florida, for-profit centers made up over half of the total number of centers.

The changes proposed in this rule would only apply to CACFP institutions—the independent centers and sponsoring organizations that are responsible for CACFP for-profit reporting requirements—not the individual centers that participate under a sponsoring organization. USDA administrative data showed that, in 2017, 9,770 independent for-profit centers and sponsoring organizations of for-profit centers participated in CACFP. Out of this universe of 9,770 for-profit institutions, USDA estimates that this rule would change reporting requirements for 7,920, or about 80 percent.

USDA recognizes that State agencies take different approaches in assigning and computing rates of reimbursement, depending on the structure and capabilities of their automated financial

systems and the other technology investments they choose. Some of the options that USDA has considered addressing in this rule, such as allowing eligible for-profit centers to receive the assigned payment rate or submit information to the State agency to recalculate the rate at other intervals, have raised program integrity issues. Some have also raised concerns about preserving equity among public, private non-profit, and for-profit centers.

USDA seeks comments to help determine further changes, particularly from States where for-profit centers make up a significant proportion of CACFP centers. We encourage your comments to help us better understand what the differences in claims processing systems are and how they may impact for-profit institutions differently from public and non-profit centers and sponsoring organizations. It would be especially helpful to know how State administrators and local partners view the Paperwork Reduction Work Group's recommendations for assigning and amending payment rates to centers in CACFP.

Eligibility Determination and Verification

A for-profit center in CACFP is defined under 7 CFR 226.2 as a child care center, outside-school-hours care center, or adult day care center providing nonresidential day care services that does not qualify for tax-exempt status under the Internal Revenue Code of 1986. Claims for reimbursement from, or on behalf of, a for-profit child care center or an outside-school-hours-care center may be submitted only for calendar months during which at least 25 percent of the children in care are eligible for free and reduced-price meals or receive benefits, for which the center receives compensation, under title XX of the Social Security Act. For-profit centers serving adults may submit claims for reimbursement only for calendar months during which at least 25 percent of the adults enrolled in care receive benefits, for which the center receives compensation, under title XIX or title XX of the Social Security Act, or a combination of both.

CACFP payment procedures under 7 CFR 226.10(c) require all for-profit child and adult care institutions to submit information to the State agency to verify their eligibility, for each month in which a for-profit child care center, for-profit outside-school-hours care center, or for-profit adult day care center claims reimbursement. Child care institutions must provide the number and percentage of children in care that documents that at least 25 percent of their enrollment or licensed capacity, whichever is less, is eligible for free and reduced-price meals or receive benefits, for which the center receives compensation, under title XX of the Social Security Act. Adult day care institutions must provide the percentage of enrolled adult participants that documents that at least 25 percent receive benefits, for which the center receives compensation, under title XIX or title XX of the Social Security Act.

USDA proposes several amendments to 7 CFR 226.10(c), including technical changes that would conform 7 CFR 226.10(c) with the codification requirements of the Office of the Federal Register and present the information in paragraph (c) in a clear, concise, yet thorough manner. Programmatically, this rule would exempt new institutions from re-verifying their monthly eligibility if their initial application demonstrates that at least 50 percent of children or adult participants in care are from low-income households.

With an annual eligibility determination, independent for-profit centers and sponsoring organizations of for-profit centers would not be required to re-verify their eligibility on monthly claim forms if the 50 percent standard is met.

However, to be eligible to submit a monthly claim for reimbursement, each institution must also ensure that, if enrollment changes, the center will still meet the criteria for for-profit centers to demonstrate that at least 25 percent of children or adult participants in care are from low-income households. No claims for reimbursement may be paid for meals served at a for-profit center in a calendar month when less than 25 percent of eligible children or adult participants meet this standard. Under this rule, it would be the responsibility of the institution to notify the State agency each month in which reimbursement would not be claimed.

This rule would encourage State agencies to utilize flexibilities that would also ease the administrative burden of State requirements. Based on informal input, USDA understands that in some States, additional paperwork may be requested to verify that a for-profit center meets the 25 percent standard. For example, a State agency may require the sponsoring organization to collect documentation of attendance, income eligibility, or title XIX or title XX participation, from its for-profit centers, with each month's claiming data. Under this rule, no additional submission of information to support the eligibility determination would be necessary if the center's annual for-profit eligibility percentage were 50 percent or greater. The sponsoring organization would check the center's eligibility documentation to verify children or adult participants' attendance or eligibility for meal benefits during a review. The center would not need to submit additional information to the sponsoring organization.

This rule would also exempt renewing institutions if they annually demonstrate that at least 50 percent of the children or adult participants in care are from low-income households. USDA proposes corresponding changes to make verification of eligibility of participating for-profit institutions an annual State agency responsibility.

USDA has not required renewing for-profit institutions to provide documentation of eligibility because, as a condition of their eligibility, for-profit centers are required to document that the 25 percent standard is met each month. Although the State agency receives this information monthly as part of the claiming process, 7 CFR 226.6(f)(3)(iv) of the regulations allows, but does not require, the State agency to request periodic resubmission of documentation to determine the continued eligibility of renewing centers. This rule would make annual reporting of eligibility information a requirement for all for-profit institutions, and move this provision from 7 CFR 226.6(f)(3)(iv) to the list of responsibilities under 7 CFR 226.6(f)(1).

Accordingly, this rule proposes to make technical changes to 7 CFR 226.10(c). New paragraphs at 7 CFR 226.10(c)(3) and (c)(4) would exempt for-profit child or adult care centers from re-verifying their eligibility to submit claims each month, if they annually meet the criteria for for-profit centers to demonstrate that at least 50 percent of children or adult participants in care are from low-income households. A new paragraph at 7 CFR 226.10(c)(5) would require the institution to notify the State agency each month in which reimbursement would not be claimed if a for-profit center that had verified an annual eligibility percentage of 50 percent or greater did not meet the 25 percent standard. This rule would also add a new paragraph at 7 CFR 226.6(f)(1) to make verification of eligibility of all participating for-profit institutions an annual State agency responsibility.

Assignment and Computation of Rates of Reimbursement

State agencies have three options—actual counts, claiming percentages, and blended per-meal rates—for assigning

rates of reimbursement, at 7 CFR 226.9(b), and computing reimbursement, at 7 CFR 226.11(c)(5), for child care centers, outside-school-hours-care centers, and adult day care centers.

State agencies may assign rates of reimbursement, not less frequently than annually, on the basis of family-size and income information reported by each institution. The assigned rates of reimbursement may be changed more frequently than annually if warranted by changes in family size and income information. Annual assignment of rates is a State option, not a requirement.

USDA is not proposing any changes in the assignment or computation of rates of reimbursement when the annual for-profit eligibility percentage is less than 50 percent. The State agency would continue to have the option of assigning rates of reimbursement annually or more frequently than annually for for-profit centers that do not meet the 50 percent standard. However, in States which elect claiming percentages or blended rates, this rule proposes that the State agency assign an annual rate of reimbursement when the 50 percent standard is met. The State agency would use the separate free and reduced-price counts that support each center's annual for-profit eligibility percentage to compute an annual claiming percentage or an annual blended rate. This rule would also provide flexibility, as needed for proper administration of CACFP, to allow the State agency to require a for-profit center to submit information to recalculate the claiming percentage or blended rate more frequently than annually.

These proposed changes are consistent with USDA's long-standing view that State agencies should utilize the flexibilities available in the regulations to simplify CACFP operations. In policy guidance, CACFP 15–2013, *Existing Flexibilities in the Child and Adult Care Food Program,* issued on July 26, 2013, USDA encourages State agencies to annually assign rates of reimbursement for centers.

When reviews disclose serious noncompliance, requiring centers to re-evaluate the claiming percentage or blended rate each month would be an appropriate component of a corrective action plan.

However, for most centers which operate CACFP in good standing, allowing an annually determined claiming percentage or an annually determined blended rate would streamline the eligibility process. It would reduce the number of times the centers have to determine eligibility and provide more transparency for them to understand how they are reimbursed.

Accordingly, this rule proposes to add new paragraphs at 7 CFR 226.9(b)(2) and 226.11(c)(4) for computing rates of reimbursement for for-profit centers in States where claiming percentages or blended rates are assigned, if the center's annual eligibility percentage is 50 percent or greater. The proposed changes would allow State agencies to use the free and reduced-price counts that support the for-profit eligibility determination to assign each eligible for-profit center an annual claiming percentage or annual blended rate, with exceptions when needed for proper program administration.

Public Submission

Public input and assessment, with an opportunity to examine CACFP operations and consider improvements related to this rule, are essential elements of the rulemaking process. We invite the public to submit comments to help USDA gain a better understanding of both the possible benefits and any negative impacts associated with the changes proposed in this rule.

This proposed rule reflects USDA's commitment to work with all of our partners, including State administrators, sponsoring organization leaders, for-profit center operators, advocates, and other CACFP stakeholders to develop innovative strategies to ensure that CACFP requirements are effective and practical.

USDA is actively looking for more information, particularly regarding the Paperwork Reduction Work Group's recommendations for assigning reimbursement rates and USDA's efforts to balance operational flexibilities with improvements in program integrity.

Comments on the economic effects of this rule that include quantitative and qualitative data—such as the public's insights on the occupations responsible for the paperwork and other inputs, which would help USDA prepare benefit cost analyses and narrow down the range of cost savings—are also especially helpful.

Please select those issues that most concern and affect you, or that you best understand, and include examples of how the proposed rule would impact you, positively or negatively. Consider what could be done to foster incentives for flexibility, consistency, eliminating duplication, ensuring compliance, and protecting program integrity. For example, consider:

- How easily State agency and sponsoring organization financial systems could support the changes;
- What impacts, if any, there would be for State agencies or sponsoring organizations in processing claims for reimbursement;
- How State agency financial systems could impact for-profit institutions differently from other types of institutions;
- How compliance would be monitored;
- How likely it would be for a for-profit center to drop below the 25 percent standard, after the center verified an annual eligibility percentage of 50 percent;
- How the State agency or sponsoring organization would determine that a for-profit center dropped below the 25 percent standard, after the center had verified an annual eligibility percentage of 50 percent, and how the claiming process would be impacted;
- What flexibilities, if any, there could be for for-profit centers that fall below the 50 percent standard, but above the 25 percent standard;
- What impacts there would be if for-profit centers could request the State agency to amend the claiming percentages or blended rates more frequently than annually;
- How participation could be impacted if for-profit centers have the option of submitting information to the State agency to amend the claiming percentages or blended rates more frequently than annually; and
- How, or if, the changes proposed in this rule would make CACFP more efficient and easier to manage.

We welcome your ideas for improving CACFP and ways that USDA can serve you better. USDA will carefully consider all relevant comments submitted during the 60-day comment period for this rule. Comments may be submitted as outlined in **ADDRESSES**.

Procedural Matters

Executive Order 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This proposed rule was initially determined to be significant and was reviewed by the Office of Management and Budget

(OMB). On July 24, 2018, OMB changed the designation to not significant. Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. FNS considers this rule to be an Executive Order 13771 deregulatory action.

Economic Summary

A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any one year). USDA does not anticipate that this proposed rule is likely to have an economic impact of $100 million or more in any one year, and therefore, does not meet the definition of ''economically significant'' under Executive Order 12866. The changes proposed in this rule would result in a small amount of administrative savings from reducing the monthly reporting requirements to once a year.

The proposed changes are not expected to increase CACFP costs. The proposed rule decreases the estimated annual staff time required to do the reporting by 5.5 hours per year per center. According to the Paperwork Reduction Act section of this rule, the number of estimated annual responses per center decreases from 12 to 1. At 30 minutes per response, this is a decrease of 5.5 staff hours per center per year. It is highly unlikely that saving 5.5 hours of staff time per year would provide sufficient incentive to induce additional eligible centers to participate if those centers are not already participating in CACFP. USDA does not estimate that there would be any change in center participation, or any changes to any other costs associated with CACFP, resulting from this proposed rule.

While the changes proposed in this rule impact for-profit institutions, which are responsible for the reporting requirements, it is important to get a sense of how many for-profit outlets—the individual child or adult care centers where the meals are actually served—would meet the 50 percent standard, and how it would impact the decision to participate in CACFP. Administrative data collected by USDA does not contain outlet-level information needed to assess the potential impact of this proposed rule to participation. USDA obtained informal outlet-level information from a number of States to analyze. The data contained the number of for-profit outlets and the percent of eligible participants as well as two separate months of information to evaluate the potential monthly volatility of the eligibility percentages in for-profit outlets. These States represent a variety of sizes and regions and account for roughly 40 percent of the total number of for-profit outlets in Fiscal Year (FY) 2017.

The majority of for-profit outlets in the State data had annual eligibility percentages of 50 percent or more. The percent of for-profit outlets with an annual eligibility percentage of 50 percent or more ranged from 60 percent of the total number of for-profit outlets to over 90 percent of the total number of for-profit outlets. The data demonstrate that the majority of for-profit outlets continue to participate in CACFP because the number of eligible children and adult participants make it financially viable. While this rule would create administrative efficiencies, it is unlikely that the proposed changes would provide the incentive for more outlets with an annual eligibility percentage of 50 percent to participate in CACFP.

USDA also reviewed the State data to gain a sense of the distribution of the percentages of eligible participants in for-profit outlets that would meet or exceed the proposed 50 percent standard. The average percentage of eligible participants was between 70 percent and 90 percent for those sites meeting or exceeding the standard across all eight States. The average percent of eligible participants in sites not meeting the standard was above 35 percent. This indicates that, not only do the majority of for-profit outlets meet the 50 percent standard, but on average, outlets serve a much higher percentage of eligible participants.

The likelihood of outlets falling below the proposed 50 percent threshold would be very low. To better understand how many outlets may potentially fall below the 50 percent standard, USDA reviewed the State data to determine the number of for-profit outlets that have eligibility percentages between 50 percent and 55 percent.

Overall, about 6 percent of outlets (about 300) had eligibility percentages that fell within this range. The individual States ranged from less than 1 percent to slightly more than 10 percent. Likewise, the number of outlets falling between 45 percent and 50 percent were slightly less, with only about 4 percent (about 200) of the for-profit outlets in the eight States falling in this range.

The monthly variation in the percentage of for-profit outlets that meet the 50 percent standard is relatively small. Overall, there was an increase of about 1 percent in the number of for-profit outlets meeting the proposed 50 percent threshold from July to September 2017.

The high percentages of eligible participants, along with the large numbers of for-profit outlets meeting the proposed 50 percent standard, indicate that the impact of the proposed changes in this rule would be largely administrative. The changes aim to increase efficiencies, but are not projected to impact CACFP participation and costs.

Based on this evidence, USDA estimates that the only savings associated with this proposed rule would be a decrease in annual reporting burden on existing for-profit institutions. There were 9,770 independent for-profit centers and sponsoring organizations of for-profit centers participating in CACFP in FY 2017, according to USDA administrative data. USDA estimates about 80 percent of for-profit institutions would be impacted by this rule and would experience a reduction in burden. This percentage allows for some sponsoring organizations that do not have outlets meeting the proposed 50 percent standard.

The data provided by the States indicate that the majority of outlets exceed the proposed 50 percent standard, making it very likely that the vast majority of sponsors contain at least one outlet meeting or exceeding the standard.

As described in the Paperwork Reduction Act section of this rule, the reporting burden for these institutions would be 43,559 hours. Depending on whether one assumes that an administrative assistant or the center director or submits these reports, this decrease would result in an annualized estimated savings of $1.3 million (assuming administrative assistants submit the reports) to $2.2 million (assuming center directors submit the reports), each year from FY 2019 through FY 2023.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. This rule would exempt for-profit centers from re-verifying their eligibility to submit claims each month, if they

annually meet the criteria for for-profit centers that consistently serve a high number of children or adult participants from low-income households. This rule is a deregulatory action that would not impact a substantial number of small entities. USDA estimates that 28 percent of centers participating in CACFP are for-profit.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector.

Under Section 202 of UMRA, USDA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This proposed rule contains no Federal mandates, under the regulatory provisions of title II of UMRA, for State, local, and tribal governments, or the private sector, of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12372

CACFP is listed in the Assistance Listings under the Catalog of Federal Domestic Assistance (CFDA) Number 10.558 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. Since the Child Nutrition Programs are State-administered, USDA has formal and informal discussions with State and local officials, including representatives of Indian Tribal Organizations, on an ongoing basis regarding CACFP requirements and operation. This provides USDA with the opportunity to receive regular input from State administrators and local CACFP operators, which contributes to the development of feasible requirements.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section 6(b)(2)(B) of Executive Order 13132. USDA has determined that this rule does not have federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rulemaking, when published as a final rule, is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rulemaking is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of a final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this proposed rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on CACFP participants on the basis of age, race, color, national origin, sex, or disability. After a careful review of the rule's intent and provisions, USDA has determined that this rule would not be expected to limit or reduce the ability of protected classes of individuals to participate as CACFP operators or as recipients of CACFP meal benefits. USDA also would not expect this rule to have any disparate impacts on CACFP operators by protected classes of individuals.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. A consultation with Indian Tribal Organizations took place on March 14, 2018. USDA proposes this deregulatory action to encourage existing for-profit centers, including for-profit child care, outside-school-hours care, and adult day care centers in Indian country, to continue to participate in CACFP, and maintain access to nutritious meals for eligible children and adult participants. USDA anticipates that this action would have no significant cost and no major increase in regulatory burden on tribal organizations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 and 5 CFR 1320, requires OMB to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule contains an information collection requirement that has been approved by OMB under OMB Control Number 0584–0055.

This is a revision to an existing collection: Child and Adult Food Care Program, OMB Control Number 0584–0055. This change is contingent upon OMB approval under the Paperwork Reduction Act of 1995.

When the information collection requirement has been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval. Comments on this proposed rule must be received by December 3, 2018.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notification will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Title: 7 CFR part 226, *Increasing Flexibility for Verification of For-Profit Center Eligibility in the Child and Adult Care Food Program.*

OMB Number: 0584–0055.

Expiration Date: February 29, 2020.

Type of Request: Revision.

Abstract: This is a revision of an existing information collection associated with 7 CFR part 226, OMB Number 0584–0055, based on this rulemaking. USDA proposes to modify regulatory requirements for for-profit institutions in the Child and Adult Care Food Program (CACFP) to provide information verifying their eligibility to submit claims for reimbursement each month.

Under this proposed rule for-profit centers, institutions that annually demonstrate that at least 50 percent of children or adult participants in care are from low-income households would be exempt from monthly verification.

By reducing the frequency of verification, this rule would modestly reduce the reporting burden for eligible for-profit centers and sponsoring organizations of for-profit centers.

There would be no change in reporting burden for for-profit centers that do not meet the 50 percent standard. This rule would also not affect reporting requirements for public and non-profit institutions.

The CACFP information collection, approved with a nonsubstantive change on August 31, 2018, includes a reporting requirement under 7 CFR 226.10(c) for sponsoring organizations and other institutions to submit documentation to verify the eligibility of for-profit centers. USDA estimates that 9,770 for-profit institutions each provide 12 reports annually, for a total of 117,240 responses. The estimated average number of burden hours per response is 0.50, resulting in an estimated total of 58,620 burden hours.

The program change proposed in this rule would only impact for-profit institutions that meet the 50 percent standard. USDA estimates a subset of 1,850 for-profit institutions, or about 20 percent of the 9,770 institution respondents that would not meet this standard, would each continue to provide 12 reports annually, for a total of 22,203 responses. Their reporting burden would not change.

The estimated average number of burden hours per response is 0.50, resulting in an estimated total of 11,101 burden hours.

However, a larger subset of 7,920 for-profit institutions, or about 80 percent of the 9,770 institution respondents, would meet the 50 percent standard.

Each respondent would be exempt from monthly verification and would provide only one report annually for a total of 7,920 responses. The number of estimated responses from each eligible institution would decrease from 12 responses to only one per year. The estimated average number of burden hours per response is 0.50, resulting in an estimated total of 3,960 burden hours. The estimated total number of burden hours would be reduced by 43,559 hours, from 58,620 to 15,061.

This rule would not require any additional reporting of eligibility information from any for-profit institution, nor would it impose any changes in recordkeeping requirements. Although this rule would ease administrative burden for institutions that may have to report information requested by the State agency to support the eligibility determination, the collection of information under the Paperwork Reduction Act only addresses estimates of federally-imposed reporting or recordkeeping requirements. Due to rounding, our estimates may not match to totals. Here is a summary of our analysis:

Respondents: For-Profit Institutions.

Estimated Number of Respondents: 7,920.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 7,920.

Estimated Time per Response: 0.50.

Estimated Total Annual Burden: 3,960.

Current OMB Inventory (Reporting): 1,870,412.

Current OMB Inventory (Reporting and Recordkeeping): 2,481,136.

OMB Inventory with Proposed Rule (Reporting and Recordkeeping): 2,437,577.

Difference in Burden as a Result of the Proposed Rule: −43,559.

7 CFR Part 226 Child and Adult Food Care Program

Sponsors and Institutions (Currently Approved)

Requirement	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
226.10(c): All for-profit institutions submit documentation to verify for-profit center eligibility	9,770.00	12.00	117,240.00	0.50	58,620.00
Total Sponsor/Institution reporting burden	21,052.00	31.88	671,048.00	0.92	616,697.18
Total reporting burden for 0584–0055	2,828,158.00	2.57	7,276,600.84	0.26	1,870,411.75

* Some totals may not add due to rounding.

7 CFR Part 226 Child and Adult Food Care Program

Sponsors and Institutions (With Proposed Changes)

Requirement	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
226.10(c): For-profit institutions that would not be exempt from monthly verification submit documentation to verify for-profit eligibility	1,850.24	12.00	22,202.86	0.50	11,101.43
226.10(c): For-profit institutions that would be exempt from monthly verification	7,919.76	1.00	7,919.76	0.50	3,959.88
Total Sponsor/Institution reporting burden	21,052.00	27.74	583,930.62	0.98	573,138.49

* Some totals may not add due to rounding.

7 CFR PART 226 INCREASING FLEXIBILITY FOR VERIFICATION OF FOR-PROFIT CENTER ELIGIBILITY IN THE CHILD AND ADULT CARE FOOD PROGRAM

Affected public	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
Total Reporting					
State Agency	56.00	552.16	30,921.00	0.14	4,200.92
Sponsor/Institution	21,052.00	27.74	583,930.62	0.98	573,138.49
Facilities	180,740.00	12.00	2,168,880.00	0.41	883,761.00
Household	2,626,310.00	1.68	4,405,751.84	0.08	365,752.64
Total reporting burden for 0584–0055	2,828,158.00	2.54	7,189,483.46	0.25	1,826,853.06
Total Recordkeeping					
State Agency	56.00	27.00	1,512.00	1.37	2,072.00
Sponsor/Institution	21,052.00	9.22	194,196.00	0.34	66,432.00
Facilities	180,740.00	3.00	542,220.00	1.00	542,222.00
Total recordkeeping burden for 0584–0055	201,848.00	3.66	737,928.00	0.83	610,724.00
Total of Reporting and Recordkeeping					
Reporting	2,828,158.00	2.54	7,189,483.46	0.25	1,826,853.06
Recordkeeping	201,848.00	3.66	737,928.00	0.83	610,724.00
Total	3,030,006.00	2.62	7,927,411.46	0.31	2,437,577.06

* Some totals may not add due to rounding.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 226

Accounting, Day care, Food assistance programs, Grant programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 226 is proposed to be amended as follows:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 1. The authority citation for 7 CFR part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended, 42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766.

■ 2. In § 226.6:

■ a. Add a new paragraph (f)(1)(x).

■ b. Remove paragraphs (f)(3)(iv)(D) and (E).

■ c. Redesignate paragraphs (f)(3)(iv)(F) and (G) as paragraphs (f)(3)(iv)(D) and (E).

The addition reads as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(f) * * *

(1) * * *

(x) Comply with the following requirements for determining the eligibility of for-profit centers:

(A) Require for-profit child care institutions to submit documentation on behalf of their centers of:

(1) Eligibility of at least 25 percent of children in care (enrolled or licensed capacity, whichever is less) for free or reduced-price meals; or

(2) Compensation received under title XX of the Social Security Act of nonresidential day care services and certification that at least 25 percent of children in care (enrolled or licensed capacity, whichever is less) were title XX beneficiaries during the most recent calendar month;

(B) Require for-profit adult care centers to submit documentation that they are currently providing nonresidential day care services for which they receive compensation under title XIX or title XX of the Social Security Act, and certification that not less than 25 percent of enrolled participants in each such center, during the most recent calendar month, were title XIX or title XX beneficiaries;

* * * * *

■ 3. In § 226.9:

■ a. Redesignate paragraphs (b)(1), (b)(2), and (b)(3), as paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iii), respectively.

Redesignate the introductory text in paragraph (b) as paragraph (b)(1) and add the paragraph heading ''*Reimbursement methods.*''

■ b. Add a new paragraph (b)(2).

The addition reads as follows:

§ 226.9 Assignment of rates of reimbursement for centers.

* * * * *

(b) * * *

(2) *Options for for-profit centers.*

(i) In States where the State agency has elected the methods described under paragraphs (b)(1)(ii) or (b)(1)(iii) of this section, the State agency uses the free and reduced-price counts that support each center's annual for-profit eligibility percentage, if it is 50 percent or greater, to assign an annual claiming percentage or an annual blended per-meal rate.

(ii) The State agency may require a for-profit center to submit information to recalculate the claiming percentage or blended rate more frequently than annually, as needed for proper administration of the Program.

* * * * *

■ 4. In § 226.10:

■ a. In paragraph (a), remove the reference ''§ 226.6(f)(3)(iv)(F)'' and add in its place the reference ''§ 226.6(f)(3)(iv)(D)''.

■ b. Revise paragraph (c).

The revision reads as follows:

§ 226.10 Program payment procedures.

* * * * *

(c) *Claims for reimbursement.*

(1) Each institution must report information required by the State agency's financial management system. This information must have sufficient detail to justify the claim for reimbursement and enable the State agency to complete the final Report of the Child and Adult Care Food Program (FNS–44) required under § 226.7(d) of this part.

(2) In submitting a claim for reimbursement, each institution must certify that the claim is correct and that records are available to support it.

(3) For each month in which reimbursement is claimed, each independent for-profit child care center, independent for-profit outside-school-hours care center, and sponsoring organization of for-profit centers must also certify that at least 25 percent of children in care (enrolled or licensed capacity, whichever is less) are eligible for free or reduced-price meals or receive title XX benefits.

(i) Claims for reimbursement may be submitted only for months in which the 25 percent standard for participation of eligible children is met.

(ii) Children who drop in only to participate in afterschool activities and receive at-risk afterschool meals or snacks must not be considered in determining this standard.

(iii) Reimbursement may not be claimed for any meals served at a for-profit center when less than 25 percent of children in care meet this standard.

(iv) If the center's annual for-profit eligibility percentage is less than 50 percent, as determined under §§ 226.6(b)(1)(ix) and (f)(1)(x)(A) of this part, the center must report the percentage of children in care who meet this standard.

(v) If the center's annual for-profit eligibility percentage is 50 percent or greater, as determined under §§ 226.6(b)(1)(ix) and (f)(1)(x)(A) of this part, the center does not need to report the percentage of children in care who meet this standard.

(vi) No additional submission of information to support the eligibility determination, such as attendance or title XX participation, is necessary if the center's annual for-profit eligibility percentage is 50 percent or greater.

(4) For each month in which reimbursement is claimed, each independent for-profit adult day care center and sponsoring organization of for-profit adult day care centers must also certify that at least 25 percent of enrolled adult participants received title XIX or title XX benefits.

(i) Claims for reimbursement may be submitted only for months in which the 25 percent standard for participation of eligible adult participants is met.

(ii) Reimbursement may not be claimed for any meals served at a for-profit center when less than 25 percent of enrolled adult participants meet this standard.

(iii) If the center's annual for-profit eligibility percentage is less than 50 percent, as determined under §§ 226.6(b)(1)(ix) and (f)(1)(x)(B) of this part, the center must report the percentage of enrolled adult participants who meet this standard.

(iv) If the center's annual for-profit eligibility percentage is 50 percent or greater, as determined under §§ 226.6(b)(1)(ix) and (f)(1)(x)(B) of this part, the center does not need to report the percentage of enrolled adult participants who meet this standard.

(v) No additional submission of information to support the eligibility determination, such as attendance or participation in title XIX or title XX, is necessary if the center's annual for-profit eligibility percentage is 50 percent or greater.

(5) For each month in which a for-profit center, described under paragraphs (c)(3)(v) or (c)(4)(iv) of this section, does not meet the 25 percent standard, the institution must notify the State agency that reimbursement will not be claimed.

(6) Prior to submitting its consolidated monthly claim to the State agency, each sponsoring organization must perform edit checks on each facility's meal claim. At a minimum, the sponsoring organization's edit checks must:

(i) Verify that each facility has been approved to serve the types of meals claimed; and

(ii) Compare the number of children or adult participants enrolled for care at each facility, multiplied by the number of days on which the facility is approved to serve meals, to the total number of meals claimed by the facility for that month. Discrepancies between the facility's meal claim and its enrollment must be subjected to more thorough review to determine if the claim is accurate.

* * * * *

■ 5. In § 226.11, revise paragraph (c)(4) to read as follows:

§ 226.11 Program payments for centers.

* * * * *

(c) * * *

(4) *For-profit centers.*

(i) For-profit child care centers, including for-profit at-risk and outside-school-hours care centers, must be reimbursed only for the calendar months during which at least 25 percent of the children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced-price meals or were title XX beneficiaries. However, children who only receive at-risk afterschool meals or snacks must not be considered in determining this eligibility.

(ii) For-profit adult day care centers must be reimbursed only for the calendar months during which at least 25 percent of enrolled adult participants were beneficiaries of title XIX, title XX, or a combination of titles XIX and XX.

(iii) In States where the State agency has elected the methods described under paragraphs (c)(5)(ii) and (c)(5)(iii) of this section, the State agency uses the free and reduced-price counts that support each center's annual for-profit eligibility percentage, if it is 50 percent or greater, to assign an annual claiming percentage or an annual blended per-meal rate.

(iv) The State agency may require a for-profit center to submit information to recalculate the claiming percentage or blended rate more frequently than annually, as needed for proper administration of the Program.

* * * * *

Dated: June 28, 2018.

Brandon Lipps,

Acting Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2018–21445 Filed 10–3–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket ID OCC–2018–0028]

RIN 1557–AE51

OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Technical Amendments; Correction

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rulemaking; correction.

SUMMARY: This document corrects the **SUPPLEMENTARY INFORMATION** section to a proposed rule published in the **Federal Register** on September 19, 2018, regarding OCC's enforceable guidelines relating to recovery planning standards for insured national banks, insured

federal savings associations, and insured federal branches (Guidelines). This document corrects two technical errors.

DATES: October 4, 2018.

ADDRESSES: 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Andra Shuster, Senior Counsel (202) 649–5490; or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 19, 2018, in FR Doc. 2018–20166, on page 47313, in the third column, remove ''September 19, 2016'' and add in its place ''September 29, 2016''; and on page 47314, in the second column, remove ''October 19, 2018'' and add in its place ''30 days from date of publication of the final guidelines in the **Federal Register**''.

Dated: September 28, 2018.

Bao Nguyen,

Acting Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 2018–21638 Filed 10–3–18; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0806; Product Identifier 2018–NM–056–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2015–12–08, which applies to all Airbus SAS Model A318 and A319 series airplanes and all Model A320–211, A320–212, A320–214, A320–231, A320–232, A320–233, A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, and A321–232 airplanes. AD 2015–12–08 requires an inspection to determine the batch number or installation date of the oxygen pipe assembly that is installed at the end of the right-hand crew distribution line, and replacement of the pipe if necessary. Since we issued AD 2015–12–08, further investigation determined that affected oxygen pipes may have been installed on more airplanes than initially identified. This proposed AD would revise the applicability to include additional airplane models and additional pipes to be replaced if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 19, 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—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 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.

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–2018–0806; 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: 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:

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–2018–0806; Product Identifier 2018–NM–056–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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 proposed AD.

Discussion

We issued AD 2015–12–08, Amendment 39–18182 (80 FR 34262, June 16, 2015) (''AD 2015–12–08''), for all Airbus SAS Model A318–111, A318–112, A318–121, A318–122, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–231, A320–232, A320–233, A321–111, A320–112, A320–131, A320–211, A320–212, A320–213, A320–231, and A320–232 airplanes. AD 2015–12–08 requires an inspection to determine the batch number or installation date of the oxygen pipe assembly that is installed at the end of the right-hand crew distribution line, and replacement of the pipe if necessary. AD 2015–12–08 resulted from a report of corrosion found during the manufacturing process for some oxygen pipe assemblies that are used to supply oxygen to the flight crew. We issued AD 2015–12–08 to address corrosion of the oxygen pipe assemblies, which could lead to blocked or reduced oxygen supply to a flight crew in case of decompression or smoke/fire in the flight deck. In addition, the presence of particles in oxygen lines, under certain conditions, increases the risk of fire in the flight deck.

Actions Since AD 2015–12–08 Was Issued

Since we issued AD 2015–12–08, we have determined that additional airplane models may be subject to the identified unsafe condition.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0060R1, dated July 19, 2018 (referred to

after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A318 and A319 series airplanes; all Model A320–211, A320–212, A320–214, A320–215, A320–216, A320–231, A320–232, A320–233, A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, and A321–232 airplanes; and certain Model A320–251N, A320–271N, and A321–271N airplanes. The MCAI states:

Some oxygen pipe assemblies were found corroded during manufacturing at supplier level. The affected pipe assembly was installed at the end of the right hand (RH) crew distribution line, just upstream of the First Officer and RH Observer oxygen mask boxes.

The investigation showed that the affected pipes had been heat treated just 4 weeks before the summer factory closure and were only cleaned after re-opening of the factory. During this interruption, corrosion developed in these pipes.

This condition, if not detected and corrected, could lead to blocked or reduced oxygen supply to a flight crew member in case of decompression or smoke/fire in the cockpit. In addition, the presence of particles in oxygen lines, under certain conditions, increases the risk of fire in the cockpit.

The parts manufacturer identified the batch numbers of the potentially affected pipes that were manufactured in a specific period in 2011. Based on that information, Airbus identified the aeroplanes on which those pipes were installed on the production line and issued SB A320–35–1069, containing instructions to remove the affected pipes from service.

Consequently, EASA issued AD 2013–0278 [which corresponds to FAA AD 2015–12–08, Amendment 39–18182 (80 FR 34262, June 16, 2015) (''AD 2015–12–08'')] to require the identification and replacement of the affected oxygen pipes. That [EASA] AD also prohibited installation of any affected pipe on other aeroplanes.

After EASA AD 2013–0278 was issued, further investigation determined that affected oxygen pipes may have been installed on more aeroplanes than initially identified. Consequently, Airbus revised SB A320–35–1069 and EASA issued AD 2017–0150, retaining the requirements of EASA AD 2013–0278, which was superseded, and requiring the same actions on these additional aeroplanes.

After EASA AD 2017–0150 was issued, it was determined that five A320 and A321 NEO aeroplanes had been delivered with a configuration which potentially allows the installation of an affected oxygen pipe.

Consequently, EASA issued AD 2018–0060, retaining the requirements of EASA AD 2017–0150, which was superseded, expanding the Applicability to include the five A320 and A321 NEO aeroplanes, and correcting the Table in Appendix 1 by removing MSN [manufacturer serial number] 5091 which belongs to Group 2.

Since that AD was issued, several operator requests were received to clarify the required actions for Group 3 and Group 4 aeroplanes. It was determined that, as per Airbus configuration control, the EASA AD No.: 2018–0060R1 affected parts have been identified as being potentially installed in production only on Group 1 and Group 2 aeroplanes. However, it is possible that those parts migrated to other aeroplanes during maintenance; for that reason, Group 3 and 4 aeroplanes need to be considered. This AD is revised accordingly.

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–2018–0806.

Model A320–216 Airplanes

The Airbus SAS Model A320–216 was type certificated on December 19, 2016. Before that date, any EASA AD that affected Model A320–216 airplanes was included on the Required Airworthiness Action List (RAAL). Model A320–216 airplanes have subsequently been placed on the U.S. Register, and will now be included in FAA AD actions. For Airbus SAS Model A320–216 airplanes, the requirements that correspond to AD 2015–12–08 were mandated by the MCAI via the RAAL. Although that RAAL requirement is still in effect, for continuity and clarity we have identified Airbus SAS Model A320–216 airplanes in paragraph (c) of this proposed AD; the restated requirements of paragraphs (g), (h), and (i) of this proposed AD would therefore apply to those airplanes.

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued Service Bulletin A320–35–1069, Revision 3, dated December 8, 2017. The service information describes an inspection to determine the batch number or installation date of the oxygen pipe assembly that is installed at the end of the right hand crew distribution line, and replacement of the pipe. 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.

Explanation of Revised Service Information

AD 2015–10–08 required using Airbus Service Bulletin A320–35–1069, dated April 26, 2013, for an inspection to determine the batch number or installation date of the oxygen pipe assembly that is installed at the end of the right-hand crew distribution line, and replacement of the pipe if necessary. We have determined that Airbus Service Bulletin A320–35–1069, Revision 3, December 8, 2017, adds additional airplane models to the applicability, but adds no new actions.

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 retain all requirements of AD 2015–12–08, and would revise the applicability to include additional airplane models and additional pipes to be replaced if necessary.

Costs of Compliance

We estimate that this proposed AD affects 50 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	$8,500

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
5 work-hours × $85 per hour = $425	$0	$425

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected 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 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 removing Airworthiness Directive (AD) 2015–12–08, Amendment 39–18182 (80 FR 34262, June 16, 2015), and adding the following new AD:

Airbus SAS: Docket No. FAA–2018–0806; Product Identifier 2018–NM–056–AD.

(a) Comments Due Date

We must receive comments by November 19, 2018.

(b) Affected ADs

This AD replaces AD 2015–12–08, Amendment 39–18182 (80 FR 34262, June 16, 2015) (''AD 2015–12–08'').

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category.

(1) Model A318–111, –112, –121, and –122 airplanes, all manufacturer serial numbers.

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

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

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

(5) Model A320–251N, A320–271N, and A321–271N airplanes, manufacturer serial numbers 6101, 6286, 6419, 6642, and 6673.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a report of corrosion found during the manufacturing process for some oxygen pipe assemblies that are used to supply oxygen to the flight crew. We are issuing this AD to address corrosion of the oxygen pipe assemblies, which could lead to blocked or reduced oxygen supply to a flight crew in case of decompression or smoke/fire in the flight deck. In addition, the presence of particles in oxygen lines, under certain conditions, increases the risk of fire in the flight deck.

(f) Compliance

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

(g) Retained Inspection for Batch Numbers and Replacement, With New Service Information

This paragraph restates the requirements of paragraph (g) of AD 2015–12–08, with new service information. For airplanes identified in paragraph 1.A. of Airbus Service Bulletin A320–35–1069, dated April 26, 2013: Within 7,500 flight hours or 26 months, whichever occurs first after July 21, 2015 (the effective date of AD 2015–12–08), inspect the crew oxygen pipe, having part number (P/N) D3511032000640, to determine the batch number of that pipe, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35–1069, dated April 26, 2013; or Airbus Service Bulletin A320–35–1069, Revision 03, dated December 8, 2017. A review of airplane maintenance records is acceptable in lieu of this inspection if the batch number of the pipe can be conclusively determined from that review. If the batch number of the oxygen pipe is 19356252, 40008586, 40076689, 40187414, 40292749, 40405164, 40649383, 40724994, 40820410, or 40911832: Within 7,500 flight hours or 26 months, whichever occurs first after July 21, 2015, replace the oxygen pipe with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35–1069, dated April 26, 2013; or Airbus Service Bulletin A320–35–1069, Revision 03, dated December 8, 2017. After the effective date of this AD, only Airbus Service Bulletin A320–35–1069, Revision 3, dated December 8, 2017, may be used to do the actions required by this paragraph.

(h) Retained Inspection for Part Number and Installation Date of Crew Oxygen Pipe, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2015–12–08, with no changes. For airplanes identified in paragraphs (c)(1) through (c)(4) of this AD that are not identified in paragraph 1.A. of Airbus Service Bulletin A320–35–1069, dated April 26, 2013: Within 7,500 flight hours or 26 months, whichever occurs first after July 21, 2015 (the effective date of AD 2015–12–08), inspect the crew oxygen pipe to determine whether P/N D3511032000640 was installed after June 2011. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and installation date of the pipe can be conclusively determined from that review. If the pipe was installed after June 2011, or the date cannot be conclusively determined, before further flight, do the actions required in paragraph (g) of this AD.

(i) Retained Parts Installation Prohibition, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2015–12–08, with no changes. For airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, except for Model A320–216 airplanes: As of July 21, 2015 (the effective date of AD 2015–12–08), do not install, on any airplane, a crew oxygen pipe P/N D3511032000640, that is identified as belonging to batch number 19356252, 40008586, 40076689, 40187414, 40292749, 40405164, 40649383, 40724994, 40820410, or 40911832.

(j) New Requirement of This AD: Inspection for Batch Numbers and Replacement for Certain Airplanes

For airplanes identified in paragraph (c)(5) of this AD and for Model A320–216 airplanes: Within 7,500 flight hours or 26 months, whichever occurs first after the effective date of this AD, inspect the crew oxygen pipe, having P/N D3511032000640, to determine the batch number of that pipe, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35–1069, Revision 03, dated December 8, 2017. A review of airplane maintenance records is acceptable in lieu of this inspection if the batch number of the pipe can be conclusively determined from that review. If the batch number of the oxygen pipe is 19356252, 40008586, 40076689, 40187414, 40292749, 40405164, 40649383, 40724994, 40820410, or 40911832: Within 7,500 flight hours or 26 months, whichever occurs first after the effective date of this AD, replace the oxygen pipe with a serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35–1069, Revision 03, dated December 8, 2017.

(k) New Parts Installation Prohibition for Certain Airplanes

For airplanes identified in paragraph (c)(5) of this AD and for Model A320–216 airplanes: As of the effective date of this AD, do not install, on any airplane, a crew oxygen pipe P/N D3511032000640, that is identified as belonging to batch number 19356252, 40008586, 40076689, 40187414, 40292749, 40405164, 40649383, 40724994, 40820410, or 40911832.

(l) Credit for Previous Actions

(1) For the airplanes identified in paragraph (g) of this AD: This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before July 21, 2015 (the effective date of AD 2015–12–08) using a service bulletin identified in paragraph (l)(1)(i) or (l)(1)(ii) of this AD.

(i) Airbus Service Bulletin A320–35–1069, Revision 01, dated March 24, 2014.

(ii) Airbus Service Bulletin A320–35–1069, Revision 02, dated October 26, 2016.

(2) For airplanes identified in paragraph (j) of this AD: This paragraph provides credit for actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using a service bulletin identified in paragraph (l)(2)(i), (l)(2)(ii), or (l)(2)(iii) of this AD.

(i) Airbus Service Bulletin A320–35–1069, dated April 26, 2013.

(ii) Airbus Service Bulletin A320–35–1069, Revision 01, dated March 24, 2014.

(iii) Airbus Service Bulletin A320–35–1069, Revision 02, dated October 26, 2016.

(m) Other FAA AD Provisions

(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:* As of the effective date of this AD, 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.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0060R1, dated July 19, 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–2018–0806.

(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.

(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 23, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21455 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0883; Airspace Docket No. 18–ANE–5]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Bethel, 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 Bethel Regional Airport, Bethel, ME, 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 19, 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–2018–0883; Airspace Docket No. 18–ANE–5, 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 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 Bethel Regional Airport, Bethel, ME, 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–2018–0888 and Airspace Docket No. 18–ANE–5) 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–2018–0883; Airspace Docket No. 18–ANE–5.'' 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 within a 8.6-mile radius (increased from a 6-mile radius) of Bethel Regional Airport, Bethel, ME, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at Bethel Regional 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 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 Bethel, ME [Amended]

Bethel Regional Airport, ME
(Lat. 44°25′31″ N, long. 70°48′36″ W)

That airspace extending upward from 700 feet above the surface within an 8.6-mile radius of Bethel Regional Airport.

Issued in College Park, Georgia, on September 25, 2018.

Christopher Cox,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–21456 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R6–OAR–2018–0386; FRL–9983–94—Region 6]

Air Plan Approval; Texas; Control of Air Pollution From Motor Vehicles With Mobile Source Incentive Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas that pertain to regulations to control air pollution from motor vehicles with mobile source incentive programs.

DATES: Written comments should be received on or before November 5, 2018.

ADDRESSES: Submit your comments, identified by EPA–R6–OAR–2018–0386, at *http://www.regulations.gov* or via email to *pitre.randy@epa.gov.* For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Randy Pitre, (214) 665–7299, *pitre.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this issue of the **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this issue of the **Federal Register**.

Dated: September 26, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–21452 Filed 10–3–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232, 242, and 252

[Docket DARS–2018–0042]

RIN 0750–AJ28

Performance-Based Payments and Progress Payments (DFARS Case 2017–D019)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule; withdrawal and cancellation of public meeting.

SUMMARY: DoD is withdrawing the proposed rule on performance-based payments and progress payments that published on August 24, 2018, and is cancelling the public meeting previously scheduled to be held on October 10, 2018.

DATES: As of October 4, 2018, the proposed rule published on August 24, 2018, at 83 FR 42831 is withdrawn.

The public meeting scheduled for October 10, 2018, as announced on September 21, 2018, at 83 FR 47867, is cancelled.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, OUSD(A&S) DPC/DARS, at 571–372–6106.

SUPPLEMENTARY INFORMATION: This proposed rule is withdrawn in order for DoD to conduct additional outreach with industry regarding contract financing methods. Implementation in the Defense Federal Acquisition Regulation Supplement (DFARS) of section 831 of the National Defense Authorization Act for Fiscal Year 2017 will be addressed in a proposed rule to be published under DFARS Case 2019–D002. Any other changes to contract financing policy will be addressed under DFARS Case 2019–D001.

List of Subjects in 48 CFR Parts 232, 242, and 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2018–21714 Filed 10–3–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. OST–2016–0028]

RIN 2105–AE46

Maintenance of and Access to Records Pertaining to Individuals

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Noticed of proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the Department of Transportation's Privacy Act regulations to exempt the Department of Transportation's new insider threat program system of records from certain requirements of the Privacy Act to protect properly classified information from disclosure, preserve the integrity of insider threat inquiries, and protect the identities of sources in such inquiries and any related investigations.

DATES: Submit comments on or before December 3, 2018.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2016–0028 by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2016–0028 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's system of records notice for dockets in the **Federal Register** notice published on January 17, 2008 (73 FR 3316–3317).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Claire Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590 or *privacy@dot.gov* or (202) 366–8135.

SUPPLEMENTARY INFORMATION: Executive Order 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information, directs Federal departments and agencies to establish insider threat programs consistent with guidance and standards developed by the National Insider Threat Task Force, which was established under section 6 of Executive Order 13587. The National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs were issued in November 2012. As described in Executive Order 13587 and the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, insider threat programs are intended to deter and detect insider threats and mitigate the risks associated with an individual using his or her authorized access to Government information and facilities to do harm to the security of the United States. The potential harms posed by an insider threat can include espionage, terrorism, unauthorized disclosure of national security information, or the loss or degradation of Government resources or capabilities.

The DOT has established an Insider Threat Program within the Office of the Secretary (OST) and the Federal Aviation Administration (FAA). Together, these programs are referred to as the ''DOT Insider Threat Program.'' The DOT Insider Threat Program will adhere to the requirements of Executive Order 13587, and the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, and include protocols for reporting and responding to potential or suspected insider threat activity.

The Privacy Act of 1974, 5 U.S.C. 552a, requires that agencies tell the public when they maintain information about a person in a file which is retrieved by reference to that person's name or some other identifying particular. A group of these files is a ''system of records,'' and the existence of each system must be published in a ''system of records notice'' (SORN). In accordance with the Privacy Act, DOT proposes to create a new DOT system of records titled, ''DOT/ALL 26 Insider Threat Program'' for insider threat program records. This notice will be published in the **Federal Register**.

The DOT Insider Threat Program will maintain information about DOT employees about whom the DOT Insider Threat Program has received reports of indicia of potential insider threats from other Federal agencies, DOT employees, or any other source. As defined in Executive Order 12968, a DOT employee, for purposes of the DOT Insider Threat Program, means ''a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder; or any other category of person who acts for or on behalf of an agency, as determined by the'' Secretary of Transportation or, for the FAA, the FAA Administrator. A licensee, certificate holder (such an airman), or grantee, who is not also a DOT employee, is generally excluded from the DOT Insider Threat Program; however, such individuals may be included if a determination is made that the nature and extent of an individual's access to DOT personnel, facilities, equipment, systems, networks, operations, and information necessitates their inclusion.

The DOT Insider Threat Program will review reports of indicia of potential insider threats in accordance with established DOT and FAA Insider Threat Program management policy and procedures, as applicable. Based on this review, an appropriate authorized OST or FAA official will determine whether to proceed with an insider threat inquiry, refer the matter to appropriate law enforcement officials, close the matter, or take other appropriate action. Insider threat inquiries will be comprised primarily of existing DOT information assets, including, but not limited to, records from information security, personnel security, and human resources, and also may include information obtained from other Federal agencies or from publicly available resources (such as internet searches). The DOT Insider Threat Program records also will be used to track reports of indicia of potential insider threats, whether or not an inquiry was opened, the rationale for opening or not opening an inquiry; the disposition of all inquiries, and referrals to law

enforcement (such as the DOT Office of the Inspector General or the Federal Bureau of Investigation), and to report on DOT's Insider Threat Program activities.

An agency wishing to exempt portions of some systems of records from certain provisions of the Privacy Act must notify the public of that exemption in both the SORN and in an exemption rule. This proposed rule would exempt certain records maintained by the DOT Insider Threat Program from the access and notification provisions of the Privacy Act. An exemption from these requirements would be necessary to: Protect classified national security information; preclude the subject of an inquiry from frustrating an inquiry or evading detection; avoid disclosure of insider threat inquiry techniques; protect the identity of confidential informants and third parties; and support DOT and FAA's ability to obtain information relevant to resolving an insider threat concern. The DOT or FAA may take administrative or other appropriate action within scope of their respective legal authorities in response to an insider threat inquiry or, if circumstances indicate a potential violation of law or a national security concern, refer the matter to the appropriate law enforcement or intelligence entity, such as the DOT Office of Inspector General or the Federal Bureau of Investigation. Thus, the system of records may include some classified national security information and, thus, insofar as it does, the subsection (k)(1) exemption (5 U.S.C. 552a(k)(1)) would be applicable. In addition, an insider threat inquiry is comprised of records compiled for law enforcement and the subsection (k)(2) exemption (5 U.S.C. 552a(k)(2) would be applicable to this system of records.

In appropriate circumstances, where compliance with the request would not appear to interfere with or adversely affect the conduct of an insider threat inquiry or result in the unauthorized disclosure of classified information, OST or FAA may opt to waive these exemptions. In addition, some information may be available under the Freedom of Information Act, 5 U.S.C. 552 (FOIA). Any request for information from this system under the FOIA would be assessed on a case-by-case basis to determine what, if any, information could be released consistent with section (b)(2) of the Privacy Act, 5 U.S.C. 552a(b)(2).

The DOT identifies a system of records that is exempt from one or more provisions of the Privacy Act (pursuant to 5 U.S.C. 552a(j) or (k)) both in the SORN published in the **Federal Register** for public comment and in an Appendix to DOT's regulations implementing the Privacy Act (49 CFR part 10, Appendix). This rule would exempt records in the Insider Threat Program system of records from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(1) and (e)(4)(G) through (I) (Agency Requirements) and (f) (Agency Rules) of the Privacy Act to the extent that records are properly classified, in accordance with 5 U.S.C. 552a(k)(1), or consist of investigatory material compiled for law enforcement purposes in accordance with 5 U.S.C. 552a(k)(2).

Regulatory Analysis and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The DOT has considered the impact of this proposed rulemaking action under Executive Orders 12866 and 13563 (January 18, 2011, ''Improving Regulation and Regulatory Review''), and the DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979). The DOT has determined that this action would not constitute a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures. This rulemaking has not been reviewed by the Office of Management and Budget. This rulemaking is not anticipated to result in any costs. Since these records would be exempt from certain provisions of the Privacy Act, DOT would not have to expend any funds in order to administer those aspects of the Act.

B. Regulatory Flexibility Act

DOT has evaluated the effect these changes would have on small entities and does not believe that this rulemaking would impose any costs on small entities because the reporting requirements themselves are not changed and because the rule applies only to information on individuals that is maintained by the Federal Government or that is already publically available. Therefore, I hereby certify that this proposal would not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, ''[p]romulgation of rules, regulations, and directives.'' 23 CFR 771.117(c)(20). The purpose of this rulemaking is to amend the Appendix to DOT's Privacy Act regulations. The Department does not anticipate any environmental impacts and there are no extraordinary circumstances present in connection with this rulemaking.

D. Executive Order 12898 (Environmental Justice)

The Department evaluated the environmental effects of this proposed rule in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order, 5010.2(a), 91 FR 27534 (May 10, 2012) (available online at *www.fhwa.dot.gov/enviornment/environmental_justice/ej_at_dot/order_56102a/index.cfm*), which require DOT to achieve environmental justice (EJ) as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of its programs, policies, and activities on minority and low income populations in the United States. The DOT Order requires DOT to address compliance with the Executive Order and the DOT Order in all rulemaking activities. The Department has evaluated this proposed rule under the Executive Order and the DOT Order, and has determined preliminarily that the rule would not cause disproportionately high and adverse human health and environmental effects on minority or low income populations.

E. Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, Federalism, dated August 4, 1999, and it has been determined that it would not have a substantial direct effect on, or sufficient Federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the preparation of a Federalism Assessment is not necessary.

F. Executive Order 13084 (Consultation and Coordination With Indian Tribal Governments)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because it would not effect on Indian Tribal Governments, the funding and consultation requirements of Executive Order 13084 do not apply.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this action would not contain a collection of information requirement for the purposes of the PRA.

H. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments; and the private sector. The UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local, or tribal Government; or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $143.1 million or more in any one year (adjusted for inflation), an UMRA analysis is required. This proposed rule would not impose Federal mandates on any State, local, or tribal governments; or the private sector.

List of Subjects in 49 CFR Part 10

Penalties, Privacy.

In consideration of the foregoing, DOT proposes to amend part 10 of title 49, Code of Federal Regulations, as follows:

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

■ 2. Amend the Appendix to Part 10 by:
■ a. In Part II, adding paragraphs A.10, B.4., F.5., and G.2.

The revisions and additions read as follows:

APPENDIX TO PART 10—EXEMPTIONS

Part II. Specific Exemptions

A. * * *

10. Insider Threat Program (DOT/ALL 26),

B. * * *

4. Insider Threat Program (DOT/ALL 26).

* * * * *

F. * * *

5. Insider Threat Program (DOT/ALL 26).

* * * * *

G. * * *

2. Insider Threat Program (DOT/ALL 26).

Issued in Washington, DC, on August 17, 2018.

Elaine L. Chao,

Secretary.

[FR Doc. 2018–21440 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2018–0248]

RIN 2126–AC19

Hours of Service

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening session.

SUMMARY: The FMCSA announces that it will hold a public listening session concerning potential changes to its hours-of-service (HOS) rules for truck drivers. On August 23, 2018, FMCSA published an Advance Notice of Proposed Rulemaking (ANPRM) seeking public comment on four specific aspects of the HOS rules for which the Agency is considering changes: The short-haul HOS limit; the HOS exception for adverse driving conditions; the 30-minute rest break provision; and the split-sleeper berth rule to allow drivers to split their required time in the sleeper berth. In addition, the Agency requested public comment on petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and *TruckerNation.org* (TruckerNation). The Agency encourages vendors of electronic logging devices (ELDs) to participate to address potential implementation issues, should changes to the HOS rules be made. The listening session will be held at the U.S. Department of Transportation in Washington, DC. The listening session will be webcast for the benefit of those not able to attend in person. The listening session will allow interested persons to present comments, views, and relevant research on topics mentioned above. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration.

DATES: The listening session will be October 10, 2018, in Washington, DC, at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. The listening session will begin at 1 p.m. (EDT) and end at 3 p.m., or earlier, if all participants wishing to express their views have done so.

ADDRESSES: The October 10, 2018, meeting will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

You may submit comments identified by Docket Number FMCSA–2018–0248 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.
- *Submissions Containing Confidential Business Information (CBI):* Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: For special accommodations for the HOS listening session, such as sign language interpretation, contact Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, (202) 385–2395 or at *shannon.watson@dot.gov,*

[ONE WEEK IN ADVANCE OF THE MEETING], to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided. For information concerning the HOS rules, contact Mr. Tom Yager, Chief, Driver and Carrier Operations Division, (202) 366–4325, *mcpsd@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this ANPRM (Docket No. FMCSA–2018–0248), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period for the ANPRM. Late comments will be considered to the extent practicable.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to the ANPRM and this listening session, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket for the ANPRM and this listening session. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590 or *brian.dahlin@dot.gov.* Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period for the ANPRM.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 23, 2018 (83 FR 42631), FMCSA published an ANPRM concerning potential changes to its hours-of-service rules. The ANPRM indicated the Agency is considering changes in four areas of the HOS rules: The short-haul HOS limit [49 CFR 395.1(e)(1)(ii)(A)]; the HOS exception for adverse driving conditions [§ 395.1(b)(1)]; the 30-minute rest break provision [§ 395.3(a)(3)(ii)]; and the split-sleeper berth rule to allow drivers to split their required time in the sleeper berth [§ 395.1(g)(1)(i)(A) and (ii)(A)]. In addition, the Agency requested public comment on petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and TruckerNation.org (TruckerNation). The ANPRM provides an opportunity for additional discussion of each of these topics. The listening session will provide an opportunity for interested persons to share their views on these topics with representatives of the Agency. The Agency encourages ELD vendors to participate to address potential implementation issues, should changes to the HOS rules be made.

III. Meeting Participation

The listening session is open to the public. Speakers' remarks will be limited to 2 minutes each. The public may submit material to the FMCSA staff at the session for inclusion in the public docket, FMCSA–2018–0248. The session will be webcast in its entirety, providing the opportunity for remote participation via the internet. For information on participating in the live webcast, please go to *www.fmcsa.dot.gov.*

IV. Questions for Discussion During the Listening Session

In preparing their comments, meeting participants should consider the questions posed in the ANPRM about the current HOS requirements. Answers to these questions should be based upon the experience of the participants and any data or information they can share with FMCSA.

Issued on: September 27, 2018.

Jim Mullen,

Chief Counsel.

[FR Doc. 2018–21628 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BH92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revisions to Sea Turtle Release Gear; Amendment 49

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability (NOA); request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has

submitted Amendment 49 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Amendment 49) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 49 would add three new devices as options for fishermen to meet requirements for sea turtle release gear, and would simplify and clarify the requirements for other sea turtle release gear. The new devices would provide additional options to fulfill existing requirements for carrying sea turtle release gear on board vessels with Federal Gulf commercial or charter vessel/headboat reef fish permits. Amendment 49 would also modify the FMP framework procedure to allow for future changes to release gear and handling requirements for sea turtles and other protected resources. The purpose of Amendment 49 is to allow the use of new devices to safely handle and release incidentally captured sea turtles, clarify existing requirements, and streamline the process for making changes to the release devices and handling procedures for sea turtles and other protected species.

DATES: Written comments on Amendment 49 must be received by December 3, 2018.

ADDRESSES: You may submit comments on Amendment 49 identified by ''NOAA–NMFS–2018–0087'' by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0087,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit all written comments to Susan Gerhart, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 49 may be obtained *www.regulations.gov* or from the Southeast Regional Office website at *https://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.* Amendment 49 includes an environmental assessment, a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act analysis.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305; email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 49 was prepared by the Council, and Amendment 49, if approved, would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Endangered Species Act (ESA) directs all Federal agencies to insure that any action they authorize, fund, or carry-out does not jeopardize the continued existence of endangered or threatened species, or destroy or adversely modify designated critical habitat. The ESA requires that any Federal agency proposing an action that may adversely affect ESA-listed species or critical habitat formally consult with the U.S. Fish and Wildlife Service or NMFS (*i.e.,* consulting agencies).

In February 2005, NMFS issued a biological opinion (2005 BiOp), in accordance with section 7 of the ESA, that evaluated the impact of the Gulf reef fish fishery on endangered sea turtles and smalltooth sawfish. The 2005 BiOp concluded that the anticipated incidental take of sea turtles and smalltooth sawfish by the Gulf reef fish fishery was not likely to jeopardize their continued existence, or destroy or adversely modify designated critical habitat; however, the 2005 BiOp required that reasonable and prudent measures be taken to minimize stress and increase the survival rates of any sea turtles and smalltooth sawfish taken in the fishery.

In response to the 2005 BiOp, the Council developed measures in Amendment 18A to the FMP to increase the likelihood of survival of released sea turtles and smalltooth sawfish caught incidentally in the Gulf reef fish fishery. The final rule implementing Amendment 18A required vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to possess a specific set of release gear, and comply with sea turtle and smalltooth sawfish handling and release protocols and guidelines (71 FR 45428, August 9, 2006). Fishermen on these same federally permitted vessels are also required to maintain a reference copy of the NMFS sea turtle handling and release protocols document titled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'' (Release Protocols), in the event a sea turtle is incidentally captured. These Gulf reef fish permit holders are also required to post a NMFS placard of sea turtle handling and release guidelines inside the wheelhouse, or in an easily viewable area on the vessel if there is no wheelhouse.

Since implementation of Amendment 18A in 2006, the Release Protocols have been revised twice, once in 2008, and again in 2010. Currently, NMFS is drafting a revision to the Release Protocols and would include the recently approved sea turtle release devices if NMFS implements Amendment 49. However, fishermen participating in the reef fish fishery cannot use these devices to meet sea turtle release gear requirements until they are implemented via regulations.

Actions Contained in Amendment 49

Amendment 49 would add three new sea turtle handling and release devices, clarify the requirements for other currently required gear, and modify the FMP framework procedure to include future changes to release gear and handling requirements for sea turtles and other protected resources. NMFS and the Council are proposing these changes to provide additional flexibility to fishermen in complying with sea turtle release gear requirements, to aid fishermen and law enforcement with compliance and enforcement efforts by clarifying existing requirements, and to allow for more rapid implementation of regulatory changes to release gear and handling requirements.

New Sea Turtle Release Gear

The final rule for Amendment 18A established the requirement for sea turtle release gear to be carried on board vessels with Federal commercial and charter vessel/headboat reef fish permits, and specified the devices allowed to meet this requirement.

Amendment 49 would add three new sea turtle release and handling devices that have been approved for use by the NMFS Southeast Fisheries Science Center (SEFSC), providing more options for fishermen to fulfill the sea turtle gear requirements. Details of the construction requirements for these new devices can be found in Amendment 49, and would be included in the new Release Protocols, if subsequently approved by NMFS. NMFS expects the proposed new release devices would increase flexibility for fishermen and regulatory compliance within the fishery, which may result in positive benefits to sea turtles.

Two of the new sea turtle handling devices are a collapsible hoop net and a sea turtle hoist (net). Both of these devices are more compact versions of the currently required long-handled dip net, and would be used for bringing an incidentally captured sea turtle on board the fishing vessel to remove fishing gear from the sea turtle. For the collapsible hoop net, the net portion is attached to hoops made of flexible stainless steel cable; when the collapsible hoop net is folded over on itself for storage, its size reduces to about half of its original diameter. Additionally, there are two versions of the sea turtle hoist. One version consists of the net portion securely fastened to a frame, providing a relatively taut platform for the sea turtle to be brought on board. Another version creates a basket with the frame and net that holds the sea turtle as it is brought on board. Both the collapsible hoop net and the sea turtle hoist use rope handles attached to either side of the frame, in place of the rigid handle on the dip net. Generally, the collapsible hoop net or hoist would be used to bring sea turtles on board vessels with a high freeboard when it is not feasible to use a dip net.

The third new device is a dehooker that can be used to remove an externally embedded hook from a sea turtle. This device has a squeeze handle that secures the hook into notches at the end of the shaft of the dehooker, so the hook can be twisted out. This new device would provide another option for fishermen to comply with the regulation for a short-handled dehooker for external hooks.

Requirements for Existing Sea Turtle Release Gear

Amendment 49 also would also update the requirements of some currently approved devices for clarity and simplicity, and to aid fishermen and law enforcement with compliance and enforcement efforts. These updates would include more specific measurements for sea turtle release gear. The revisions would provide for either a minimum size dimension or a size range for the short-handled dehookers for external and internal hooks, bite block on the short-handled internal use dehooker, long-nose or needle-nose pliers, bolt cutters, and the block of hard wood and hank of rope when used as mouth openers and gags. Other proposed changes are listed below.

Current regulations specify that short and long-handled dehookers must be constructed of 316L stainless steel, which is resistant to corrosion from salt water. The SEFSC has also approved 304L stainless steel for the construction of all short-handled and long-handled dehookers. This proposed additional grade of stainless steel is commonly available and is also corrosion resistant.

Another required device to assist with removing fishing gear from a sea turtle is a pair of monofilament line cutters. Current regulations state that the monofilament line cutters must have cutting blades of 1-inch (2.54 cm) in length (Appendix F to 50 CFR part 622). However, SEFSC has clarified that the blade length must be a minimum of 1 inch (2.54 cm) but could be longer.

Another required gear type is mouth openers and gags, used to hold a sea turtle's mouth open to remove fishing gear. At least two of the seven types of mouth openers and gags are required on board. Current regulations state the canine mouth gags, an option for this gear requirement, must have the ends covered with clear vinyl tubing, friction tape, or similar, to pad the surface. However, SEFSC determined that this was not necessary and could result in the canine mouth gags not functioning properly. Amendment 49 would remove the requirement to cover the ends of the canine mouth gags with these materials from the regulations.

Lastly, a life-saving device on a vessel, such as a personal flotation device or life ring buoy, may currently be used as the required cushion or support device for a sea turtle brought on board a vessel to remove fishing gear. However, Amendment 49 would add language to clarify that any life-saving device used to fulfill the sea turtle safe handling requirements cannot also be used to meet U.S. Coast Guard safety requirements of one flotation device per person on board the vessel.

FMP Framework Procedure

Currently, adding or changing careful release devices and protocols for incidentally caught sea turtles and other protected species requires an amendment to the FMP. This limits the Council and NMFS' ability to implement new release devices and handling requirements in a timely manner. Amending the FMP through the FMP amendment rulemaking process generally involves more detailed analyses and a lengthier timeline prior to implementation than rulemaking done through a framework procedure. However, the FMP contains a framework procedure to allow the Council to modify certain management measures via an expedited process (see 50 CFR 622.42). The FMP framework procedure was last modified by the final rule implementing Amendment 38 to the FMP (78 FR 6218, January 30, 2013).

Amendment 49 would allow changes to the sea turtle release gear and handling techniques under the framework procedure. For example, the Council could more quickly add a new release device for sea turtles if approved by the SEFSC. The Council decided that making these changes through an expedited process may have beneficial biological and socio-economic impacts, especially if the changes respond to newer information. The Council concluded that the framework procedure would still allow adequate time for the public to comment on any future proposed regulatory changes.

Proposed Rule for Amendment 49

A proposed rule that would implement Amendment 49 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 49 for Secretarial review, approval, and implementation. Comments on Amendment 49 must be received by December 3, 2018. Comments received during the respective comment periods, whether specifically directed to Amendment 49 or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 49. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 1, 2018.

Margo Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–21635 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180807736–8736–01]

RIN 0648–BI41

Fisheries of the Northeastern United States; Framework Adjustment 12 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement measures included in Framework Adjustment 12 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan that would allow the possession of Atlantic mackerel after 100 percent of the domestic annual harvest is projected to be caught. This action proposes to allow the possession of 5,000 lb of Atlantic mackerel after 100 percent of the domestic annual harvest is caught instead of prohibiting the possession of Atlantic mackerel for the rest of the year. This action is necessary to prevent unintended consequences and negative economic impacts to other fisheries. The intended effect of this rule is to notify the public of this proposed measure and to solicit comment on the proposed change.

DATES: Public comments must be received by October 19, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0099, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0099,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Mackerel Framework 12.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only.

The Mid-Atlantic Fishery Management Council prepared a draft supplemental environmental assessment for the Framework 12 that describes the proposed action and other alternatives considered and provides a thorough analysis of the impacts of the proposed action and alternatives considered. Copies of the Framework 12 including the draft SEA and the preliminary Regulatory Impact Review, analysis are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The SEA/RIR is accessible via the internet at *http://www.greateratlantic.fisheries.noaa.gov/* or *http://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Alyson Pitts, Fishery Management Specialist, (978) 281–9352, *Alyson.Pitts@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

When the Atlantic mackerel fishery starts each year, the various mackerel permit categories start with different trip limits. Tier 1 limited access permit holders have an unlimited trip limit, Tier 2 limited access permit holders have a 135,000-lb (61,235-kg) trip limit, and Tier 3 limited access permit holders have a 100,000-lb (45,359-kg) trip limit. The open access incidental permit has a 20,000-lb (9,072-kg) trip limit. When the fishery reaches 95 percent of the domestic annual harvest (DAH), all permits have 20,000-lb (9,072-kg) trip limits. When the fishery reaches 100 percent of the DAH, no mackerel possession is allowed by vessels with Federal mackerel permits.

The mackerel fishery also operates under a river herring and shad (RH/S) catch cap, which closes the directed mackerel fishery and implements a 20,000-lb (9,072-kg) trip limit for all permits once the catch cap, currently 82 mt of RH/S, has been projected to be caught in the directed mackerel fishery. In 2018, the RH/S cap closed the mackerel fishery effective February 27, 2018 (83 FR 8635), at which point approximately 88 percent of the mackerel DAH had been harvested. Despite the early mackerel closure due to the RH/S cap, fishery participants, including small-scale mackerel jig fishermen and larger, directed herring fishermen, whose respective fisheries occur late in the year, raised concern to the Council that if mackerel catch reaches 100 percent of its quota and possession goes to zero pounds, they will be negatively impacted. Projections indicate a full closure could occur upon reaching 100 percent of the DAH at some point in November or December of 2018, depending on the pace of mackerel landings.

There is a management uncertainty buffer for the mackerel fishery, currently 10 percent of the commercial allocation that is primarily designed to account for the difficulty in closing a high volume fishery, such as mackerel. Where the RH/S cap has already effectively closed the high-volume part of the fishery, the buffer is unlikely to be utilized in its original intent this year. Projections from Council staff suggest that if the fishery does not go to a zero possession limit at 100 percent of the DAH but rather a 5,000-lb (2,268-kg) trip limit, then only an additional 384,000-lb (174,180-kg) would be landed, which is a small part (17 percent) of this year's management uncertainty buffer.

The Atlantic mackerel stock was recently declared overfished, with overfishing occurring in 2016. The Council is preparing a rebuilding plan via a separate action that is on track to be effective in 2019. The projections from the assessment for that action indicate that the stock can be rebuilt in 3-, 5-, or 7-year timelines even if the full management uncertainty buffer is caught this year. The rebuilding plan projections assume that the full management uncertainty buffer will be caught in 2018.

Under the proposed change to possession limits when the DAH is harvested, at its June 2018 meeting, the Council recommended to change the trip limit once 100 percent of the DAH is landed, from zero pounds to 5,000 lb (2,268 kg) through Framework 12. The New England Fishery Management Council also discussed the issue in June 2018 and expressed support for an action that would avoid the full

prohibition of mackerel possession due to impacts on the herring fishery. This action would allow a 5,000-lb (2,269-kg) possession limit after the DAH has been harvested. The Council has reviewed the proposed regulations in this rule as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

This rule proposes a 15-day comment period to ensure final measures can be effective by early November to avoid adverse economic impacts on the commercial fishing industry. The Council discussed the development of this action in April and May, and made a final recommendation in June, 2018. Because the public had an opportunity to comment on this action at these meetings, an expedited comment period would allow this action to be effective without compromising public input and our goal of implementing this action by early November.

Proposed Measure

The proposed measure would allow the possession of 5,000 lb (2,268 kg) of Atlantic mackerel after 100 percent of the DAH has been projected to be harvested.

Framework 12 proposes to allow the possession of Atlantic mackerel after 100 percent of the DAH is harvested for the remainder of fishing year 2018. Current regulations prohibit the possession of Atlantic mackerel after 100 percent of the DAH is harvested.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Framework Adjustment 12, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making a final determination, NMFS will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The purpose, context, and statutory basis for this action is described above and not repeated here.

In determining the significance of the economic impacts of the proposed action, we considered the following two criteria outlined in applicable NMFS guidance: Disproportionality and profitability. The Regulatory Impact Review determined that the proposed measures would not place a substantial number of small entities at a significant competitive disadvantage to large entities. This measure would allow commerce to continue that would otherwise be stopped, and would benefit small business owners and commercial fishing entities. There are no distributional economic effects from this action, as proposed measures would maintain fishing opportunities for Atlantic mackerel and Atlantic herring if 100 percent of the DAH is harvested. The combined mackerel and herring fisheries are worth $50 million or less annually, and only a relatively small portion of the overall fishery may be affected by this action. The proposed measures would allow maintenance of, or a relatively small increase in, fishery landings/revenues. As such, the proposed measures should help maintain the sustainability of the mackerel and herring fisheries, and should positively rather than adversely affect the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 1, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.14, revise paragraph (g)(2)(ii)(D) and remove and reserve paragraph (g)(2)(ii)(F).

The revision reads as follows:

§ 648.14 Prohibitions.

* * * * *

(g)* * *

(2)* * *

(ii)* * *

(D) Take and retain, possess, or land mackerel, squid, or butterfish in excess of the possession limits specified in § 648.26.

* * * * *

■ 3. In § 648.24, revise paragraph (b)(1)(i) to read as follows:

§ 648.24 Fishery closures and accountability measures.

* * * * *

(b) * * *

(1)(i) *Mackerel commercial sector EEZ closure.* NMFS will close the commercial Atlantic mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the Atlantic mackerel DAH is harvested if such a closure is necessary to prevent the DAH from being exceeded. The closure of the commercial fishery shall be in effect for the remainder of that fishing year, with incidental catches allowed as specified in § 648.26. When the Regional Administrator projects that 100 percent of the Atlantic mackerel DAH will be landed, NMFS will reduce the possession of Atlantic mackerel in the EEZ for the remainder of the fishing year to the amount specified in § 648.26(a)(2)(ii).

* * * * *

■ 4. In § 648.26, revise paragraphs (a)(1) introductory text and (a)(2) to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

(a) * * *

(1) *Initial possession limits.* A vessel must be issued a valid limited access mackerel permit to fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel from or in the EEZ per trip, provided that the fishery has not been closed, as specified in § 648.24(b)(1).

* * * * *

(2) *Closure possession restrictions*—(i) *Limited Access Fishery.* During a closure of the commercial Atlantic mackerel fishery pursuant to § 648.24(b)(1)(i), when 95 percent of the DAH is harvested, vessels issued a limited access Atlantic mackerel permit may not take and retain, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours. Pursuant to § 648.24(b)(1)(ii), when 90 percent of the Tier 3 allocation is harvested, vessels issued a Tier 3 limited access Atlantic mackerel permit may not take and retain, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel

once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(ii) *Entire commercial fishery.* During a closure of the directed commercial Atlantic mackerel fishery pursuant to § 648.24(b)(1)(i), when 100 percent of the DAH is harvested, vessels issued an open or limited access Atlantic mackerel permit may not take and retain, possess, or land more than 5,000 lb (2.26 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

* * * * *

[FR Doc. 2018–21616 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 180709616–8616–01]

RIN 0648–BI07

Fisheries of the United States; Regulations for Striped Bass Fishing in the Block Island Transit Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS issues this advance notice of proposed rulemaking (ANPR) to provide background information and make the public aware of a proposal to remove the current prohibition on recreational Atlantic striped bass fishing in the Block Island Transit Zone (Transit Zone) within the Federal exclusive economic zone (EEZ). The ANPR is in response to the 2018 Omnibus Appropriations Act which included the provision directing NOAA, in consultation with the Atlantic States Marine Fisheries Commission, to consider lifting the ban on striped bass fishing in the Federal Block Island Transit Zone. NMFS communicated the intent to issue this ANPR at the Atlantic States Marine Fisheries Commission's August 2018 public meeting. By this action, NMFS is soliciting public comment on options presented to regulate fishing for striped bass in the Transit Zone. In addition, comments on other options to improve management of Atlantic striped bass in the Transit Zone are welcomed and encouraged.

DATES: Written comments regarding the issues in this ANPR must be received by 5 p.m., local time, on November 19, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0106, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0106,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelly Denit, Division Chief, Office of Sustainable Fisheries, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.
- *Fax:* 301–713–1193; Attn: Kelly Denit.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kelly Denit, Division Chief, Office of Sustainable Fisheries, National Marine Fisheries Service, 301–427–8517.

SUPPLEMENTARY INFORMATION:

Background

Atlantic striped bass occur predominately within 12 nautical miles from shore, an area which includes both waters (0–3 miles from shore) under state jurisdiction, as well as portions of the Exclusive Economic Zone (3–200 miles from shore) under Federal jurisdiction. Management responsibility for Atlantic striped bass resides primarily with the coastal states, and interstate management occurs through the Atlantic State Marine Fisheries Commission's (Commission) Interstate Fisheries Management Plan for the Atlantic Striped Bass (ISFMP), first adopted in 1981. In 1995, the Commission declared the Atlantic striped bass population fully restored and implemented Amendment 5 to the ISFMP to perpetuate the stock so as to allow a commercial and recreational harvest consistent with the long-term maintenance of the striped bass stock. The latest stock assessment update completed in 2016 determined that the Atlantic striped bass stock is not overfished or experiencing overfishing.

NMFS promulgates regulations in Federal waters that are compatible with the Commission's ISFMP. The Atlantic Striped Bass Conservation Act (Pub. L. 100–589, 16 U.S.C. 5151, *et seq.*) sets forth the basis for Federal striped bass regulatory authority. Under the act, Federal Atlantic striped bass regulations must comply with the following: (1) Be consistent with the national standards in Section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1851); (2) be compatible with the fishery management plan for managing Atlantic striped bass and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal state; (3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal state; and (4) be sufficient to assure the long-term conservation of Atlantic striped bass populations. Further, in developing the regulations, the Secretary is to consult with the Commission, the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state, and local government entity.

Existing Federal regulations prohibit recreational and commercial fishing for Atlantic striped bass in the EEZ. The regulations do, however, allow fishers to transport Atlantic striped bass caught in adjoining state fisheries while transiting the Block Island Transit Zone (Transit Zone; 50 CFR 697.7). The Transit Zone is defined in NMFS regulations as the area of Federal waters within Block Island Sound, located between areas south of Montauk Point, New York, and Point Judith, Rhode Island. The Transit Zone area is unique because it is a small area of Federal waters (Block Island Sound) substantially bounded by state waters (Long Island, New York on one side, Block Island, Rhode Island on another, and the mainland of Connecticut and Rhode Island on a third side).

NMFS is considering revising current regulations to authorize recreational fishing in the Block Island Transit Zone. This would allow recreational fishermen to harvest, retain, and transport striped bass within the Block Island Transit Zone. The ANPR is in response to the 2018 Omnibus Appropriations Act (Pub. L. 115–141) which included the provision directing ''NOAA, in consultation with the Atlantic States Marine Fisheries

Commission, to consider lifting the ban on striped bass fishing in the Federal Block Island Transit Zone.'' NMFS communicated the intent to issue this ANPR to the Atlantic States Marine Fisheries Commission at the August 2018 meeting. NMFS is not proposing to allow commercial striped bass fishing in the Transit Zone, consistent with Executive Order 13449 (October 24, 2007; 72 FR 60531), ''Protection of Striped Bass and Red Drum Fish Populations,'' which declared it the policy of the United States to prohibit the sale of striped bass caught in the EEZ.

Public Comments

To help determine the scope of issues to be addressed and to identify significant issues related to this action, NMFS is requesting public comments on this ANPR. The public is encouraged to submit comments related to the potential regulatory revisions described in this ANPR, as well as additional ideas to improve management of striped bass in the Block Island Transit Zone.

Authority: 16 U.S.C. 1827a.

Dated: September 28, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018–21613 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 193
Thursday, October 4, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0053]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of the international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0053.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0053, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0053* or in our reading Room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Ms. Jessica Mahalingappa, Assistant Deputy Administrator for Trade and Capacity Building, International Services, APHIS, Room 1132, USDA South Building, 14th Street and Independence Avenue SW, Washington, DC 20250; (202) 799–7121.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, International Animal Health Standards Team, National Import Export Services, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737; (301) 851–3302.

For specific information regarding the standard-setting activities of the International Plant Protection Convention, contact Dr. Marina Zlotina, IPPC Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road Unit 130, Riverdale, MD 20737; (301) 851–2200.

For specific information on the North American Plant Protection Organization, contact Ms. Patricia Abad, NAPPO Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road Unit 130, Riverdale, MD 20737; (301) 851–2264.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and welfare and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC or the Convention) and the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization and

the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 181 Members, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country or territory. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its Members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of Members for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Members. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Members for consultation (review and comment). Draft standards are revised accordingly and are presented to the OIE World Assembly of Delegates (all the Members) for review and adoption during the General Session, which meets annually every May. Adoption, as a general rule, is based on consensus of the OIE membership.

The most recent OIE General Session occurred May 20 to May 25, 2018, in Paris, France. The Chief Trade Advisor for APHIS' Veterinary Services program serves as the official U.S. Delegate to the OIE at this General Session. The Deputy Administrator for APHIS' Veterinary Services program serves as the Alternate Delegate. Information about OIE draft Terrestrial and Aquatic Animal Health Code chapters may be found on the internet at *http://www.aphis.usda.gov/animal-health/export-animals-oie* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial and Aquatic Animal Health Code Chapters Adopted During the May 2018 General Session

Twenty nine Code chapters were amended, rewritten, or newly proposed and presented for adoption at the General Session. The following Code chapters are of particular interest to the United States:

1. *Chapters 1.7, 1.8, 1.9, 1.10, 1.11, and 1.12., Chapters on the application for official recognition by the OIE of either risk status or free status for various diseases.* The United States reminded the Code Commission to respect the process for circulating new and updated chapters to allow member countries the time that is necessary to properly review and comment on such chapters.

2. *Chapter 4.3., Zoning and Compartmentalization.* This chapter was significantly revised and either introduced or clarified various concepts regarding zones.

3. *Chapter 4.X., Chapter on vaccination.* This is a new chapter that provides member countries with basic guidelines and recommendations when considering the use of vaccines for a control program.

4. *Chapter 6.7., Harmonization of national antimicrobial resistance surveillance and monitoring programmes.* References to conducting antimicrobial surveillance on ''the animal's immediate environment or the wide environment'' was deleted.

5. *Articles 6.81 and 6.8.bis., Monitoring of the quantities and usage patterns of antimicrobial agents used in food producing animals.* This is an existing chapter, however definitions for *therapeutic use, non-therapeutic use,* and *growth promotion* were introduced. The terms *veterinary medical use* and *non-veterinary medical use* were replaced with the terms *therapeutic use* and *non-therapeutic use,* respectively.

6. *Chapter 6.13., Prevention and control of Salmonella in pigs.* Several articles were revised to improve clarity, particularly with regards to the definition of *commercial pigs.*

7. *Chapter 6.X., Introduction to recommendations for veterinary public health.* This was a newly adopted chapter.

8. *Article 7.1.1., Introduction to the recommendations for animal welfare.* This was an amendment to an existing chapter.

9. *Article 7.1.X., Guiding principles for the use of measures to assess animal welfare.* The phrase ''and other relevant bodies'' was reinserted. This was important since entities such as universities and commodity groups often are the ones with the capability to collect data that can be used to set target values.

10. *Chapter 7.X., Animal welfare and pig production systems.* The United States supported the adoption of this new chapter, but requested that the Code Commission consider further comments that the United States will be submitting related to some inconsistencies between Articles 7.X.9 and 7.X.10 to address foraging and feeding behavior recommendations.

OIE Terrestrial Animal Health Code Chapters for Upcoming and Future Review

- *Chapter 1.4., Animal health surveillance.*
- *Chapter 4.Y., Official control of listed disease.* This will be a new chapter.

- *Chapter 4.Z., Introduction to recommendations for disease prevention and control.* This will be a new introductory chapter for section 4.
- *Chapter 7.Y., Killing of reptiles for their skins, meat and other products.* This will be a new chapter.
- *Articles 15.1.1.bis., 15.1.2., 15.1.3., and 15.1.22., Infection with African swine fever virus.*
- *Articles 1.6.1. to 1.6.4., Procedures for self-declaration and for official recognition by the OIE.*
- *Chapter 8.14., Infection with rabies virus.*

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. The WTO recognizes the IPPC as the standard setting body for plant health. Under the IPPC, the understanding of plant protection encompasses the protection of both cultivated and non-cultivated plants from direct or indirect injury by plant pests. The IPPC addresses the following activities: Developing, adopting, and implementing international standards for phytosanitary (plant health) measures (ISPMs); harmonizing phytosanitary activities through adopted standards; facilitating the exchange of official and scientific information among countries; and providing technical assistance to developing countries that are contracting parties to the Convention.

The IPPC is deposited within the Food and Agriculture Organization of the United Nations, and is an international agreement of 183 contracting parties. National plant protection organizations (NPPOs), in cooperation with regional plant protection organizations, the Commission on Phytosanitary Measures (CPM), and the Secretariat of the IPPC, implement the Convention. The IPPC continues to be administered at the national level by plant quarantine officials, whose primary objective is to safeguard plant resources from injurious pests. In the United States, the NPPO is APHIS' Plant Protection and Quarantine (PPQ) program.

The 12th Session of the CPM took place from April 16 to 20, 2018, in Rome, Italy, at the Headquarters of the Food and Agriculture Organization of the United Nations. The Deputy Administrator for APHIS' PPQ program was the U.S. delegate to the CPM.

The CPM adopted the following standards at its 2018 meeting. The United States, represented by the Deputy Administrator for APHIS' PPQ program, participated in deliberations of these standards. The United States developed its position on each of these issues prior to the CPM session, which were based on APHIS' analyses and other relevant information from other U.S. Government agencies and interested stakeholders:

- Revision of ISPM 6: Surveillance.
- 2015 and 2016 amendments to ISPM 5: Glossary of phytosanitary terms.
- Revision of Annex 1 and Annex 2 to ISPM 15, for inclusion of the phytosanitary treatment sulphuryl fluoride fumigation and revision of the dielectric heating section.
- ISPM 42: Requirements for the use of temperature treatments as a phytosanitary measures.
- Phytosanitary treatment as Annex to ISPM 28: Phytosanitary treatments for regulated pests: PT 32 Vapour heat treatment for *Bactrocera dorsalis* on *Carica papaya.*
- Diagnostic protocols (DPs) as Annexes to ISPM 27: Diagnostic protocols for regulated pests.
  - DP 23: *Phytophthora ramorum.*
  - DP 24: *Tomato spotted wilt virus, Impatiens necrotic spot virus,* and *Watermelon silver mottle virus.*

In addition to adopting these plant health standards, the 2018 Commission meeting also progressed a number of plant health initiatives strategically important to the United States. These initiatives include advancing the development of a new IPPC strategic framework for 2020–2030 to set the top priorities for plant health and trade, launching a pilot of a global electronic certification system to support trade (ePhyto), developing programs aimed at improving the use and implementation of standards around the world, and creating a task force for addressing pests issues associated with the international movement of sea containers.

New IPPC Standard-Setting Initiatives, Including Those in Development

A number of expert working group (EWG) meetings or other technical consultations took place October 2017 through July 2018 on the topics listed below. These standard-setting initiatives are under development and may be considered for future adoption. APHIS intends to participate actively and fully in each of these working groups. APHIS developed its position on each of the topics prior to the working group meetings. The APHIS position was based on technical analyses, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders:

- Expert Working Group on Guidance on Pest Risk Management.
- Technical Panel for the Glossary of Phytosanitary Terms.
- Technical Panel on Diagnostic Protocols.
- Technical Panel on Phytosanitary Treatments.

For more detailed information on the above, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above).

PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during the consultation periods. In 2018, six draft standards and one draft specification were open for consultation. APHIS posts links to draft standards on its website as they become available and provides information on the due dates for comments.[1] Additional information on IPPC standards (including the IPPC work program (list of topics [2]), standard-setting process, and adopted standards) is available on the IPPC website.[3] For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Zlotina.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among the United States, Canada, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. As the NPPO of the United States, APHIS' PPQ is the organization officially identified to participate in NAPPO. Through NAPPO, APHIS works closely with its regional counterparts and industries to

[1] For more information on the IPPC draft ISPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/sa_international/sa_phytostandards/ct_draft_standards.*

[2] IPPC list of topics: *https://www.ippc.int/en/core-activities/standards-setting/list-topics-ippc-standards/.*

[3] IPPC website: *https://www.ippc.int/.*

develop harmonized regional standards and approaches for managing pest threats. NAPPO conducts its work through priority-driven annual projects approved by the NAPPO Executive Committee and conducted by expert groups, including subject matter experts from each member country and regional industry representatives. Project results and updates are provided during the NAPPO annual meeting. Projects can include the development of positions, policies, or technical documents, or the development or revision of regional standards for phytosanitary measures (RSPMs). Projects can also include implementation of standards or other capacity development activities such as workshops.

The 41st NAPPO annual meeting was held October 16 to 19, 2017, in Merida, Yucatan, Mexico. The meeting featured several strategic topics, including a 1-day symposium on surveillance in the NAPPO countries and the Americas. The NAPPO Executive Committee meetings took place on October 16 and 20, 2017, and February 15, 2018. The Deputy Administrator for PPQ is the U.S. member of the NAPPO Executive Committee.

The NAPPO expert groups, including member countries' subject matter experts, finalized the following regional standards, documents, products, and projects in 2017–2018:

- Completed an English language online training module on RSPM 12–Preparation of a Petition for First Release of a Non-indigenous Entomophagous Biological Control Agent.
- Organized and delivered the first International Symposium on Risk-Based Sampling in June 2017 in Baltimore, MD, which included 122 government, industry, and academic participants from 27 countries.
- Completed a NAPPO discussion document on Criteria for Evaluating Phytosanitary Seed Treatments. The NAPPO Executive Committee approved this document during the 2017 October NAPPO annual meeting.
- Completed a discussion document on Likelihood of Establishment. The NAPPO Executive Committee approved this document during the 2017 October NAPPO annual meeting.
- Issued via NAPPO's Phytosanitary Alert System (PAS): 29 Official Pest Reports and 6 Emerging Pest Alerts for FY 2018 (from October 2017 to July 2018).
- Conducted a review of RSPM 36 (Phytosanitary Guidelines for the Movement of Seed) and completed the archiving of RSPM 36 in-light of the newly adopted ISPM 38: International Movement of Seeds.

New NAPPO Standard-Setting Initiatives, Including Those in Development

The 2018 work program [4] includes the following topics being worked on by NAPPO expert groups and NAPPO's Advisory and Management Committee. APHIS intends to participate actively and fully in the 2018 NAPPO work program. The APHIS position on each topic will be guided and informed by the best technical and scientific information available, as well as on relevant input from stakeholders. For each of the following, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO projects, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO website or by contacting Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above).

1. RSPM 9: Revision of Regional Standard for Phytosanitary Measures 9: Authorization of Laboratories for Phytosanitary Testing.
2. RSPM 35: Revision of Regional Standard for Phytosanitary Measures 35: Guidelines for the Movement of Stone and Pome Fruit Trees and Grapevines into a NAPPO Member Country.
3. ISPM 38 Implementation: Design and deliver a hemispheric (Americas focused) workshop to promote the understanding and implementation of ISPM 38: International Movement of Seeds.
4. Forestry Systems Approaches: Finalize a NAPPO Regional Standard for Phytosanitary Measures (RSPM 41) on the use of systems approaches to manage pest risks associated with the movement of wood.
5. Lymantriids: Develop a NAPPO Science and Technology document on the risks associated with Lymantriids of concern to the NAPPO region, identifying potential species and pathways of concern.
6. Khapra Beetle: Develop a discussion document on a harmonized North American approach to preventing the introduction, establishment, and spread of khapra beetle in various pathways.
7. Biological Control: Develop online training module in Spanish on preparing a petition for first release of an entomophagous biological control agent.
8. Risk-Based Sampling: Complete and publish proceedings from 2017 International Risk-Based Sampling Symposium (organized by NAPPO) as well as Risk-Based Sampling Manual.
9. Asian Gypsy Moth: Validate specific risk periods for regulated Asian gypsy moth in countries of origin.
10. Foundation and Procedure documents: Continue to update and finalize various foundation or procedure documents.
11. Electronic Phytosanitary Certification: Provide assistance and technical support to the IPPC ePhyto Steering Group.
12. Phytosanitary Alert System: Continue to manage the NAPPO pest reporting system.
13. Update to Pest List for RSPM 3: Movement of Potatoes into a NAPPO Member Country.
14. Regional Collaboration: Collaboration (mainly information exchange) with the Interamerican Coordinating Group in Plant Protection (GICSV), via Technical Working Groups on ePhyto and citrus greening (HLB).
15. Stakeholder Engagement: Plan, coordinate and execute activities for the October 2018 NAPPO Annual Meeting in Tucson, Arizona, and publish the quarterly newsletter.

The PPQ Assistant Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards and projects, including the work described above, once they are completed and ready for such consideration.

The information in this notice contains all the information available to us on NAPPO standards under development or consideration. For updates on meeting times and for information on the expert groups that may become available following publication of this notice, visit the NAPPO website or contact Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above). PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during consultation periods. APHIS posts links to draft standards on the internet as they become available and provides information on the due dates for comments.[5] Additional information on

[4] NAPPO work program: *http://nappo.org/english/710/status-current-nappo-projects/.*

[5] For more information on the NAPPO draft RSPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/sa_international/sa_phytostandards/ct_draft_standards.*

NAPPO standards (including the NAPPO Work Program, standard setting process, and adopted standards) is available on the NAPPO website.[6] Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Abad. Those wishing to provide comments on any of the topics being addressed in the NAPPO work program may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Abad.

Done in Washington, DC, on September 27, 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–21577 Filed 10–3–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of the Advisory Committee on Agriculture Statistics Meeting

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Agricultural Statistics Service (NASS) announces a meeting of the Advisory Committee on Agriculture Statistics.

DATES: The Committee meeting will be held from 8:00 a.m. to 5:30 p.m. on Wednesday, November 14, 2018, and from 8:00 a.m. to 12:30 p.m. on Thursday, November 15, 2018. There will be an opportunity for public questions and comments at 8:15 a.m. on Thursday, November 15, 2018. All times mentioned herein refer to Central Standard Time.

ADDRESSES: The Committee meeting will take place at the Wyndham San Antonio Riverwalk, 111 E Pecan St., San Antonio, TX 78205. Written comments may be filed before or up to two weeks after the meeting with the contact person identified herein at: U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW, Room 5041–A, South Building, Washington, DC, 20250–2000.

FOR FURTHER INFORMATION CONTACT: Kevin Barnes, Associate Administrator, National Agricultural Statistics Service, telephone: 202–720–4333, eFax: 855–493–0445, or email: *HQOA@nass.usda.gov.* General information about the committee can also be found at *https://www.nass.usda.gov/About_NASS/index.php.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on Agriculture Statistics, which consists of 20 members appointed from 7 categories covering a broad range of agricultural disciplines and interests, has scheduled a meeting on November 14–15, 2018. During this time the Advisory Committee will discuss topics including the status of NASS programs, Census of Agriculture Updates, Census of Agriculture Program Plans, and the NASS Strategic Plan.

The Committee meeting is open to the public. The public is asked to pre-register for the meeting at least 10 business days prior to the meeting. Your pre-registration must state the names of each person in your group, organization, or interest represented; the number of people planning to give oral comments, if any; and whether anyone in your group requires special accommodations. Submit registrations to Executive Secretary, Advisory Committee on Agriculture Statistics, via eFax: 855–493–0445, or email: *HQOA@nass.usda.gov.* Members of the public who request to give oral comments to the Committee must arrive at the meeting site by 8:00 a.m. on Thursday, November 15, 2018. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the meeting. The public may file written comments by mail to the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW, Room 5041–A South Building, Washington, DC, 20250–2000. Written comments can also be sent via eFax: 855–493–0445, or email: *HQOA@nass.usda.gov.* All statements will become a part of the official records of the USDA Advisory Committee on Agriculture Statistics and will be kept on file for public review in the office of the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, Washington, DC, 20250.

Signed at Washington, DC, September 19, 2018.

Kevin Barnes,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 2018–21611 Filed 10–3–18; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the List Sampling Frame Surveys. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, and questionnaire length. Annually, NASS obtains lists of farm and ranch operators from different crop and livestock organizations. Before adding these names to our list of active operators we will contact the individuals to determine if they qualify as a farm or ranch and then collect basic information from them on the size and type of operation they have. These data will be used to eliminate any duplication we may have with names already on our list.

In addition to the names of potential operators we receive from different crop and livestock organizations, NASS has been investigating the use of web-scraping as a source of identifying new farm operators to add to our List Frame. This new approach will be conducted under a two stage process. A short screening form will be used first to identify potential agricultural producers who will then receive a more detailed questionnaire. This approach is designed to minimize respondent burden on small or non-farming entities.

DATES: Comments on this notice must be received by December 3, 2018 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0140, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *eFax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

[6] NAPPO website: *http://nappo.org/.*

• *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: List Sampling Frame Surveys.

OMB Control Number: 0535–0140.

Expiration Date of Approval: January 31, 2019.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The List Sampling Frame Surveys are used to develop and maintain a complete list of possible farm and ranch operations. The goal is to produce for each State a relatively complete, current, and unduplicated list of names for statistical sampling for agricultural operation surveys and the Census of Agriculture. Data from these agricultural surveys are used by government agencies and educational institutions in planning, farm policy analysis, and program administration. More importantly, farmers and ranchers use NASS data to help make informed business decisions on what commodities to produce and when is the optimal time to market their products. NASS data is useful to farmers in comparing their farming practices with the economic and environmental data published by NASS.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and the Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33376.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 to 15 minutes per respondent.

Respondents: Potential Farmers and Ranchers.

Estimated Number of Respondents: 675,000 (annual average).

Estimated Total Annual Burden on Respondents: With an estimated response rate of approximately 65% NASS estimates the burden to be approximately 145,000 hours (annually).

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, September 26, 2018.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2018–21612 Filed 10–3–18; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Oklahoma 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 Oklahoma Advisory Committee (Committee) will hold a meeting on Tuesday October 23, 2018 at 3:00 p.m. Central time. The Committee will review a draft project proposal and discuss next steps in their study of the state's 2012 ''Civil Rights Initiative,'' which bars consideration of race or sex in public employment, admissions to public educational institutions, or public contracts.

DATES: The meeting will take place on Tuesday, October 23, 2018 at 3:00 p.m. Central.

Public Call Information: Dial: 1–855–719–5012, Conference ID: 5395512.

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, Oklahoma 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

I. Welcome and Roll Call
II. Discussion: Project Proposal, OK 2012 Civil Rights Initiative
III. Public Comment
IV. Vote on Proposal
V. Next Steps
VI. Adjournment

Dated: September 28, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–21588 Filed 10–3–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30am. (EST) on Tuesday, October 9, 2018. The PA Committee is considering possible topics for its civil rights project. At this meeting Catherine Lhamon, USCCR Chair, will present issues under review by the Commission that the Committee may want to consider when selecting its civil rights project.

DATES: Tuesday, October 9, 2018, at 11:30 a.m. EST.

Public Call–In Information: Conference call-in number: 855–710–4182 and conference call 5309106.

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 855–710–4182 and conference call 5309106. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 855–710–4182 and conference call 5309106.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=279,* click the ''Meeting Details'' and ''Documents'' links.Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda: Tuesday, October 9, 2018

I. Rollcall
II. Welcome and Introductions
III. Catherine Lhamon Presentation Discussion of Commission Civil Rights Topics
IV. Other Business
V. Adjourn

Dated: September 27, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–21579 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–60–2018]

Foreign-Trade Zone 64—Jacksonville, Florida; Application for Reorganization (Expansion of Service Area) Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Jacksonville Port Authority, grantee of Foreign-Trade Zone 64, requesting authority to reorganize the zone to expand its service area under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on September 27, 2018.

FTZ 64 was approved by the Board on December 29, 1980 (Board Order 170, 46 FR 1330, January 6, 1981), reorganized under the ASF on May 6, 2011 (Board Order 1759, 76 FR 28418, May 17, 2011), and the service area was expanded under the ASF on July 5, 2012 (Board Order 1840, 77 FR 41374, July 13, 2012). The zone currently has a service area that includes Baker, Bradford, Clay, Columbia, Duval, Nassau, Putnam and St. Johns Counties, Florida.

The applicant is now requesting authority to expand the service area of the zone to include Flagler County, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The application indicates that the proposed expanded service area is adjacent to the Jacksonville Customs and Border Protection Port of Entry.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The

closing period for their receipt is December 3, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 18, 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 FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov* or (202) 482–5928.

Dated: September 27, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–21615 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Francisco Xavier Martinez, Inmate Number: 21369–470, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On November 16, 2017, in the U.S. District Court for the Southern District of Texas, Francisco Xavier Martinez (''Martinez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Martinez was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Martinez was sentenced to 41 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Martinez's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Martinez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Martinez.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Martinez's export privileges under the Regulations for a period of seven years from the date of Martinez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Martinez had an interest at the time of his conviction.

Accordingly, it is hereby ordered:

First, from the date of this Order until November 16, 2024, Francisco Xavier Martinez, with a last known address of Inmate Number: 21369–470, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

organization related to Martinez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Martinez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Martinez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 16, 2024.

Issued this September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21651 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of Erik Villasana, Inmate Number: 22762–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On November 16, 2017, in the U.S. District Court for the Southern District of Texas, Erik Villasana (''Villasana'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Villasana was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Villasana was sentenced to 63 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Villasana's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Villasana to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Villasana.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Villasana's export privileges under the Regulations for a period of 10 years from the date of Villasana's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Villasana had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

First, from the date of this Order until November 16, 2027, Erik Villasana, with a last known address of Inmate Number: 22762–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person,

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

firm, corporation, or business organization related to Villasana by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Villasana may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Villasana and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 16, 2027.

Issued this September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21639 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Edward Alexander Duenas, Inmate Number: 27317–479, FCI Beaumont Low, P.O. Box 26020, Beaumont, TX 77720; Order Denying Export Privileges

On November 16, 2017, in the U.S. District Court for the Southern District of Texas, Edward Alexander Duenas (''Duenas'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Duenas was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Duenas was sentenced to 27 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Duenas's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Duenas to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Duenas.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Duenas's export privileges under the Regulations for a period of five years from the date of Duenas's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Duenas had an interest at the time of his conviction.

Accordingly, it is hereby ordered:

First, from the date of this Order until November 16, 2022, Edward Alexander Duenas, with a last known address of Inmate Number: 27317–479, FCI Beaumont Low, P.O. Box 26020, Beaumont, TX 77720, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation,

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Duenas by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Duenas may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Duenas and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 16, 2022.

Issued September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services .

[FR Doc. 2018–21652 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Ruben Arnoldo Madrid, Inmate Number: 20727–479, FCI Beaumont Low, P.O. Box 26020, Beaumont, TX 77720; Order Denying Export Privileges

On December 14, 2017, in the U.S. District Court for the Southern District of Texas, Ruben Arnoldo Madrid (''Madrid'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Madrid was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Madrid was sentenced to 51 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Madrid's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Madrid to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Madrid.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Madrid's export privileges under the Regulations for a period of 10 years from the date of Madrid's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Madrid had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

First, from the date of this Order until December 14, 2027, Ruben Arnoldo Madrid, with a last known address of Inmate Number: 20727–479, FCI Beaumont Low, P.O. Box 26020, Beaumont, TX 77720, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13, 222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39, 871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Madrid by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Madrid may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Madrid and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 14, 2027.

Issued: September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21649 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Juan Diego Madrid, Inmate Number: 24877–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On November 16, 2017, in the U.S. District Court for the Southern District of Texas, Juan Diego Madrid (''Madrid'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Madrid was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Madrid was sentenced to 65 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Madrid's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Madrid to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Madrid.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Madrid's export privileges under the Regulations for a period of 10 years from the date of Madrid's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Madrid had an interest at the time of his conviction.

Accordingly, *it is hereby Ordered:*

First, from the date of this Order until November 16, 2027, Juan Diego Madrid, with a last known address of Inmate Number: 24877–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Madrid by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Madrid may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Madrid and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 16, 2027.

Issued: September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21640 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Edgar Garza-Sanchez, Inmate Number: 12512–479, Mid-Valley House, 2520 South Expressway 281, Edinburg, TX 78542; Order Denying Export Privileges

On March 28, 2017, in the U.S. District Court for the Southern District of Texas, Edgar Garza-Sanchez (''Garza-Sanchez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Garza-Sanchez was convicted of intentionally and knowingly conspiring to knowingly and willfully export and cause to be exported from the United States to Mexico approximately 13,600 rounds of 7.62×39 mm caliber ammunition and approximately 200 7.62×39 mm caliber magazines, items designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Garza-Sanchez was sentenced to 21 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Garza-Sanchez's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Garza-Sanchez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Garza-Sanchez.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Garza-Sanchez's export privileges under the Regulations for a period of five years from the date of Garza-Sanchez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Garza-Sanchez had an interest at the time of his conviction.

Accordingly, it is hereby ordered:

First, from the date of this Order until March 28, 2022, Edgar Garza-Sanchez, with a last known address of Inmate Number: 12512–479, Mid-Valley House, 2520 South Expressway 281, Edinburg, TX 78542, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq*. (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Garza-Sanchez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Garza-Sanchez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Garza-Sanchez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 28, 2022.

Issued: September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21654 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of Rolando Armando Madrid, Inmate Number: 20726–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On November 16, 2017, in the U.S. District Court for the Southern District of Texas, Rolando Armando Madrid (''Madrid'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Madrid was convicted of knowingly exporting and attempting to export from the United States to Mexico firearms designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Madrid was sentenced to 51 months in prison, three years of supervised release, and an assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Madrid's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Madrid to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Madrid.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Madrid's export privileges under the Regulations for a period of 10 years from the date of Madrid's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Madrid had an interest at the time of his conviction.

Accordingly, *it is hereby* ordered:

First, from the date of this Order until November 16, 2027, Rolando Armando Madrid, with a last known address of Inmate Number: 20726–479, FCI Bastrop, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''the EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq*. (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Public Law 115–232 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Madrid by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Madrid may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Madrid and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 16, 2027.

Issued September 27, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–21642 Filed 10–3–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable October 4, 2018.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status *unless* they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2019.

	Period to be reviewed
Antidumping Duty Proceedings	
India: Finished Carbon Steel Flanges, A–533–871	2/8/17–7/31/18
Adinath International	
Allena Group	
Alloyed Steel	
Bansidhar Chiranjilal	
Bebitz Flanges Works Private Limited	
C.D. Industries	
CHQ Forge Pvt. Ltd.	
CHW Forge	
Citizen Metal Depot	
Corum Flange	
DN Forge Industries	
Echjay Forgings Limited	
Falcon Valves and Flanges Private Limited	
Heubach International	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufactures	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Norma (India) Ltd.	
OM Exports	
Punjab Steel Works (PSW)	
R. D. Forge	
R.N. Gupta & Co. Ltd.	
Raaj Sagar Steels	
Ravi Ratan Metal Industries	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery)	
Siddhagiri Metal & Tubes	
Sizer India	
Steel Shape India	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge	
Uma Shanker Khandelwal & Co.	
Umashanker Khandelwal Forging Limited	
USK Export Private Limited	
Italy: Finished Carbon Steel Flanges, A–475–835	2/8/17–7/31/18
ASFO S.p.A.	
ASFO S.p.A—FOMAS Group	
Assotherm srl	
Bifrangi S.p.A.	
CAT Carpenteria Metallica srl	
Costruzione Ricambi Machine Industriali	
Filmag Italia S.r.l.	
FOC Ciscato S.p.Ar.	
FOMAS	
Forgia Di Bollate S.p.A.	
Forgiatura A. Vienna diAntonio Vienna	
Forgital Italy S.p.A.	
Franchini Acciai S.p.A.	
Galperti Forged Products	
Inox Laghi S.r.l.	
KIASMA SRL	
Iml Industria Meccanica Ligure	
Martin Valmore srl	
M.E.G.A. S.p.A	
Metalfar Prodotti Industriali, S.p.A.	
Officine Ambrogio Melesi & C. S.R.L.	
Officine di Cortabbio s.r.1.	
OFFICINE MECCANICHE CIOCCA S.p.A.	
Office SANTAFEDE	
Siderforgerossi Group S.P.A.	
UNIGEN Steel Engineering	
VALVITALIA S.p.A.	
Malaysia: Polyethylene Retail Carrier Bags, A–557–813	8/1/17–7/31/18
Euro SME Sdn Bhd	
Mexico: Light-Walled Rectangular Pipe and Tube, A–201–836	8/1/17–7/31/18
Aceros Cuatro Caminos S.A. de C.V.	
Arco Metal S.A. de C.V.	
Fabricaciones y Servicios de Mexico	
Galvak, S.A. de C.V.	
Grupo Estructuras y Perfiles	
Hylsa S.A. de C.V.	
Industrias Monterrery S.A. de C.V.	
International de Aceros, S.A. de C.V.	
Maquilacero S.A. de C.V.	
Nacional de Acero S.A. de C.V.	
PEASA-Productos Especializados de Acero	
Perfiles LM, S.A. de C.V.	
Productos Laminados de Monterrey S.A. de C.V.	
Regiomontana de Perfiles y Tubos S.A. de C.V.	
Talleres Acero Rey S.A. de C.V.	
Ternium Mexico S.A. de C.V.	
Tuberias Aspe	
Tuberia Laguna, S.A. de C.V.	
Tuberias y Derivados S.A de C.V.	
Republic of Korea: Dioctyl Terephthalate, A–580–889	2/3/17–7/31/18
Aekyung Petrochemical	
LG Chem, Ltd.	
Hanwha Chemical	
Republic of Korea: Large Power Transformers, A–580–867	8/1/17–7/31/18

	Period to be reviewed
Hyosung Heavy Industries Corporation	
Hyosung Corporation	
Hyundai Electric & Energy Systems Co., Ltd.	
Hyundai Heavy Industries Co., Ltd.	
ILJIN	
Iljin Electric Co., Ltd.	
LSIS Co., Ltd.	
Romania: Carbon and Alloy Seamless Standard Line and Pressure Pipe, A–485–805 (under 4½ Inches)	8/1/17–7/31/18
Silcotub S.A.	
ArcelorMittal Tubular Products Roman S.A.	
SC TMK-Artom S.A.	
SC Tubinox S.A.	
Socialist Republic of Vietnam: Certain Frozen Fish Fillets, A–552–801	8/1/17–7/31/18
An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afiex, An Giang Agriculture and Foods Import-Export Joint Stock Company, An Giang Agriculture and Food Import-Export Company, An Giang Agriculture and Foods Import and Export Company, or An Giang Agriculture and Foods Import-Export Company)	
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish, AnGiang Fisheries Import and Export, or An Giang Fisheries Import & Export Joint Stock Company)	
An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)	
An Phat Import-Export Seafood Co., Ltd. (also known as An Phat Seafood Co. Ltd. or An Phat Seafood Co., Ltd.)	
An Phu Seafood Corporation (also known as ASEAFOOD or An Phu Seafood Corp.)	
Anvifish Joint Stock Company (also known as Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)	
Asia Pangasius Company Limited (also known as ASIA)	
Basa Joint Stock Company (BASACO)	
Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct, Bentre Aquaproduct Import & Export Joint Stock Company, or Aquatex Bentre)	
Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Company, Ben Tre Forestry Aquaproduct Import-Export Company, Ben Tre Frozen Aquaproduct Export Company, or Faquimex)	
Bien Dong Hau Giang Seafood Joint Stock Company (also known as Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)	
Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Biendong Seafood Limited Liabilty Company)	
Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.)	
Binh Dinh Import Export Company (also known as Binh Dinh)	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II, Cadovimex II Seafood Import-Export, Cadovimex II Seafood Import Export and Processing Joint Stock Company, or Cadovimex II Seafood Import-Export & Processing Joint Stock Company)	
Cafatex Corporation (also known as Cafatex)	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex)	
Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import- Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)	
C.P. Vietnam Corporation	
Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish)	
Cuu Long Fish Joint Stock Company (also known as CL-Fish, CL–FISH CORP, or Cuu Long Fish Joint Stock Company)	
Da Nang Seaproducts Import-Export Corporation (also known as Da Nang or Da Nang Seaproducts Import/Export Corp.)	
Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods, or Dai Thanh Seafoods Co., Ltd.)	
East Sea Seafoods LLC (also known as ESS LLC, ESS, ESS JVC, East Sea Seafoods Limited Liability Company, East Sea Seafoods Joint Venture Co., Ltd.)	
Europe Joint Stock Company (also known as Europe JSC or EJS CO.)	
Fatifish Company Limited (also known as FATIFISH or FATIFISHCO)	
Go Dang An Hiep One Member Limited Company	
Go Dang Ben Tre One Member Limited Liability Company	
GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood J.S.C., GODACO Seafood, or GODOCO_SEAFOOD)	
Golden Quality Seafood Corporation (also known Golden Quality, GoldenQuality, GoldenQuality Seafood Corporation, or GOLDENQUALITY)	
Green Farms Seafood Joint Stock Company (also known as Green Farms, GreenFarm SeaFoods Joint Stock Company, Green Farms Seafoods Joint Stock Company, or Green Farms Seafood JSC)	
Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Houng Seafood)	
Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)	
Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, or Hoa Phat Seafood Import-Export and Processing JSC)	
Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long Seafood, Hoang Long Seafood Processing Co.,Ltd., Hoang Long, or HoangLong Seafood)	
Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing)	

	Period to be reviewed
Hung Vuong—Mien Tay Aquaculture Corporation (also known as HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)	
Hung Vuong—Sa Dec Co., Ltd. (also known as Hung Vuong Sa Dec Company Limited)	
Hung Vuong—Vinh Long Co., Ltd. (also known as Hung Vuong Vinh Long Company Limited)	
Hung Vuong Corporation (as known as HVC or HV Corp.)	
Hung Vuong Joint Stock Company	
Hung Vuong Mascato Company Limited	
Hung Vuong Seafood Joint Stock Company	
International Development & Investment Corporation (also known as IDI or International Development and Investment Corporation)	
Lian Heng Investment Co., Ltd. (also known as Lian Heng Investment or Lian Heng)	
Lian Heng Trading Co., Ltd. (also known as Lian Heng or Lian Heng Trading)	
Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong, NAFISHCO, Nam Phuong Seafood, or Nam PhuongSeafood Company Ltd.)	
Nam Viet Corporation (also known as NAVICO)	
Ngoc Ha Co. Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)	
Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company)	
NTACO Corporation (also known as NTACO or NTACO Corp.)	
NTSF Seafoods Joint Stock Company (also known as NTSF or NTSF Seafoods)	
Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.)	
QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT)	
QVD Food Company, Ltd. (also known as QVD, QVD Food Co., Ltd., or QVD Aquaculture)	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.)	
Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4-Branch Dong Tam Fisheries Processing Company)	
Seavina Joint Stock Company (also known as Seavina)	
Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., Southern Fisheries Industries Company, Ltd., Southern Fishery Industries Co., Ltd., or Southern Fisheries Industries Company Limited)	
Sunrise Corporation	
TG Fishery Holdings Corporation (also known as TG)	
Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.)	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)	
Thien Ma Seafood Co., Ltd. (also known as THIMACO, Thien Ma, Thien Ma Seafood Company, Ltd., or Thien Ma Seafoods Co., Ltd.)	
Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., Thuan An Production & Trading Service Co., Ltd., or Thuan An Production & Trading Services Co., Ltd.)	
Thuan Hung Co., Ltd. (also known as THUFICO)	
To Chau Joint Stock Company (also known as TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)	
Van Duc Food Export Joint Stock Company (also known as Van Duc)	
Van Duc Tien Giang Food Export Company (also known as VDTG)	
Viet Hai Seafood Company Limited (also known as Viet Hai, Vietnam Fish-One Co., Ltd. Viet Hai Seafood Co., Viet Hai Seafood Co., Ltd., Vietnam Fish One Co., Ltd., or Fish One)	
Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation)	
Viet Phu Foods & Fish Co., Ltd.	
Vinh Hoan Corporation (also known as Vinh Hoan, Vinh Hoan Co., or Vinh Hoan Corp.)	
Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long or Vinh Long Import/Export Company)	
Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Joint Stock Company, Vinh Quang Fisheries Co.,Ltd., or Vinh Quang Fisheries Corp.)	
The People's Republic of China: Certain Passenger Vehicle and Light Truck Tires, A–570–016	8/1/17–7/31/18
Anhui Jichi Tire Co., Ltd.	
Bridgestone (Tianjin) Tire Co., Ltd.	
Bridgestone Corporation	
Cooper (Kunshan) Tire Co., Ltd.	
Crown International Corporation	
Fleming Limited	
Guangrao Taihua International Trade Co., Ltd.	
Hankook Tire China Co., Ltd.	
Haohua Orient International Trade Ltd.	
Jingsu Hankook Tire Co., Ltd.	
Kenda Rubber (China) Co., Ltd.	
Kinforest Tyre Co., Ltd.	
Macho Tire Corporation Limited	
Mayrun Tyre (Hong Kong) Limited	
Pirelli Tyre Co., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Jinhaoyang International Co., Ltd.	
Qingdao Keter International Co., Limited	

	Period to be reviewed
Qingdao Lakesea Tyre Co., Ltd.	
Qingdao Odyking Tyre Co., Ltd.	
Qingdao Sunfulcess Tyre Co., Ltd.	
Qingdao Transamerica Tire Industrial Co., Ltd.	
Qingzhou Detai International Trading Co., Ltd.	
Riversun Industry Limited	
Safe&Well (HK) International Trading Limtied	
Shandong Achi Tyres Co., Ltd.	
Shandong Anchi Tryes Co., Ltd.	
Shandong Duratti Rubber Corporation Co., Ltd.	
Shandong Guofeng Rubber Plastics Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Hongsheng Rubber Technology Co., Ltd.	
Shandong Longyue Rubber Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Shengtai Group Co., Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
Tianjin Wanda Tyre Group Co., Ltd.	
Triangle Tyre Co., Ltd.	
Tyrechamp Group Co., Limited	
Windforce Tyre Co., Limited	
Winrun Tyre Co., Ltd.	
The People's Republic of China: Certain Steel Nails, A–570–909	8/1/17–7/31/18
Air It on Inc.	
A-Jax Enterprises Ltd.	
A-Jax International Co. Ltd.	
Anhui Amigo Imp. & Exp. Co. Ltd.	
Anhui Tea Imp. & Exp. Co. Ltd.	
Anjing Caiquing Hardware Co., Ltd.	
Astrotech Steels Pvt. Ltd.	
Beijing Catic Industry Ltd.	
Beijing Qin-Li Jeff Trading Co., Ltd.	
Bodi Corporation	
Cana (Rizhou) Hardward Co. Ltd.	
Cangzhou Xinqiao Int'l Trade Co. Ltd.	
Certified Products Taiwan Inc.	
Changzhou Kya Trading Co. Ltd.	
Chia Pao Metal Co. Ltd.	
China Dinghao Co. Ltd.	
China Staple Enterprise Co. Ltd.	
Chinapack Ningbo Imp. & Exp. Co. Ltd.	
Chite Enterprise Co. Ltd.	
Crelux Int'l Co. Ltd.	
Daejin Steel Co. Ltd.	
Dezhou Hualude Hardware Products Co. Ltd.	
Dingzhou Baota Metal Products Co. Ltd.	
Dong E Fuqiang Metal Products Co. Ltd.	
Dream Rising Co., Ltd.	
Eco-Friendly Floor Ltd.	
Ejen Brother Limited	
Everglow Inc.	
Everleading International Inc.	
Faithful Engineering Products Co. Ltd.	
Fastening Care	
Fastgrow International Co. Inc.	
Foshan Hosontool Development Hardware Co. Ltd.	
GD CP International Ltd.	
GDCP International Co., Ltd.	
Geeky Wires Limited	
Glori-Industry Hong Kong Inc.	
Guangdong Meite Mechanical Co. Ltd.	
Guangdong TC Meite Intelligent Tools Co., Ltd.	
Hangzhou Orient Industry Co., Ltd.	
Hangzhou Spring Washer Co. Ltd.	
Hebei Canzhou New Century Foreign Trade Co. Ltd.	
Hebei Jindun Trade Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hengtuo Metal Products Co. Ltd.	
Home International Development Co. Ltd.	
Hongyi (HK) Hardware Products Co. Ltd.	

	Period to be reviewed
Huaiyang County Yinfeng Plastic Factory	
Hualude International Development Co. Ltd.	
Huanghua Yingjin Hardware Products	
Inmax Industries Sdn. Bhd.	
ITW Construction Products	
Jade Shuttle Enterprise Co. Ltd.	
Jiang Men City Yu Xing Furniture Limited Company	
Jiangsu General Science Technology Co. Ltd.	
Jiangsu Holly Corporation	
Jiangsu Huaiyin Guex Tools	
Jiangsu Inter-China Group Corp.	
Jiangu Soho Honry Imp. and Exp. Co. Ltd.	
Jiaxing TSR Hardware Inc.	
Jinhai Hardware Co. Ltd.	
Jinsco International Corp.	
Jinsheung Steel Corporation	
Koram Inc.	
Korea Wire Co. Ltd.	
Liang's Ind. Corp.	
Liaocheng Minghui Hardware Products	
Linyi FlyingArrow Imp. & Exp. Co Ltd.	
M&M Industries Co., Ltd.	
Max Co., Ltd.	
Milkway Chemical Supply Chain Service Co., Ltd.	
Mingguang Abundant Hardware Products Co. Ltd.	
Mingguang Ruifeng Hardware Products Co. Ltd.	
Modern Factory For Metal Products	
Nailtech Co. Ltd.	
Nanjing Caiquing Hardware Co. Ltd.	
Nanjing Nuochun Hardware Co. Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
Nanjing Zeejoe International Trade	
Nantong Intlevel Trade Co., Ltd.	
Natuzzi China Limited	
Nielsen Bainbridge LLC	
Ningbo Adv. Tools Co. Ltd.	
Ningbo Angelar Trading Co., Ltd.	
Ningbo Fine Hardware Production Co. Ltd.	
Ningbo Freewill Imp. & Exp Co., Ltd.	
Ningbo Sunrise International Ltd.	
Ningbo WePartner Imp. & Exp. Co., Ltd.	
Overseas Distribution Services Inc.	
Overseas International Steel Industry	
Paslode Fasteners Co. Ltd.	
Patek Tool Co. Ltd.	
President Industrial Inc.	
Promising Way (Hong Kong) Ltd.	
Qingda Jisco Co. Ltd.	
Qingdao Ant Hardware Manufacturing Co. Ltd.	
Qingdao D&L Hardware Co. Ltd.	
Qingdao Gold Dragon Co. Ltd.	
Qingdao Hongyuan Nail Industry Co. Ltd.	
Qingdao JCD Machinery Co., Ltd.	
Qingdao Meijialucky Industry and Co.	
Qingdao MST Industry and Commerce Co. Ltd.	
Qingdao Top Steel Industrial Co. Ltd.	
Qingdao Uni-Trend International	
Quzhou Monsoon Hardware Co. Ltd.	
Region Industries Co. Ltd.	
Region System Sdn. Bhd.	
Rise Time Industrial Ltd.	
Romp Coil Nail Industries Inc.	
R-Time Group Inc.	
Ruifeng Hardware Products Co., Ltd.	
SDC International Australia Pty. Ltd.	
Senco Asia Manufacturing Ltd.	
Shandong Dinglong Imp. & Exp. Co., Ltd.	
Shandong Liaocheng Minghua Metal Pvt. Ltd.	
Shandong Liaocheng Minghua Metal Pvt. Ltd.	
Shandong Oriental Cherry Hardware Group Co. Ltd.	
Shandong Oriental Cherry Hardware Import & Export Co. Ltd.	
Shandong Qingyun Hongyi Hardware Co. Ltd.	
Shanghai Cedargreen Imp. & Exp. Co., Ltd.	

	Period to be reviewed
Shanghai Curvet Hardware Products Co. Ltd.	
Shanghai Haoray International Trade Co. Ltd.	
Shanghai Jade Shuttle Hardware Tools Co. Ltd.	
Shanghai Seti Enterprise Int'l Co. Ltd.	
Shanghai Sutek Industries Co., Ltd.	
Shanghai Yiren Machinery Co., Ltd.	
Shanghai Yueda Fasteners Co., Ltd.	
Shanghai Yueda Nails Co. Ltd.	
Shanghai Yueda Nails Co. Ltd.	
Shanghai Zoonlion Industrial Co., Ltd.	
Shanxi Easyfix Trade Co. Ltd.	
Shanxi Hairut Trade Co. Ltd.	
Shanxi Pioneer Hardware Industrial Co. Ltd.	
Shanxi Tianli Industries Co. Ltd.	
Shanxi Xinjintai Hardware Co., Ltd.	
Shaoxing Chengye Metal Producing Co. Ltd.	
Shenzhen Xinjintal Hardware Co. Ltd.	
Stanley Black & Decker, Inc.	
Sueyi International Ltd.	
Suntec Industries Co. Ltd.	
Suzhou Xingya Nail Co. Ltd.	
Taizhou Dajiang Ind. Co. Ltd.	
The Stanley Works (Langfang) Fastening Systems Co., Ltd.	
Theps International	
Tianji Hweschun Fasteners Manufacturing Co. Ltd.	
Tianjin Baisheng Metal Products Co. Ltd.	
Tianjin Bluekin Indusries Ltd.	
Tianjin Coways Metal Products Co. Ltd.	
Tianjin Dagang Jingang Nail Factory	
Tianjin Evangel Imp. & Exp. Co. Ltd.	
Tianjin Fulida Supply Co. Ltd.	
Tianjin Huixingshangmao Co. Ltd.	
Tianjin Huixishangmao Co. Ltd.	
Tianjin Jin Xin Sheng Long Metal Products Co. Ltd.	
Tianjin Jinchi Metal Products Co. Ltd.	
Tianjin Jinghai County Hongli Industry and Business Co. Ltd.	
Tianjin Jinghai Yicheng Metal Pvt.	
Tianjin Jinlin Pharmaceutical Factory	
Tianjin Jinmao Imp. & Exp. Corp. Ltd.	
Tianjin Lianda Group Co. Ltd.	
Tianjin Tianhua Environmental Plastics Co. Ltd.	
Tianjin Universal Machinery Imp. & Exp	
Tianjin Yong Sheng Towel Mill	
Tianjin Yongye Furniture Co. Ltd.	
Tianjin Zhonglian Metals Ware Co. Ltd.	
Tianjin Zhonglian Times Technology	
Tianjin Zhongsheng Garment Co. Ltd.	
Tinjin Liweitian Metal Technology	
Tinjin Tiaolai Import & Export Company Ltd.	
Tsugaru Enterprise Co., Ltd.	
Unicore Tianjin Fasteners Co. Ltd.	
Verko Incorporated	
Win Fasteners Manufactory (Thailand) Co. Ltd.	
Wire Products Manufacturing Co., Ltd.	
Wulian Zhanpeng Metals Co. Ltd.	
Xi'An Metals and Minerals Imp. & Exp. Co. Ltd.	
Xiamen Zhaotai Industrial Corp.	
Yongchang Metal Product Co.	
Youngwoo Fasteners Co., Ltd.	
Yuyao Dingfeng Engineering Co. Ltd.	
Zhanghaiding Hardware Co., Ltd.	
Zhangjiagang Lianfeng Metals Products Co. Ltd.	
Zhangjiagang Longxiang Industries Co. Ltd.	
Zhaoqing Harvest Nails Co. Ltd.	
Zhejiang Best Nail Industry Co. Ltd.	
Zhejiang Jihengkang (JHK) Door Ind. Co. Ltd.	
Zhejiang Yiwu Yongzhou Imp. & Exp. Co. Ltd.	
Zhong Shan Daheng Metal Products Co. Ltd.	
Zhong Shan Shen Neng Metals Products Co. Ltd.	
Zhucheng Jinming Metal Products Co. Ltd.	
Zhucheng Runfang Paper Co. Ltd.	
The People's Republic of China: Hydrofluorocarbon Blends, A–570–028	8/1/17–7/31/18
Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd.	

	Period to be reviewed
Daikin Fluorochemcials (China) Co., Ltd.	
Dongyang Weihua Refrigerants Co., Ltd.	
Jinhua Yonghe Fluorochemical Co., Ltd.	
Shandong Huaan New Material Co., Ltd.	
Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	
T.T. International Co., Ltd.	
Weitron, Inc.	
Weitron International Refrigeration Equipment (Kushan) Co., Ltd.	
Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemica Industry Co., Ltd.	
Zhejiang Yonghe Refrigerant Co., Ltd.	
Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	
The People's Republic of China: Polyethylene Retail Carrier Bags, A–570–886	8/1/17–7/31/18
Crown Polyethylene Products (International) Ltd.	
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
High Den Enterprises Ltd.	
Countervailing Duty Proceedings	
India: Finished Carbon Steel Flanges, C–533–872	11/29/16–12/31/17
Adinath International	
Allena Group	
Alloyed Steel	
Bansidhar Chiranjilal	
Bebitz Flanges Works Private Limited	
C.D. Industries	
CHW Forge	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot	
Corum Flange	
DN Forge Industries	
Echjay Forgings Limited	
Falcon Valves and Flanges Private Limited	
Heubach International	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufactures	
Norma (India) Ltd.	
OM Exports	
Punjab Steel Works (PSW)	
R.D. Forge	
R.N. Gupta & Co. Ltd.	
R.N. Gupta & Company Limited	
Raaj Sagar Steels	
Ravi Ratan Metal Industries	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery)	
Siddhagiri Metal & Tubes	
Sizer India	
Steel Shape India	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge	
Uma Shanker Khandelwal & Co.	
Uma Shanker Khandelwal and Co.	
Umashanker Khandelwal Forging Limited	
USK Export Private Limited	
Republic of Korea: Certain Corrsion-Resistant Steel Products,[4] C–580–879	1/1/17–12/31/17
The People's Republic of China: Certain Passenger Vehicle and Light Truck Tires, C–570–017	1/1/17–12/31/17
Anhui Jichi Tire Co., Ltd.	
Bridgestone (Tianjin) Tire Co., Ltd.	
Bridgestone Corporation	
Cooper (Kunshan) Tire Co., Ltd.	
Dynamic Tire Corp.	
Fleming Limited	
Guangrao Taihua International Trade Co., Ltd.	
Hankook Tire China Co., Ltd.	
Haohua Orient International Trade Ltd.	
Husky Tire Corp.	
Jiangsu Hankook Tire Co., Ltd.	
Macho Tire Corporation Limited	
Maxon Int'l Co., Limited	

	Period to be reviewed
Mayrun Tyre (Hong Kong) Limited Pirelli Tyre Co., Ltd. Qingdao Fullrun Tyre Corp., Ltd. Qingdao Jinhaoyang International Co., Ltd. Qingdao Keter International Co., Limited Qingdao Lakesea Tyre Co., Ltd. Qingdao Odyking Tyre Co., Ltd. Qingdao Sunfulcess Trye Co., Ltd. Qinzhou Detai International Trading Co., Ltd. Riversun Industry Limited Safe&Well (HK) International Trading Limited Sailun Jinyu Group Co., Ltd. Sailun Jinyu Group (Hong Kong) Co., Limited Sailun Tire International Corp. Seatex International Inc. Seatex PTE. Ltd. Shandong Achi Tyres Co., Ltd. Shandong Anchi Tyres Co., Ltd. Shandong Duratti Rubber Corporation Co., Ltd. Shandong Guofeng Rubber Plastics Co., Ltd. Shandong Haohua Tire Co., Ltd. Shandong Hengyu Science & Technology Co., Ltd. Shandong Jinyu Industrial Co., Ltd. Shandong Longyue Rubber Co., Ltd. Shandong New Continent Tire Co., Ltd. Shandong Province Sanli Tire Manufactured Co., Ltd. Shandong Wanda Boto Tyre Co., Ltd. Shengtai Group Co., Ltd. Shouguang Firemax Tyre Co., Ltd. Triangle Tyre Co., Ltd. Tyrechamp Group Co., Limited Windforce Tyre Co., Limited Winrun Tyre Co., Ltd.	
Suspension Agreements	
Ukraine: Certain Oil Country Tubular Goods,[5] A–823–815	7/1/17–6/30/18

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct

[4] Dongkuk Steel Mill Co., Ltd. and Union Steel Manufacturing Co., Ltd. are not subject to the countervailing duty order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (*see* 83 FR 39671 dated August 10, 2018) and were inadvertently included in the initiation notice that published on September 10, 2018 (83 FR 45596). Therefore, these two companies are not subject to the administrative review of the countervailing duty order on CORE from the Republic of Korea that published on September 10, 2018 (83 FR 45596).

[5] In the initiation notice that published on September 10, 2018 (83 FR 45596), the Department inadvertently omitted the case listed above from the July 2018 anniversary cases for which reviews were requested. This notice serves as a correction to the September initiation notice. In accordance with section 751(a)(3)(A) of the Act, Commerce shall issue its preliminary determination within 245 days after the last day of the month in which occurs the anniversary date of the publication of the suspension agreement for which the review is requested (in this case, July 2018).

factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[6] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[7] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 28, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–21617 Filed 10–3–18; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* section 782(b) of the Act.

[7] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 10, 2018, 10:00 a.m.–12:00 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: *Decisional Matter:* Fiscal Year 2019 Operating Plan.

A live webcast of the Meeting can be viewed at *https://www.cpsc.gov/live.*

CONTACT PERSON FOR MORE INFORMATION: Rockelle Hammond, Office of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–6833.

Dated: October 1, 2018.

Alberta E. Mills,

Secretary.

[FR Doc. 2018–21710 Filed 10–2–18; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Point Semantics Corporation

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Point Semantics Corporation of Alexandria, Virginia an exclusive license in the field of use of Displacement and Strain Measurement for Scientific and Engineering Applications, in the United States, to U.S. Patent No. 8,600,147: System and Method for Remote Measurement of Displacement and Strain Fields, Navy Case No. 099,829.//U.S. Patent No. 9,046,353: System and Method for Remote Full Field Three-Dimensional Displacement and Strain Measurements, Navy Case No. 101,258.//U.S. Patent No. 9,311,566: Method and System for Direct Strain Imaging, Navy Case No. 101.954.// and any continuations, divisionals or re-issues thereof. Nonexclusive, royalty free licenses are retained by SAIC under contract N00173–05–C–2062 and under the Agreement between Owners of Patent Rights NRL–IIA–14–047 between NRL and George Mason University.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than October 19, 2018.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Amanda Horansky McKinney, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320, telephone 202–767–1644. Due to U.S. Postal delays, please fax 202–404–7920, email: *techtran@.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: October 1, 2018.

Meredith Steingold Werner,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–21633 Filed 10–3–18; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m.–4:00 p.m., October 9, 2018.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004.

STATUS: Closed. During the closed meeting, the Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemptions to close a meeting described in 5 U.S.C. 552b(c)(3) and (9)(B) and 10 CFR 1704.4(c) and (h). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute, and/or be likely to significantly frustrate implementation of a proposed agency action. In this case, the deliberations will pertain to potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

MATTERS TO BE CONSIDERED: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public website at *www.dnfsb.gov.* Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: September 28, 2018.

Joseph Bruce Hamilton,

Acting Chairman.

[FR Doc. 2018–21703 Filed 10–2–18; 11:15 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0078]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Paul Douglas Teacher Scholarship Performance Report Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 5, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0078. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Darryl Davis, 202–453–7582.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Paul Douglas Teacher Scholarship Performance Report Form.

OMB Control Number: 1840–0787.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 120.

Abstract: The Paul Douglas Teacher Scholarship program was designed to issue grants to the states to provide scholarships to outstanding secondary school graduates who demonstrated an interest in teaching careers at the preschool, elementary, or secondary level. Although the program is no longer funded, the annual performance report is necessary to monitor and evaluate the compliance of the remaining state education agencies.

Dated: October 1, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–21607 Filed 10–3–18; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0355]

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 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 FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 3, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0355.

Title: Rate-of-Return Monitoring Reports.

Form Numbers: FCC Forms 492 and 492–A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 175 respondents; 175 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 160, 161, 209(b) and 220 as amended by the Communications Act of 1934, as amended.

Total Annual Burden: 1,400 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In most cases, the rate-of-return reports do not require submission of any confidential or commercially-sensitive data. The areas in which detailed information is required are fully subject to regulation. If a respondent finds it necessary to submit confidential or commercially-sensitive data, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The filing of FCC Forms 492 and 492–A is required by 47 CFR 65.600 of the Commission's rules. FCC Form 492 is filed by each local exchange carrier (LEC) or groups of carriers who file individual access tariffs or who are not subject to sections 61.41 through 61.49 of the Commission's rules. Each LEC, or group of affiliated carriers, subject to the previously stated sections, file FCC Form 492–A. These data provide the necessary detail to enable the Commission to fulfill its regulatory responsibilities. The Commission has granted AT&T, Verizon, legacy Qwest, and other similarly-situated carriers forbearance from FCC Form 492–A. *See* Petition of AT&T Inc. for Forbearance under 47 U.S.C. 160 from Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07–21, 05–342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (AT&T Cost Assignment Forbearance Order). However, one submission included 56 new entities that had not previously filed Form 492.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–21598 Filed 10–3–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0844, OMB 3060–1086, OMB 3060–1183, OMB 3060–1216]

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 3, 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: 3060–0844.

Title: Carriage of the Transmissions of Television Broadcast Stations: Section 76.56(a), Carriage of qualified noncommercial educational stations; Section 76.57, Channel positioning; Section 76.61(a)(1)–(2), Disputes concerning carriage; Section 76.64, Retransmission consent.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 835 respondents and 14,040 responses.

Estimated Time per Response: 1 to 5 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 1, 4(i) and (j), 325, 336, 614 and 615 of the Communications Act of 1934, as amended.

Total Annual Burden: 14,840 hours.

Total Annual Cost: No cost.

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

Privacy Impact Assessment: No impact(s).

Needs and Uses: Under Section 614 of the Communications Act and the implementing rules adopted by the Commission, commercial TV broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's television market. Under Section 325(b) of the Communications Act, commercial TV broadcast stations are entitled to negotiate with local cable systems for carriage of their signal pursuant to retransmission consent agreements in lieu of asserting must carry rights. This system is therefore referred to as ''Must-Carry and Retransmission Consent.'' Under Section 615 of the Communications Act, noncommercial educational (NCE) stations are also entitled to assert mandatory carriage rights on cable systems located within the station's market; however, noncommercial TV broadcast stations are not entitled to retransmission consent. The information collection requirements for this collection are contained in 47 CFR Sections 76.56(a), 76.57, 76.61(a)(1)–(2) and 76.64.

OMB Control Number: 3060–1086.

Title: Section 74.787, Digital Licensing; Section 74.790, Permissible Service of Digital TV Translator and LPTV Stations; Section 74.794, Digital Emissions, Section 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation; Section 74.798, LPTV Digital Transition Consumer Education Information; Protection of Analog LPTV.

Form Number: Not applicable.

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

Number of Respondents/Responses: 8,445 respondents; 27,386 responses.

Estimated Hours per Response: 0.50–4 hours.

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

Total Annual Burden: 56,386 hours.

Total Annual Cost: $69,033,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 301 of the Communications Act of 1934, as amended.

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

Privacy Act Assessment: No impact(s).

Needs and Uses: The information collection requirements approved under this collection are as follows:

a. *47 CFR 74.787(a)(2)(iii)* provides that mutually exclusive LPTV and TV translator applicants for companion digital stations will be afforded an opportunity to *submit* in writing to the Commission, settlements and engineering solutions to resolve their situation.

b. *47 CFR 74.787(a)(3)* provides that mutually exclusive applicants applying for construction permits for new digital stations and for major changes to existing stations in the LPTV service will similarly be allowed to *submit* in writing to the Commission, settlements and engineering solutions to rectify the problem.

c. *47 CFR 74.787(a)(4)* provides that mutually exclusive displacement relief applicants filing applications for digital LPTV and TV translator stations may be resolved by submitting settlements and engineering solutions in writing to the Commission.

d. *47 CFR 74.787(a)(5)(v)* states that a license for a digital-to-digital replacement television translator will be issued only to a full-power television broadcast station licensee that demonstrates in its application a loss in the station's pre-auction digital service area as a result of the broadcast television spectrum incentive auction, including the repacking process, conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96). ''Pre-auction digital service area'' is defined as the geographic area within the full power station's noise-limited contour (as set forth in Public Notice, DA 15–1296, released November 12, 2015). The service area of the digital-to-digital replacement translator shall be limited to only the demonstrated loss area within the full power station's pre-auction digital service area, provided that an applicant for a digital-to-digital replacement television translator may propose a *de minimis* expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace a loss in its pre-auction digital service area.

e. *47 CFR 74.790(f)* permits digital TV translator stations to originate emergency warnings over the air deemed necessary to protect and safeguard life and property, and to originate local public service announcements (PSAs) or messages seeking or acknowledging financial support necessary for its continued operation. These announcements or messages shall not exceed 30 seconds each, and be broadcast no more than once per hour.

f. *47 CFR 74.790(e)* requires that a digital TV translator station shall not retransmit the programs and signal of any TV broadcast or DTV broadcast station(s) without prior written consent of such station(s). A digital TV translator operator electing to multiplex signals must negotiate arrangements and obtain written consent of involved DTV station licensee(s).

g. *47 CFR 74.790(g)* requires a digital LPTV station who transmits the programming of a TV broadcast or DTV broadcast station received prior written consent of the station whose signal is being transmitted.

h. *47 CFR 74.794* mandates that digital LPTV and TV translator stations operating on TV channels 22–24, 32–36 and 38 with a digital transmitter not specifically FCC-certificated for the channel purchase and utilize a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS band. The licensees must retain with their station license a description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual.

i. *47 CFR 74.796(b)(5)* requires digital LPTV or TV translator station licensees that modify their existing transmitter by use of a manufacturer-provided modification kit would need to purchase the kit and must notify the Commission upon completion of the transmitter modifications. In addition, a digital LPTV or TV translator station licensees that modify their existing transmitter and do not use a manufacturer-provided modification kit, but instead perform custom modification (those not related to installation of manufacturer-supplied and FCC-certified equipment) must notify the Commission upon completion of the transmitter modifications and shall certify compliance with all applicable transmission system requirements.

j. *47 CFR 74.796(b)(6)* provides that operators who modify their existing transmitter by use of a manufacturer-

provided modification kit must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the nature of the modifications, installation and test instructions, and other material provided by the manufacturer, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission. In addition, digital LPTV and TV translator operators who custom modify their transmitter must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the modifications performed and performance tests, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission.

k. *Protection of Analog LPTV.* In situations where protection of an existing analog LPTV or translator station without a frequency offset prevents acceptance of a proposed new or modified LPTV, TV translator, or Class A station, the Commission requires that the existing non-offset station install at its expense offset equipment and notify the Commission that it has done so, or, alternatively, negotiate an interference agreement with the new station and notify the Commission of that agreement.

l. *47 CFR 74.798* requires all stations in the low power television services to provide notice of their upcoming digital transition to their viewers.

OMB Control Number: 3060–1183.

Title: Establishment of a Public Safety Answering Point Do-Not-Call Registry, CG Docket No. 12–129.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 106,500 respondents; 1,446,333 responses.

Estimated Time per Response: 30 minutes (.50 hours) to 1 hour.

Frequency of Response: Recordkeeping requirement; Annually, monthly, on occasion and one-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, February 22, 2012.

Total Annual Burden: 792,667 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The rules adopted herein establish recordkeeping requirements for a large variety of entities, including small business entities. First, each Public Safety Answering Point (PSAP) may designate a representative who shall be required to file a certification with the administrator of the PSAP registry that they are authorized to place numbers onto that registry. The designated PSAP representative shall provide contact information including the PSAP represented, name, title, address, telephone number and email address. Verified PSAPs shall be permitted to upload to the registry any PSAP telephone associated with the provision of emergency services or communications with other public safety agencies. On an annual basis designated PSAP representatives shall access the registry, review their numbers and remove any ineligible numbers from the registry. Second, an operator of automatic dialing equipment (OADE) is prohibited from contacting any number on the PSAP registry. Each OADE must register for access to the PSAP registry by providing contact information which includes name, business address, contact person, telephone number, email, and all outbound telephone numbers used to place autodialed calls. All such contact information must be updated within 30 days of any change. In addition, the OADE must certify that it is accessing the registry solely to prevent autodialed calls to numbers on the registry. An OADE must access and employ a version of the PSAP registry obtained from the registry administrator no more than 31 days prior to the date any call is made, and maintain record documenting this process. No person or entity may sell, rent, lease, purchase, share, or use the PSAP registry for any purpose expect to comply with our rules prohibiting contact with numbers on the registry.

OMB Control No.: 3060–1216.

Title: Media Bureau Incentive Auction Implementation, Sections 73.3700(b)(4)(i)–(ii), (c), (d), (h)(5)–(6) and (g)(4).

Form No.: N/A.

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: 1,950 respondents and 174,219 responses.

Estimated Time per Response: .004–15 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 24,932 hours.

Annual Cost Burden: $1,214,400.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: The information gathered in this collection will be used to require broadcasters transitioning to a new station following the Incentive Auction, or going off the air as a result of a winning bid in the Incentive Auction, to notify their viewers of the date the station will terminate operations on its pre-Auction channel by running public service announcements, and allow these broadcasters to inform MVPDs of their relinquishment or change in channel. It requires channel sharing agreements enter into by television broadcast licensees to contain certain provisions regarding access to facilities, financial obligations and to define each party's rights and responsibilities; the Commission will review each channel sharing agreement to ensure it comports with general rules and policies regarding license agreements. The provisions contained in this collection also require wireless licensees to notify low-power television and TV translator stations commence wireless operations and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area. Finally, it requires license relinquishment stations and channel sharing stations to comply with notification and cancellation procedures as they terminate operations on their pre-Auction channel.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–21595 Filed 10–3–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0170, 3060–0546, 3060–1034]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 3, 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 below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *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: 3060–0170.

Title: Section 73.1030, Notifications Concerning Interference to Radio Astronomy, Research and Receiving Installations.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents and Responses: 57 respondents; 57 responses.

Estimated Hours per Response: 0.5 hours.

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

Total Annual Cost: $14,250.

Total Annual Burden: 29 hours.

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

Nature and Extent of Confidentiality: There is need for confidentiality required with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 73.1030 state in order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24, and any applicant for authority to construct a new broadcast station, or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south, and 80°30′ W on the west, shall notify the Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944. Telephone: (304) 456–2011. The notification shall be in writing and set forth the particulars of the proposed station, including the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission and power. The notification shall be made prior to, or simultaneously with, the filing of the application with the Commission. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself, or on behalf of the Naval Radio Research Observatory, the FCC will consider all aspects of the problem and take whatever action is deemed appropriate.

(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should email to: *prcz@naic.edu.*

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, and effective radiated power.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. The Commission shall determine whether an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference.

OMB Control Number: 3060–0546.

Title: Section 76.59 Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carriage Rules.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 180 respondents and 200 responses.

Estimated Time per Response: 0.5 to 40 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Total Annual Burden: 1,486 hours.

Total Annual Cost: $1,387,950.

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), 303(r), 338 and 534.

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: Market modification allows the Commission to modify the local television market of a particular commercial television broadcast station to enable commercial television stations, cable operators and satellite carriers to better serve the interests of local communities. Market modification provides a means to avoid rigid adherence to DMA designations and to promote consumer access to in-state and other relevant television programming. Section 338(l) of the Communications Act (the satellite market modification provision) and Section 614(h)(1)(C) of the Communications Act (the corresponding cable provision) permit the Commission to add communities to or delete communities from a station's local television market following a written request. Furthermore, the Commission may determine that particular communities are part of more than one television market.

OMB Control Number: 3060–1034.

Title: Digital Audio Broadcasting Systems and their Impact on the Terrestrial Radio Broadcast Service; Digital Notification Form, FCC Form 335.

Form Number: FCC Form 335.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and responses: 250 respondents, 250 responses.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in 154(i), 303, 310 and 533 of the Communications Act of 1934, as amended.

Estimated Time per Response: 1 hour-8 hours.

Total Annual Burden: 450 hours.

Total Annual Cost: $192,000.

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

Privacy Impact Assessment: No impact(s).

Needs and Uses: On January 29, 2010, the Commission released the Order, Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service (Order), DA 10–208, MM Docket 99–325. The Order allowed: (1) Eligible authorized FM stations to commence operation of FM digital facilities with digital effective radiated power (ERP) up to-14 dBc upon notice to the Commission on Form 335 (the licensee of a super-powered FM station must file an informal request for any increase in the station's FM Digital ERP). (2) Licensees to submit an application to the Media Bureau, in the form of an informal request, for any increase in FM Digital ERP beyond 6 dB. (3) Licensees submitting such a request must use a simplified method set forth in the Order to determine the proponent station's maximum permissible FM Digital ERP. (4) In situations where the simplified method is not applicable due to unusual terrain or other environmental or technical considerations or when it produces anomalous FM Digital ERP results, the Bureau will accept applications for FM Digital ERP in excess of -14 dBc on a case-by-case basis when accompanied by a detailed showing containing a complete explanation of the prediction methodology used as well as data, maps and sample calculations. These information collection requirements have not changed since they were last approved by the Office of Management and Budget (OMB). These information collection requirements are also a part of this collection and remain unchanged:

47 CFR 73.404(b) states in situations where interference to other stations is anticipated or actually occurs, AM licensees may, upon notification to the Commission, reduce the power of the primary Digital Audio Broadcasting (DAB) sidebands by up to 6 dB. Any greater reduction of sideband power requires prior authority from the Commission via the filing of a request for special temporary authority or an informal letter request for modification of license.

47 CFR 73.404(e) states licensees (commercial and noncommercial AM and FM radio stations) must provide notification to the Commission in Washington, DC, within 10 days of commencing in-band, on channel (IBOC) digital operation. The notification must include the following information: (1) Call sign and facility identification number of the station; (2) date on which IBOC operation commenced; (3) certification that the IBOC DAB facilities conform to permissible hybrid specifications; (4) name and telephone number of a technical representative the Commission can call in the event of interference; (5) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized; (6) transmitter power output; if separate analog and digital transmitters are used, the power output for each transmitter; (7) if applicable, any reduction in an AM station's primary digital carriers; (8) if applicable, the geographic coordinates, elevation data, and license file number of the auxiliary antenna employed by an FM station as a separate digital antenna; (9) if applicable, for FM systems employing interleaved antenna bays, a certification that adequate filtering and/or isolation equipment has been installed to prevent spurious emissions in excess of the limits specified in § 73.317; (10) a certification that the operation will not cause human exposure to levels of radio frequency radiation in excess of the limits specified in § 1.1310 of the Commission's rules and is therefore categorically excluded from environmental processing pursuant to § 1.1306(b). Any station that cannot certify compliance must submit an environmental assessment (''EA'') pursuant to § 1.1311 and may not commence IBOC operation until such EA is ruled upon by the Commission.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–21599 Filed 10–3–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, October 9, 2018 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC

STATUS: This Meeting Will be Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–21763 Filed 10–2–18; 4:15 pm]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''Consumer Assessment of Healthcare Providers and Systems (CAHPS) Clinician and Group Survey Database.'' This proposed information collection was previously published in the **Federal Register** on July 16th, 2018 and allowed 60 days for public comment. AHRQ did not receive any substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by November 5, 2018.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Renewal of the Consumer Assessment of Healthcare Providers and Systems (CAHPS) Clinician and Group Survey Database

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. The CAHPS Database is a repository for data from selected CAHPS surveys. The primary purpose of the CAHPS Database is to facilitate comparisons of CAHPS survey results by survey users. This voluntary compilation of survey results from a large pool of data into a single database enables survey users to compare their own results to relevant Database results. The CAHPS Database also offers an important source of primary data for research related to consumer assessments of quality as measured by CAHPS surveys.

The CAHPS Clinician & Group Survey (CG–CAHPS) Database is the newest component of the CAHPS Database. It was developed in response to the growing demand for Database results for the various versions of the CG–CAHPS Survey, including the 12-month and Visit versions. In May 2011, the first set of Database results for both the 12-month and Visit versions was released through the CAHPS Database Online Reporting System.

AHRQ developed the database for CAHPS CG Survey data following the CAHPS Health Plan Database as a model. The CAHPS Health Plan Database was developed in 1998 in response to requests from health plans, purchasers, and CMS for survey data to support public reporting of health plan ratings, health plan accreditation and quality improvement (OMB Control Number 0935–0165, expiration 5/31/2020). Demand for survey results from the CG Survey has grown as well, and therefore AHRQ developed a dedicated Clinician and Group Database to support benchmarking, quality improvement, and research (OMB Control Number 0935–0197, expiration 02/28/2019).

The CAHPS Database contains data from AHRQ's standardized CAHPS Surveys which provide survey measures of quality to health care purchasers, consumers, regulators, and policy makers. The Health Plan Database also provides data for AHRQ's annual National Healthcare Quality and Disparities Reports. The goal of this project is to renew the CAHPS CG Survey Database. This database will continue to update the CAHPS CG Database with the latest results of the CAHPS CG Survey. These results consist of 31 items that measure 5 areas or composites of patients' experiences with physicians and staff in outpatient medical practices. This database can be used to do the following:

(1) Improve care provided by individual providers, sites of care, medical groups, or provider networks.

(2) Offer several products and services, including providing survey results presented through an Online Reporting System, summary chartbooks, custom analyses, private reports in Excel format, and data for research purposes.

(3) Provides information to help identify strengths and areas with potential for improvement in patient care. The five composite measures are:

Getting Timely Appointments, Care, and Information

How Well Providers Communicate With Patients

Helpful, Courteous, and Respectful Office Staff

Providers' Use of Information to Coordinate Patient Care

Patients' Rating of the Provider

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement, and health surveys and database development. 42 U.S.C 299a(a)(1), (2), and (8).

Method of Collection

To achieve the goal of this project, the following activities and data collections will be implemented:

(1) Registration Form—The purpose of this form is to determine the eligibility status and initiate the registration process for participating organizations seeking to submit their CAHPS CG survey data voluntarily to the CAHPS CG Survey Database. The point of contact (POC) at the participating organization (or parent organization) will complete the form. The POC is either a corporate-level health manager or a survey vendor who contracts with a participating organization to collect the CAHPS CG survey data.

(2) Data Use Agreement—The purpose of the Data Use Agreement (DUA) is to obtain authorization from participating organizations to use their voluntarily submitted CAHPS CG survey data for analysis and reporting according to the terms specified in the DUA. The DUA states how data submitted by participating organizations will be used and provides confidentiality assurances. The POC at the organization will complete the form. Vendors do not sign the DUA.

(3) Data Submission—The number of submissions to the database may vary each year because medical groups and practices may not administer the survey and submit data each year. Data submission is typically handled by one POC who is either a health system, a

medical group or practice or a survey vendor who contracts with the medical group or practice to collect data on their behalf. After the POC has completed the Registration Form and the DUA, they will submit patient-level data collected from the CAHPS CG survey to the CAHPS CG Survey Database. Data on organizational characteristics such as ownership, number of patient visits per week, provider specialty, and information related to survey administration such as mode, dates of survey administration, sample size, and response rate, which are collected as part of CAHPS CG survey operations are also submitted.

Each submission will consist of 3 data files: (1) A Group File that contains information about the group ownership, (2) a Practice File containing the practice ownership and affiliation (*i.e.,* commercial, hospital or health system, university or academic medical center, community health center, military or county), number of providers working each week, sampling information, number of patient visits per week, contact information and (3) a Sample File that contains one record for each patient surveyed, the date of visit, survey disposition code, information about survey completion, and survey responses.

Survey data from the CAHPS CG Database is used to produce four types of products: (1) An online reporting of results available to the public on the CAHPS Database website; (2) individual participant reports (in Excel format), used for comparing a participating organization's CAHPS survey results to the database averages, that are confidential and customized for each participating organization that submits their data, (3) an annual Chartbook that presents summary-level results in a downloadable file in PDF format; and (4) a de-identified dataset that is made available to researchers for additional analyses.

Information for the CAHPS CG Database has been collected by AHRQ on an annual basis since 2010. Participating organizations are asked to submit their data voluntarily to the database each year. The data are cleaned with standardized programs, then aggregated and used to produce summarized results. In addition, reports in Excel format are produced that compare the participating organizations' results to the overall database results. These reports are sent via a secured FTP site upon the participating organization's request.

Database results and individual participant reports can serve a variety of purposes:

- Identifying areas for quality improvement at multiple levels, including medical group, practice site, and individual practitioner.
- Briefing senior leadership on patients' views of the health care they receive
- Supporting public reporting of patients' assessments of care
- Combining with other quality measures to examine health care outcomes

The CAHPS CG Database supports research by providing a de-identified analytic database. Much like the CAHPS Health Plan Database developed in 1998 (OMB Control Number 0935–0165, Expiration Date 5/31/2020), researchers can use the CAHPS CG Survey Database to examine:

- Disparities in CAHPS satisfaction scores by racial and ethnic characteristics of patients
- Comparisons of adult and child CAHPS survey results
- Analysis of case-mix factors affecting CAHPS scores, such as patient age, education, and self-reported health status

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the participating in the CG database. The 11 POCs in exhibit 1 are the number of estimated vendors. Survey vendors assist the Health/Medical entities with submitting data submission materials. Survey vendors generally submit all required survey data and other materials other than the DUA. The 86 POCs in exhibit 1 are the number of estimated participating Health/Medical entities based on 2017 submission.

Each vendor will register online for submission. The online Registration Form will require about 5 minutes to complete. The DUA will be completed by the 86 participating Health/Medical entities. Vendors do not sign DUAs. The DUA process requires about 15 minutes to sign and return by fax, mail or to upload directly to the submission system and includes an accompanying practice site excel file that is uploaded to the submission system. Each submitter will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provided by the CAHPS Database. The average number of data submissions per vendor is estimated to be 10. Once a data file is uploaded, the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to fix any errors in their data file and resubmit if necessary. It will take about one hour to complete each file submission. The total burden is estimated to be 133 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses for each POC	Hours per response	Total burden hours
Registration Form	11	1	5/60	1
Data Use Agreement	86	1	15/60	22
Data Submission	11	10	1	110
Total	108	NA	NA	133

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete the submission process. The cost burden is estimated to be $6,602 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	11	1	[a] 40.95	$41
Data Use Agreement	86	22	[b] 93.44	2,056
Data Files Submission	11	110	[c] 40.95	4,505
Total	108	133	NA	6,602

* National Compensation Survey: Occupational wages in the United States May 2016, ''U.S. Department of Labor, Bureau of Labor Statistics.'' (a) and (c) Based on the mean hourly wages for Computer Programmer (15–1131). (b) Based on the mean hourly wage for Chief Executives (11–1011). *https://www.bls.gov/oes/current/oes_nat.htm.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Francis D. Chesley, Jr.,

Acting Deputy Director.

[FR Doc. 2018–21618 Filed 10–3–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0850; Docket No. CDC–2018–0088]

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 Laboratory Response Network to maintain an integrated national and international network of laboratories that can respond to suspected acts of biological, chemical, or radiological terrorism and other public health emergencies.

DATES: CDC must receive written comments on or before December 3, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0088 by any of the following methods:

- *Federal eRulemaking Portal: 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.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: 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

Laboratory Response Network Information Collection (OMB Control No. 0920–0850, Exp. Date: 4/30/2019)—Extension—National Center for Emerging and Zoonotic Infectious

Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a 3-year extension without change to the data collection plan or tools for Laboratory Response Network (OMB Control No. 0920–0850, Exp. Date: April 30, 2019). The only change is a decrease in the estimated burden from 2,382,300 to 2,064,660 annual hours. The decrease is due to a decrease in the number of LRN member laboratories from 150 to 130 laboratories.

The Laboratory Response Network (LRN) was established by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in accordance with Presidential Decision Directive 39, which outlined national anti-terrorism policies and assigned specific missions to federal departments and agencies. The LRN's mission is to maintain an integrated national and international network of laboratories that can respond to suspected acts of biological, chemical, or radiological terrorism and other public health emergencies.

Federal, state and local public health laboratories join the LRN voluntarily. When laboratories join, they assume specific responsibilities and are required to provide information to the LRN Program Office at CDC. Each laboratory must submit and maintain complete information regarding the testing capabilities of the laboratory. Biennially, laboratories are required to review, verify and update their testing capability information. This information is needed so that the LRN Program Office can determine the ability of the Network to respond to a biological or chemical terrorism event. The sensitivity of all information associated with the LRN requires that CDC obtain personal information about all individuals accessing the LRN website. Since CDC must be able to contact all laboratory personnel during an event, each laboratory staff member who obtains access to the restricted LRN website must provide his or her contact information to the LRN Program Office.

As a requirement of membership, LRN laboratories must report all biological and chemical testing results to the LRN Program using a CDC developed software tool called the LRN Results Messenger, or through the laboratory information management system (LIMS) which CDC refers to as Data Integration. CDC supplies this software to LRN laboratories at no charge. This information obtained from LRN laboratories is essential for surveillance of anomalies, to support response to an event that may involve multiple agencies, and to manage limited resources.

LRN laboratories are also required to participate in Proficiency Testing Challenges or Validation Studies and report their results to CDC. LRN laboratories participate in multiple Proficiency Testing Challenges, Exercises and/or Validation Studies every year. These activities consist of 5–500 simulated samples provided by CDC. These challenges are necessary to verify the testing capability of the LRN laboratories. Because biological or chemical agents perceived to be of bioterrorism concern can occur rarely, some LRN laboratories may not be maintaining proficiency in certain testing methods as a result of day-to-day testing. Thus, simulated samples are distributed to ensure proficiency across LRN member laboratories. LRN laboratories also enter the results of these simulated samples into the LRN Results Messenger or through Data Integration for evaluation by CDC.

During a surge event resulting from a bioterrorism or chemical terrorism attack, or during an emerging infectious disease outbreak, LRN Laboratories must submit all testing results using LRN Results Messenger or through Data Integration. CDC uses these results in order to track the progression of a bioterrorism event, responds in the most efficient and effective way possible, and shares this data with other Federal partners involved in the response.

Data is collected via two primary avenues, the program LRN Results Messenger or through Data Integration and the LRN website. Laboratories belonging to the Laboratory Response Network utilize the CDC developed software tool LRN Results Messenger to submit testing results to CDC. Data Integration through the Laboratory Information Management System Integration (LIMSi) is an effort parallel to the LRN Results Messenger, which will ultimately allow laboratories to submit data to CDC using their own data collection systems. Results include details about the type and source of samples as well as the tests performed and the numerical and empirical results of those tests. The LRN website is used by laboratories to provide their complete testing capabilities to CDC. All individuals who use the LRN website must provide their contact information to the LRN Program Office during registration.

An LRN laboratory must provide its testing capabilities, physical and shipping addresses, United States Department of Agriculture (USDA) and Select Agent Permits, and specified responsible individuals' names, phone numbers and email addresses. After registering with the LRN website, a user must provide his/her first and last name, work phone number, alternate phone number, email address, and month and day of birth. During reporting of results, sample details, tests performed, results obtained, and conclusions of tests are required.

Accomplishments during the last three years include the requalification of labs. The requalification occurred between October 24, 2014 and November 7, 2016 and December 12, 2016. We had 130 domestic LRN labs tasked with completing the requalification. We had a 96% response rate. The LRN website has remained the same, and has only undergone routine maintenance since 2015 to keep it in working order. This data collection is authorized under the Public Health Service Act, (42 U.S.C. 241) Section 301. CDC has estimated the annualized burden for this project to be 2,064,660 hours, a decrease of 317,640 hours per year. There is no cost to respondents other than the time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Forms	Number of respondents	Average number of responses per respondent	Average burden per response (hours)	Total burden hours
Public Health Laboratories	Biennial Requalification	130	1	2	260
	General Surveillance Testing Results.	130	25	24	78,000
	Proficiency Testing/Validation Testing Results.	130	5	56	36,400

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Respondents	Forms	Number of respondents	Average number of responses per respondent	Average burden per response (hours)	Total burden hours
	Surge Event Testing Results	130	625	24	1,950,000
Total					2,064,660

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. 2018–21570 Filed 10–3–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–18–1090; Docket No. CDC–2018–0089]

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 revision of information collection project titled Formative and Summative Evaluation of Scaling the National Diabetes Prevention Program (National DPP) in Underserved Areas. This revision is to allow CDC to continue collecting the information needed to assess the effectiveness of its program, ''Scaling the National DPP in Underserved Areas'', and to collect more targeted information on CDC grantees' success in reaching both general and priority populations in underserved areas.

DATES: CDC must receive written comments on or before December 3, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0089 by any of the following methods:

- *Federal eRulemaking Portal: 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*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: 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

Formative and Summative Evaluation of Scaling the National Diabetes Prevention Program in Underserved Areas (OMB No. 0920–1090, exp. 12/31/2018)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC-led National Diabetes Prevention Program (National DPP) is a partnership of public and private organizations working collectively to build the infrastructure for nationwide delivery of an evidence-based lifestyle change program to prevent or delay Type 2 diabetes among adults with prediabetes. The National DPP lifestyle change program is founded on the science of the Diabetes Prevention Program research study, and several translation studies that followed, which showed that making modest behavior changes helped people with prediabetes lose 5% to 7% of their body weight and reduce their risk of developing Type 2 diabetes by 58% (71% for people over 60 years old). From 2012 to 2017, CDC funded six national organizations through a cooperative agreement to establish and expand multistate networks of over 200 program delivery organizations that are able to meet national standards and achieve the outcomes proven to prevent or delay onset of Type 2 diabetes. CDC has conducted a formative and summative evaluation of this program and used the

evaluation findings and lessons learned to provide data-driven technical assistance to the grantees and other organizations delivering the National DPP lifestyle change program. The data and lessons learned from DP12–1212 were also used to inform decision-making and policy, including the development of the Centers for Medicare & Medicaid Services (CMS) Medicare Diabetes Prevention Program (MDPP). As of April 1, 2018, the MDPP Expanded Model provides coverage for the National DPP lifestyle change program for eligible Medicare beneficiaries.

Despite the fact that over 1800 CDC-recognized organizations in 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands offer the National DPP lifestyle change program, there are still many geographic areas with few or no in-person delivery programs. In addition, some populations, including Medicare beneficiaries, men, African-Americans, Asian-Americans, Hispanics, American Indians, Alaska Natives, Pacific Islanders, and people with visual impairment or physical disabilities, are under-enrolled relative to their estimated numbers and disease burden. To address these gaps, CDC funded a new, five-year cooperative agreement with ten new national organizations in September 2017, ''Scaling the National DPP in Underserved Areas'' (DP17–1705). CDC funded ten national organizations with affiliate program delivery sites in at least three states, each to start new CDC-recognized organizations in underserved areas and to enroll both general and priority populations in new or existing CDC-recognized organizations. The DP17–1705 grantees will work on activities designed to accomplish three main goals:

(1) Build the infrastructure in underserved areas necessary to deliver the National DPP lifestyle change program to the general population and to priority populations, including Medicare beneficiaries, men, African-Americans, Asian-Americans, Hispanics, American Indians, Alaska Natives, Pacific Islanders, and non-institutionalized people with visual or physical disabilities;

(2) Tailor and adapt the program to address the unique needs and challenges of the enrolled participants; and

(3) Provide participants with specialized support needed to successfully complete the program and achieve 5–7% weight loss. Through this new cooperative agreement, it is anticipated that enrollment, retention, and achievement of 5–7% weight loss goals for the targeted populations will increase.

At this time, CDC requests an additional three years of OMB approval to continue collecting information needed to evaluate the effectiveness of CDC's funding for the new grantees. The data collection will allow CDC to continue to provide data-driven, tailored programmatic technical assistance to ensure continuous quality improvement for each year of the cooperative agreement. A number of changes to the evaluation forms are proposed to ensure that reporting and evaluation requirements are consistent with the aims of the new cooperative agreement and reflect the lessons learned from the original funded national organizations and their affiliate delivery sites. Evaluation data elements have been added or modified accordingly. Also, the method of data collection has converted from using an Excel spreadsheet to a web-based data system to allow for real-time feedback and technical assistance.

The reporting burden of this collection of information is estimated to vary between two and four hours with an average of three hours per grantee response (decreased from 12 hours), and between four and six hours with an average of five hours per affiliate delivery site response (increased from an average of 45 minutes per response). These estimated burden hours include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information by the grantee and affiliate delivery site to submit information directly to the web-based data system. The number of respondents will increase with the increased number of grantees. These changes result in a net increase of 368 annualized burden hours. There are no costs to respondents other than their time.

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)
National DPP Affiliate Delivery Sites	Evaluation Form for Sites	100	1	5	500
National DPP Grantees	Evaluation Form for Grantees	10	1	3	30
Total					530

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. 2018–21571 Filed 10–3–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10391]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our

burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 3, 2018.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10391 Methods for Assuring Access to Covered Medicaid Services Under 42 CFR 447.203 and 447.204

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Title of Information Collection:* Methods for Assuring Access to Covered Medicaid Services Under 42 CFR 447.203 and 447.204; *Type of Information Collection Request:* Extension of a currently approved collection; *Use:* Current regulations at 42 CFR 447.203(b) require states to develop an access monitoring review plan (AMRP) that is updated at least every three years for: Primary care services, physician specialist services, behavioral health services, pre and post-natal obstetric services (including labor and delivery), and home health services. When states reduce rates for other Medicaid services, they must add those services to the AMRP and monitor the effects of the rate reductions for 3 years. If access issues are detected, a state must submit a corrective action plan to CMS within 90 days and work to address the issues within 12 months. Section 447.203(b)(7) requires that states have mechanisms to obtain ongoing beneficiary and provider feedback. A state is also required to maintain a record of data on public input and how the state responded to the input. Prior to submitting proposals to reduce or restructure Medicaid service payment rates, states must receive input from beneficiaries, providers, and other affected stakeholders on the extent of beneficiary access to the affected services.

The information is used by states to document that access to care is in compliance with section 1902(a)(30)(A) of the Social Security Act, to identify issues with access within a state's Medicaid program, and to inform any necessary programmatic changes to address issues with access to care. CMS uses the information to make informed approval decisions on State plan amendments that propose to make Medicaid rate reductions or restructure payment rates and to provide the necessary information for CMS to monitor ongoing compliance with section 1902(a)(30)(A). Beneficiaries, providers and other affected stakeholders may use the information to raise access issues to state Medicaid agencies and work with agencies to address those issues. *Form Number:* CMS–10391 (OMB control number: 0938–1134); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Governments); *Number of Respondents:* 51; *Number of Responses:* 212; *Total Annual Hours:* 12,262. (For questions regarding this collection contact Jeremy Silanskis at 410–786–1592.)

Dated: September 28, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–21587 Filed 10–3–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10008, CMS–R–234, and CMS–R–194]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information

collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by November 5, 2018.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *or* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with a change of a previously approved collection; *Title of Information Collection:* Eligibility of Drugs, Biologicals, and Radiopharmaceutical Agents for Transitional Pass-Through Status Under the Hospital Outpatient Prospective Payment System (OPPS); *Use:* Section 201(b) of the BBRA 1999 amended section 1833(t) of the Act by adding new section 1833(t)(6). This provision requires the Secretary to make additional payments to hospitals for a period of 2 to 3 years for certain drugs, radiopharmaceuticals, biological agents, medical devices and brachytherapy devices. Section 1833(t)(6)(A)(iv) establishes the criteria for determining the application of this provision to new items. Section 1833(t)(6)(C)(i) provides that the additional payment for drugs and biologicals be the amount by which the amount determined under section 1842(o) of the Act exceeds the portion of the otherwise applicable hospital outpatient department fee schedule amount that the Secretary determines to be associated with the drug or biological. Section 1833(t)(6)(D)(i) of the Act sets the payment rate for pass-through eligible drugs and biologicals (assuming that no pro rata reduction in pass-through payment is necessary) as the amount determined under section 1842(o) of the Act. Section 303(c) of Pub. L. 108–173 amended Title XVIII of the Act by adding new section 1847A. This new section establishes the use of the average sales price (ASP) methodology for payment for drugs and biologicals described in section 1842(o)(1)(C) of the Act furnished on or after January 1, 2005. Therefore, as we stated in the November 15, 2004 **Federal Register** (69 FR 65776), in CY 2005, we will pay under the OPPS for drugs, biologicals and radiopharmaceuticals with pass-through status consistent with the provisions of section 1842(o) of the Act as amended by Public Law 108–173 at a rate that is equivalent to the payment these drugs and biologicals will receive in the physician office setting, and established in accordance with the methodology described in the CY 2005 Physician Fee Schedule final rule. Information on Average Sales Price is found at *http://www.cms.hhs.gov/McrPartBDrugAvgSalesPrice/.* The intent of these provisions is to ensure that timely beneficiary access to new pharmacological technologies is not jeopardized by inadequate payment levels. *Form Number:* CMS–10008 (OMB control number 0938–0802); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 30; *Total Annual Responses:* 30; *Total Annual Hours:* 480. (For policy questions regarding this collection contact Raymond Bulls at 410–786–7267).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Subpart D—Private Contracts; *Use:* Section 4507 of the Balanced Budget Act of 1997 (BBA 1997) amended section 1802 of the Social Security Act (the Act) to permit certain physicians and practitioners to opt-out of Medicare and to provide through private contracts services that would otherwise be covered by Medicare. Under such contracts the mandatory claims submission and limiting charge rules of section 1848(g) of the Act would not apply. Subpart D and the supporting regulations contained in 42 CFR 405.410, 405.430, 405.435, 405.440, 405.445, and 405.455, counters the effect of certain provisions of Medicare law that, absent section 1802 of the Act, preclude physicians and practitioners from contracting privately with Medicare beneficiaries to pay without regard to Medicare limits. The most recent approval of this information collection request (ICR) was issued by the Office of Management and Budget on March 2, 2016. We are now seeking to renew this approval before it expires on March 31, 2019. We have made no changes to the information being collected. We updated our burden estimate to reflect changes in the number of physicians and practitioners who have opted out and refinements to our methodology for estimating the burden associated with contracts. We have also updated the cost estimate to account for the current Bureau of Labor Statistics (BLS) wage estimates and to include the estimated costs for Medicare Advantage plans. *Form Number:* CMS–R–234 (OMB control number 0938–0730); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 57,722; *Total Annual Responses:* 57,722; *Total Annual Hours:* 23,557. (For policy questions regarding this collection contact Frederick Grabau at 410–786–0206).

3. *Type of Information Collection Request:* Reinstatement without a change of a previously approved collection; *Title of Information Collection:* Medicare Disproportionate Share Adjustment Procedures and Criteria; *Use:* Section 1886(d)(5)(F) of the Social Security Act established the Medicare disproportionate share adjustment (DSH) for hospitals, which provides additional payment to hospitals that serve a disproportionate share of the indigent patient population.

This payment is an add-on to the set amount per case the Centers for Medicare and Medicaid Services (CMS) pays to hospitals under the Medicare Inpatient Prospective Payment System (IPPS). Under current regulations at 42 CFR 412.106, in order to meet the qualifying criteria for this additional DSH payment, a hospital must prove that a disproportionate percentage of its patients are low income using Supplemental Security Income (SSI) and Medicaid as proxies for this determination. This percentage includes two computations: (1) The ''Medicare fraction'' or the ''SSI ratio'' which is the percent of patient days for beneficiaries who are eligible for Medicare Part A and SSI and (2) the ''Medicaid fraction'' which is the percent of patient days for patients who are eligible for Medicaid but not Medicare. Once a hospital qualifies for this DSH payment, CMS also determines a hospital's payment adjustment based on these two fractions. 42 CFR 412.106 allows hospitals to request that the Medicare fraction of the DSH adjustment be calculated on a cost reporting basis rather than a federal fiscal year. Once requested, the hospital must accept the result irrespective of whether it increases or decreases their DSH payment. The routine use procedure and the DUA allows hospitals to request the detailed Medicare data so they can make an informed choice before deciding whether to request that the Medicare fraction be calculated on the basis of a cost reporting period rather than a federal fiscal year. *Form Number:* CMS–R–194 (OMB control number 0938–0691); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 800; *Total Annual Responses:* 800; *Total Annual Hours:* 400. (For policy questions regarding this collection contact Emily Lipkin at 410–786–3633.)

Dated: September 28, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–21590 Filed 10–3–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1721]

Agency Information Collection Activities; Proposed Collection; Comment Request; Investigational New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

DATES: Submit either electronic or written comments on the collection of information by December 3, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 3, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 3, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1721 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Investigational New Drug Applications.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this

information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Investigational New Drug Application—21 CFR Part 312

OMB Control Number 0910–0014—Extension

This information collection supports FDA regulations in 21 CFR part 312 covering Investigational New Drugs. Part 312 implements provisions of section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) to issue regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

FDA is charged with implementing statutory requirements that ensure drug products marketed in the United States are shown to be safe and effective, properly manufactured, and properly labeled for their intended uses. Section 505(a) of the FD&C Act (21 U.S.C. 355(a)) provides that a new drug may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has previously approved a new drug application (NDA). FDA approves an NDA only if the sponsor of the application first demonstrates that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product's labeling. Proof must consist, in part, of adequate and well-controlled studies, including studies in humans, that are conducted by qualified experts.

The investigational new drug application (IND) regulations under 21 CFR part 312 establish reporting requirements that include an initial application as well as amendments to that application, reports on significant revisions of clinical investigation plans, and information on a drug's safety or effectiveness. In addition, the sponsor is required to give FDA an annual summary of the previous year's clinical experience. The regulations also include recordkeeping requirements pertaining to the disposition of drugs, records pertaining to individual case histories, and certain other documentation verifying the fulfillment of responsibilities by clinical investigators.

Submissions are reviewed by medical officers and other Agency scientific reviewers assigned responsibility for overseeing a specific study. The details and complexity of these requirements are dictated by the scientific procedures and human subject safeguards that must be followed in the clinical tests of investigational new drugs.

The IND information collection requirements provide the means by which FDA can monitor the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products, including the following: (1) Monitor the safety of ongoing clinical investigations; (2) determine whether the clinical testing of a drug should be authorized; (3) ensure production of reliable data on the metabolism and pharmacological action of the drug in humans; (4) obtain timely information on adverse reactions to the drug; (5) obtain information on side effects associated with increasing doses; (6) obtain information on the drug's effectiveness; (7) ensure the design of well-controlled, scientifically valid studies; and (8) obtain other information pertinent to determining whether clinical testing should be continued and information related to the protection of human subjects. Without the information provided by industry as required under the IND regulations, FDA cannot authorize or monitor the clinical investigations that must be conducted before authorizing the sale and general use of new drugs. These reports enable FDA to monitor a study's progress, to ensure the safety of subjects, to ensure that a study will be conducted ethically, and to increase the likelihood that the sponsor will conduct studies that will be useful in determining whether the drug should be marketed and available for use in medical practice.

To assist respondents with certain reporting requirements under part 312, we have developed two forms: Form FDA 1571 entitled, ''Investigational New Drug Application (IND)'' and Form FDA 1572 entitled, ''Statement of Investigator.'' Anyone who intends to conduct a clinical investigation must submit Form FDA 1571 as instructed. The reporting elements include: (1) A cover sheet containing background information on the sponsor and investigator; (2) a table of contents; (3) an introductory statement and general investigational plan; (4) an investigator's brochure describing the drug substance; (5) a protocol for each planned study; (6) chemistry, manufacturing, and control information for each investigation; (7) pharmacology and toxicology information for each investigation; and (8) previous human experience with the investigational drug. Form FDA 1572 is executed and submitted by the IND sponsor before an investigator may participate in an

investigation. It includes background information on the investigator as well as the investigation, and a general outline of the planned investigation and study protocol.

Below, we estimate the burden of the information collection as reported by FDA's Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS (CDER) [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 312.2(e); Requests for FDA advice on the applicability of part 312 to a planned clinical investigation	400	1	400	24	9,600
§ 312.8; Requests to charge for an investigational drug	74	1.23	91	48	4,368
§ 312.10; Requests to waive a requirement in part 312	86	1.84	158	24	3,792
§ 312.23(a) through (f); IND content and format (including Form FDA 1571)	2,187	1.7	3,718	1,600	5,948,800
§ 312.30(a) through (e); Protocol amendments	4,418	5.52	24,387	284	6,925,908
§ 312.31(b); Information amendments	6,691	3.32	22,214	100	2,221,400
§ 312.32(c) and (d); IND safety reports	867	15.78	13,681	32	437,792
§ 312.33(a) through (f); IND annual reports	3,376	2.86	9,655	360	3,475,800
§ 312.38(b) and (c); Notifications of withdrawal of an IND	930	1.61	1,497	28	41,916
§ 312.42; Sponsor requests that a clinical hold be removed, including sponsor submission of a complete response to the issues identified in the clinical hold order	198	1.38	273	284	77,532
§ 312.44(c) and (d); Sponsor responses to FDA when IND is terminated	12	1.16	14	16	224
§ 312.45(a) and (b); Sponsor requests for or responses to an inactive status determination of an IND by FDA	231	1.84	425	12	5,100
§ 312.47; Meetings, including "End-of-Phase 2" meetings and "Pre-NDA" meetings	122	1.51	184	160	29,440
§ 312.54(a); Sponsor submissions to FDA concerning investigations involving an exception from informed consent under § 50.24	15	2.4	36	48	1,728
§ 312.54(b); Sponsor notifications to FDA and others concerning an IRB determination that it cannot approve research because it does not meet the criteria in the exception from informed consent in § 50.24(a)	2	1	2	48	96
§ 312.56(b), (c), and (d); Sponsor notifications to FDA and others resulting from: (1) The sponsor's monitoring of all clinical investigations and determining that an investigator is not in compliance with the investigation agreements; (2) the sponsor's review and evaluation of the evidence relating to the safety and effectiveness of the investigational drug; and (3) the sponsor's determination that the investigational drug presents an unreasonable and significant risk to subjects	6,100	7	42,700	80	3,416,000
§ 312.58(a); Sponsor's submissions of clinical investigation records to FDA on request during FDA inspections	73	1	73	8	584
§ 312.70; During the disqualification process of a clinical investigator by FDA, the number of investigator responses or requests to FDA following FDA's notification to an investigator of its failure to comply with investigation requirements	4	1	4	40	160
§ 312.110(b)(4) and (b)(5); Written certifications and written statements submitted to FDA relating to the export of an investigational drug	11	26.28	289	75	21,675
§ 312.120(b); Submissions to FDA of "supporting information" related to the use of foreign clinical studies not conducted under an IND	1,414	8.62	12,189	32	390,048
§ 312.120(c); Waiver requests submitted to FDA related to the use of foreign clinical studies not conducted under an IND	35	2.34	82	24	1,968
§ 312.130; Requests for disclosable information in an IND and for investigations involving an exception from informed consent under § 50.24	3	1	3	8	24
§§ 312.310(b) and 312.305(b); Submissions related to expanded access and treatment of an individual patient	935	2.77	2,590	8	20,720
§ 312.310(d); Submissions related to emergency use of an investigational new drug	480	2.15	1,032	16	16,512
§§ 312.315(c) and 312.305(b); Submissions related to expanded access and treatment of an intermediate-size patient population	118	2.52	297	120	35,640
§ 312.320(b); Submissions related to a treatment IND or treatment protocol	10	12.9	129	300	38,700

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS (CDER) [1]—Continued

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Total					23,125,527

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR HUMAN DRUGS (CDER) [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§ 312.52(a); Sponsor records for the transfer of obligations to a contract research organization	1,300	1	1,300	2	2,600
§ 312.57; Sponsor recordkeeping showing the receipt, shipment, or other disposition of the investigational drug and any financial interests	13,000	1	13,000	100	1,300,000
§ 312.62(a); Investigator recordkeeping of the disposition of drugs	13,000	1	13,000	40	520,000
§ 312.62(b); Investigator recordkeeping of case histories of individuals	13,000	1	13,000	40	520,000
§ 312.160(a)(3); Records pertaining to the shipment of drugs for investigational use in laboratory research animals or in vitro tests	547	1.43	782	*0.50	391
§ 312.160(c); Shipper records of alternative disposition of unused drugs	547	1.43	782	*0.50	391
Total					2,343,382

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
*30 minutes.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN FOR HUMAN DRUGS (CDER) [1]

21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§ 312.53(c); Investigator reports submitted to the sponsor, including Form FDA 1572, curriculum vitae, clinical protocol, and financial disclosure	1,732	7.94	13,752	80	1,100,160
§ 312.55(a); Investigator brochures submitted by the sponsor to each investigator	995	4	3,980	48	191,040
§ 312.55(b); Sponsor reports to investigators on new observations, especially adverse reactions and safe use	995	4	3,980	48	191,040
§ 312.64; Investigator reports to the sponsor, including progress reports, safety reports, final reports, and financial disclosure reports	13,000	1	13,000	24	312,000
Total					1,794,240

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS (CBER) [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.2(e) Requests for FDA advice on the applicability of part 312 to a planned clinical investigation	217	1.18	256	24	6,144
312.8 Requests to charge for an investigational drug	20	1.50	30	48	1,440
312.10 Requests to waive a requirement in part 312	2	1	2	24	48
312.23(a) through (f) IND content and format	335	1.35	452	1,600	723,200
312.30(a) through (e) Protocol amendments	694	5.84	4,053	284	1,151,052
312.31(b) Information amendments	77	2.43	187	100	18,700
312.32(c) and (d) IND Safety reports	161	8.83	1,422	32	45,504
312.33(a) through (f) IND Annual reports	745	2.14	1,594	360	573,840
312.38(b) and (c) Notifications of withdrawal of an IND	134	1.69	226	28	6,328

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS (CBER) [1]—Continued

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.42 Sponsor requests that a clinical hold be removed, including sponsor submission of a complete response to the issues identified in the clinical hold order	67	1.30	87	284	24,708
312.44(c) and (d) Sponsor responses to FDA when IND is terminated	34	1.15	39	16	624
312.45(a) and (b) Sponsor requests for or responses to an inactive status determination of an IND by FDA	55	1.38	76	12	912
312.47 Meetings, including ''End-of-Phase 2'' meetings and ''Pre-NDA'' meetings	88	1.75	154	160	24,640
312.53(c) Investigator reports submitted to the sponsor, including Form FDA–1572, curriculum vitae, clinical protocol, and financial disclosure	453	6.33	2,867	80	229,360
312.54(a) Sponsor submissions to FDA concerning investigations involving an exception from informed consent under 21 CFR 50.24	1	1	1	48	48
312.54(b) Sponsor notifications to FDA and others concerning an IRB determination that it cannot approve research because it does not meet the criteria in the exception from informed consent in 50.24(a)	1	1	1	48	48
312.55(a) Number of investigator brochures submitted by the sponsor to each investigator	239	1.91	456	48	21,888
312.55(b) Number of sponsor reports to investigators on new observations, especially adverse reactions and safe use	243	4.95	1,203	48	57,744
312.56(b), (c), and (d) Sponsor notifications to FDA and others resulting from: (1) The sponsor's monitoring of all clinical investigations and determining that an investigator is not in compliance with the investigation agreements; (2) the sponsor's review and evaluation of the evidence relating to the safety and effectiveness of the investigational drug; and (3) the sponsor's determination that the investigational drug presents an unreasonable and significant risk to subjects	108	2.21	239	80	19,120
312.58(a) Number of sponsor's submissions of clinical investigation records to FDA on request during FDA inspections	7	1	7	8	56
312.64 Number of investigator reports to the sponsor, including progress reports, safety reports, final reports, and financial disclosure reports	2,728	3.82	10,421	24	250,104
312.70 During the disqualification process of a clinical investigator by FDA, the number of investigator responses or requests to FDA following FDA's notification to an investigator of its failure to comply with investigation requirements	5	1	5	40	200
312.110(b)(4) and (b)(5) Number of written certifications and written statements submitted to FDA relating to the export of an investigational drug	18	1	18	75	1,350
312.120(b) Number of submissions to FDA of ''supporting information'' related to the use of foreign clinical studies not conducted under an IND	280	9.82	2,750	32	88,000
312.120(c) Number of waiver requests submitted to FDA related to the use of foreign clinical studies not conducted under an IND	7	2.29	16	24	384
312.130 Number of requests for disclosable information in an IND and for investigations involving an exception from informed consent under § 50.24	350	1.34	469	8	3,752
312.310(b) and 312.305(b) Number of submissions related to expanded access and treatment of an individual patient	78	1.08	84	8	672
312.310(d) Number of submissions related to emergency use of an investigational new drug	76	2.76	210	16	3,360
312.315(c) and 312.305(b) Number of submissions related to expanded access and treatment of an intermediate-size patient population	9	1	9	120	1,080
312.320(b) Number of submissions related to a treatment IND or treatment protocol	1	1	1	300	300
Total					3,254,606

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 5—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS (CBER) [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
312.52(a) Sponsor records for the transfer of obligations to a contract research organization	75	1.40	105	2	210
312.57 Sponsor recordkeeping showing the receipt, shipment, or other disposition of the investigational drug, and any financial interests	335	2.70	904	100	90,400
312.62(a) Investigator recordkeeping of the disposition of drugs	453	1	453	40	18,120
312.62(b) Investigator recordkeeping of case histories of individuals	453	1	453	40	18,120
312.160(a)(3) Records pertaining to the shipment of drugs for investigational use in laboratory research animals or in vitro tests	111	1.40	155	*0.5	78
312.160(c) Shipper records of alternative disposition of unused drugs	111	1.40	155	*0.5	78
Total					127,006

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
* 30 minutes.

Because we have received an increased number of IND submissions since the last OMB approval of the information collection, we have increased our estimate of the associated burden accordingly.

Dated: September 28, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21610 Filed 10–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1021]

Notice to Public of Website Location of Center for Devices and Radiological Health Fiscal Year 2019 Proposed Guidance Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the website location where the Agency will post two lists of guidance documents that the Center for Devices and Radiological Health (CDRH or the Center) intends to publish in fiscal year (FY) 2019. In addition, FDA has established a docket where interested persons may comment on the priority of topics for guidance, provide comments and/or propose draft language for those topics, suggest topics for new or different guidance documents, comment on the applicability of guidance documents that have issued previously, and provide any other comments that could benefit the CDRH guidance program and its engagement with stakeholders. This feedback is critical to the CDRH guidance program to ensure that we meet stakeholder needs.

DATES: Submit either electronic or written comments by December 3, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 3, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 3, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2012–N–1021 for ''Notice to Public of website Location of CDRH Fiscal Year 2019 Proposed Guidance Development.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Erica Takai, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

During negotiations on the Medical Device User Fee Amendments of 2012, Title II, Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), FDA agreed to meet a variety of quantitative and qualitative goals intended to help get safe and effective medical devices to market more quickly. Among these commitments included:

- Annually posting a list of priority medical device guidance documents that the Agency intends to publish within 12 months of the date this list is published each fiscal year (the ''A-list''), and
- Annually posting a list of device guidance documents that the Agency intends to publish, as the Agency's guidance-development resources permit each fiscal year (the ''B-list'').

The Medical Device User Fee Amendments of 2017 (MDUFA IV), FDA Reauthorization Act of 2017 (Pub. L. 115–52) maintained these commitments.

FDA welcomes comments on any or all of the guidance documents on the lists as explained in 21 CFR 10.115(f)(5). FDA has established Docket No. FDA–2012–N–1021 where comments on the FY 2019 lists, draft language for guidance documents on those topics, suggestions for new or different guidances, and relative priority of guidance documents may be submitted and shared with the public (see **ADDRESSES**). FDA believes this docket is a valuable tool for receiving information from interested persons. FDA anticipates that feedback from interested persons will allow CDRH to better prioritize and more efficiently draft guidances to meet the needs of the Agency and our stakeholders.

In addition to posting the lists of prioritized device guidance documents, FDA has committed to updating its website in a timely manner to reflect the Agency's review of previously published guidance documents, including the withdrawal of guidance documents that no longer represent the Agency's interpretation of or policy on a regulatory issue.

Fulfillment of these commitments will be reflected through the issuance of updated guidance on existing topics, withdrawal of guidances that no longer reflect FDA's current thinking on a particular topic, and annual updates to the A-list and B-list announced in this notice.

II. CDRH Guidance Development Initiatives

A. Finalization of Draft Guidance Documents

CDRH has identified as a priority, and has devoted resources to, finalization of draft guidance documents. To assure the timely completion or reissuance of draft guidances, in FY 2015 CDRH committed to performance goals for current and future draft guidance documents. For draft guidance documents issued after October 1, 2014, CDRH committed to finalize, withdraw, reopen the comment period, or issue new draft guidance on the topic for 80 percent of the documents within 3 years of the close of the comment period and for the remaining 20 percent, within 5 years. As part of MDUFA IV commitments, FDA reaffirmed this commitment, as resources permit. In addition, in FY 2018, CDRH withdrew two draft guidances and reopened the comment period for two draft guidances of six draft guidances issued prior to October 1, 2012, and has been continuing to work towards taking an action on the remaining draft guidances. Looking forward, in FY 2019, CDRH will strive to finalize, withdraw, or reopen the comment period for 50 percent of existing draft guidances issued prior to October 1, 2013.

B. Applicability of Previously Issued Final Guidance

CDRH has issued over 450 final guidance documents to provide stakeholders with the Agency's thinking on numerous topics. Each guidance reflected the Agency's current position at the time that it was issued. However, the guidance program has issued these guidances over a period of 30 years, raising the question of how current previously issued final guidances remain. CDRH has resolved to address this concern through a staged review of previously issued final guidances in collaboration with stakeholders. At the website where CDRH has posted the ''A-list'' and ''B-list'' for FY 2019, CDRH has also posted a list of final guidance documents that issued in 2009, 1999, 1989, and 1979.[1] CDRH is interested in external feedback on whether any of these final guidances should be revised or withdrawn. In addition, for guidances that are recommended for revision, information explaining the need for revision, such as the impact and risk to public health associated with not revising the guidance, would also be helpful as the Center considers potential action with respect to these guidances. CDRH intends to provide these lists of previously issued final guidances annually through FY 2025 so that by 2025, FDA and stakeholders will have assessed the applicability of all guidances older than 10 years. For instance, in the annual notice for FY 2020, CDRH expects to provide a list of the final guidance documents that issued in 2010, 2000, 1990, and 1980; the annual notice for FY 2021 is expected to provide a list of the final guidance documents that issued in 2011, 2001, 1991, and 1981, and so on. CDRH will consider the comments received from this retrospective review when determining priorities for updating guidance documents and will revise these as resources permit.

In FY 2018, CDRH received comments regarding guidances issued in 2008,

[1] The retrospective list of final guidances does not include special controls documents.

1998, and 1988, and has withdrawn fourteen guidance documents in response to comments received and because these guidance documents were determined to no longer represent the Agency's current thinking. One guidance has been revised and issued as a draft guidance, and the revision of several guidance documents is also being considered as resources permit.

Consistent with the Good Guidance Practices regulation at 21 CFR 10.115(f)(4), CDRH would appreciate suggestions that CDRH revise or withdraw an already existing guidance document. We request that the suggestion clearly explain why the guidance document should be revised or withdrawn and, if applicable, how it should be revised. While we are requesting feedback on the list of previously issued final guidances located in the annual agenda website, feedback on any guidance is appreciated and will be considered.

III. Website Location of Guidance Lists

This notice announces the website location of the document that provides the A and B lists of guidance documents, which CDRH is intending to publish during FY 2019. To access these two lists, visit FDA's website at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm529396.htm.* We note that the topics on this and past guidance priority lists may be removed or modified based on current priorities, as well as comments received regarding these lists. Furthermore, FDA and CDRH priorities are subject to change at any time (*e.g.,* newly identified safety issues). The Agency is not required to publish every guidance on either list if the resources needed would be to the detriment of meeting quantitative review timelines and statutory obligations. In addition, the Agency is not precluded from issuing guidance documents that are not on either list.

Stakeholder feedback on guidance priorities is important to ensure that the CDRH guidance program meets the needs of stakeholders. The feedback received on the FY 2018 list was mostly in agreement, and CDRH continued to work toward issuing the guidances on this list. In FY 2018, CDRH issued sixteen of twenty guidances on the FY 2018 list (fourteen from the A-list, two from the B-list).

Dated: September 28, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21596 Filed 10–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2310]

Process To Request a Review of the Food and Drug Administration's Decision Not To Issue Certain Export Certificates for Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice of availability that appeared in the **Federal Register** of August 17, 2018. FDA requested comments on the draft guidance for industry and FDA staff entitled ''Process To Request a Review of FDA's Decision Not To Issue Certain Export Certificates for Devices.'' The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the document published August 17, 2018 (83 FR 41078). Submit either electronic or written comments on the draft guidance by November 15, 2018, to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–2310 for ''Process to Request a Review of FDA's Decision Not to Issue Certain Export Certificates for Devices; Draft Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting

of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Process to Request a Review of FDA's Decision Not to Issue Certain Export Certificates for Devices; Draft Guidance for Industry and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Joann Belt, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3658, Silver Spring, MD 20993–0002, *joann.belt@fda.hhs.gov,* 301–796–6836; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 17, 2018, FDA published a notice of availability with a 60-day comment period to request comments on the draft guidance for industry and FDA staff entitled ''Process to Request a Review of FDA's Decision Not to Issue Certain Export Certificates for Devices.''

The Agency has received a request for a 30-day extension of the comment period. The request conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful or thoughtful response.

FDA has considered the request and is extending the comment period for the notice of availability for 30 days, until November 15, 2018. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying guidance on these important issues.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the process to request a review of FDA's decision not to issue certain export certificates for devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Process to Request a Review of FDA's Decision Not to Issue Certain Export Certificates for Devices; Draft Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 17044 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in sections 801(e) and 802 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 381(e) and 382) have been approved under OMB control number 0910–0498; the collections of information in 21 CFR part 807, subparts A through E, have been approved under OMB control number 0910–0625; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in the guidance ''Center for Devices and Radiological Health Appeals Processes'' have been approved under OMB control number 0910–0738.

Dated: September 28, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21597 Filed 10–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3636]

United States Food and Drug Administration and Health Canada Joint Public Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting and Webcast; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting and webcast; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a regional public meeting entitled ''U.S. Food and Drug Administration and Health Canada Joint Public Consultation on International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH).'' The purpose of this public meeting is to provide information and solicit public input on the current activities of ICH as well as the upcoming ICH Assembly Meeting and the Expert Working Group Meetings in Charlotte, NC, scheduled for November 11 through 15, 2018. The topics to be discussed are the topics for discussion at the forthcoming ICH Assembly Meeting in Charlotte, NC.

DATES: The public meeting will be held on October 17, 2018, from 9 a.m. to 12 p.m., Eastern Time. Submit either electronic or written comments on this

public meeting by October 31, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the Sir Frederick G. Banting Research Centre, 251 Sir Frederick Banting Dr., Ottawa, ON K1Y 0M1, Canada. It will also be broadcast on the web, allowing participants to join in person or via the web.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 31, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 31, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3636 for ''U.S. Food and Drug Administration and Health Canada Joint Public Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting and Webcast; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: William Lewallen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6304, Silver Spring, MD 20993–0002, 301–796–3810, *William.Lewallen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The ICH, formerly known as the International Conference on Harmonisation, was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness. In 2015, the ICH was reformed to establish ICH as a true global initiative that expands beyond the previous ICH members. More involvement from regulators around the world is expected, as they will join their counterparts from Europe, Japan, the United States, Canada, and Switzerland as ICH regulatory members. Expanded involvement is also anticipated from global regulated pharmaceutical industry parties, joining as ICH observers and industry members. The reforms build on a 25-year track record of successful delivery of harmonized guidelines for global pharmaceutical development and regulation.

ICH guidelines are developed following a five-step process. In Step 1, experts from the different ICH regions work together to prepare a consensus draft of the Step 1 Technical Document. The Step 1 Technical Document is submitted to the ICH Assembly to request endorsement under Step 2a of the process. Step 2b is a ''Regulators only'' step in which the ICH regulatory members review the Step 2a Final Technical Document and take any actions, which might include revisions that they deem necessary, to develop the draft ''Guideline.'' Step 3 of the process begins with the public consultation process conducted by each of the ICH regulatory members in their respective regions, and this step concludes with completion and acceptance of any revisions that need to be made to the Step 2b draft guideline in response to public comments. Adoption of the new guideline occurs in Step 4. Following adoption, the harmonized guideline moves to Step 5, the final step of the process, when it is implemented by each of the regulatory members in their respective regions. The ICH process has achieved significant harmonization of

the technical requirements for the approval of pharmaceuticals for human use in the ICH regions since 1990. More information on the current ICH process and structure can be found at the following website: *http://www.ich.org.*

II. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online by October 12, 2018. To register to attend the public meeting either in person or via webcast, please visit the following website: *https://www.eventbrite.ca/e/health-canada-us-fda-ich-consultation-tickets-47713713000.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by October 12, 2018, 11:59 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, the number of participants from each organization may be limited. The agenda for the public meeting will be made available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm612657.htm* approximately 2 weeks in advance of the meeting.

If you need special accommodations due to a disability, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than October 12, 2018.

Requests for Oral Presentations: If you wish to make a presentation during the public comment session, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than October 12, 2018. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. All requests to make presentations must be received by the close of registration on October 12, 2018. If selected for presentation, any presentation materials must be emailed to William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than October 12, 2018. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. To register to attend via webcast, please visit the following website: *https://www.eventbrite.ca/e/health-canada-us-fda-ich-consultation-tickets-47713713000.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Dated: September 28, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21594 Filed 10–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Awards Review Meeting (U01).

Date: October 24, 2018.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1068, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 28, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21567 Filed 10–3–18; 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 a meeting Allergy, Immunology, and Transplantation Research 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: Allergy, Immunology, and Transplantation Research Committee AITC January 2019 Council.

Date: October 23–24, 2018.

Time: 9:30 a.m. to 4:00 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: James T. Snyder, Ph.D., Scientific Review Officer Scientific Review Program, Division of Extramural Activities/Room 3G31B, National Institutes of Health, NIAID, 5601 Fishers Lane MSC 9834, Bethesda, MD 20892–9834, (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 28, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21572 Filed 10–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–18–003: Elucidating the Effect of Glycemic Excursions on Patient Well-being and Cognitive Status in People with Type 1 Diabetes.

Date: October 18, 2018.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charlene J. Repique, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7347, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 451–3638, *charlene.repique@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations Imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Patient-Reported Outcomes in Diabetes.

Date: October 25, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK–RC2-Telephone Review.

Date: November 7, 2018.

Time: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7023, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Clinical Trial Review.

Date: November 13, 2018.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 28, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21568 Filed 10–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

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 Biomedical Imaging and Bioengineering Special Emphasis Panel; Mentored Career Development (K) Award Application Review (2019/01).

Date: October 25, 2018.

Time: 9:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Biomedical Imaging and Bioengineering, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John P Holden, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892, 301–496–8775, *john.holden@nih.gov*.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Conference Award (R13) Application Review (2019/01).

Date: October 25, 2018.

Time: 2:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Biomedical Imaging and Bioengineering, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John P. Holden, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892, (301) 496–8775, *john.holden@nih.gov.*

Dated: September 28, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21569 Filed 10–3–18; 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; RFA Panel: Cellular and Molecular Biology of Complex Brain Disorders.

Date: October 29–30, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102.

Contact Person: Brian H Scott, Ph.D., Scientific Review Officer, National Institutes

of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: October 29–30, 2018.

Time: 8:30 a.m. to 3:00 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: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Stress and Sleep Neuroscience.

Date: October 29, 2018.

Time: 12:00 p.m. to 2:30 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: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 4214 MSC 7814, Bethesda, MD 20892, 301–435–1787, *borzanj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Neuroscience.

Date: October 31, 2018.

Time: 1:00 p.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: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5185, Bethesda, MD 20892, *ying-yee.kong@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Oncological Sciences.

Date: November 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–5902, *caojn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: November 1, 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: Richard G Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–094: Maximizing Investigators' Research Award (R 35).

Date: November 1–2, 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: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BRAIN Initiative: Targeted BRAIN Circuits Projects.

Date: November 1, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test Challenge: Step 2.

Date: November 1, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate prize.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Abuse and HIV Infection.

Date: November 1, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Gastroenterology.

Date: November 1–2, 2018.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Alexandrian, 480 King Street, Alexandria, VA 22314.

Contact Person: Terez Shea-Donohue, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, *sheadonohuept@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS and AIDS-related applications.

Date: November 1, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: November 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: SpringHill Suites, 900 Bayfront Ct, San Diego, CA 92101.

Contact Person: Vilen A Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.

Date: November 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016F, Bethesda, MD 20892, 301–435–0908, *lguo@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Health Services and Health Informatics.

Date: November 1, 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 (Telephone Conference Call).

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Endocrinology, Metabolism and Reproductive Biology.

Date: November 1, 2018.

Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–089: Imaging and Biomarkers for Early Cancer Detection (U01).
Date: November 1, 2018.
Time: 1:00 p.m. to 4:15 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–18–011: Early Phase Clinical Trials in Imaging and Image-Guided Interventions (R01 Clinical Trial Required).
Date: November 1–2, 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 (Virtual Meeting).
Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 28, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21574 Filed 10–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research: 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 Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.
Date: November 29, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, Building 30, Room 117, 30 Center Drive, Bethesda, MD 20892.
Contact Person: Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about/CouncilCommittees.asp*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 28, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21575 Filed 10–3–18; 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; Member Conflicts: Disease and Pathophysiology of the Visual System.
Date: October 24, 2018.
Time: 9:00 a.m. to 2:00 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: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.
Date: October 25–26, 2018.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037
Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AI–18–016: Gene Therapeutics for HIV Cure.
Date: October 25, 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.
Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–316: Biomedical Technology Research Resource (P41).
Date: October 30, 2018.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Methodology and Measurement in Behavioral and Social Sciences.
Date: October 30, 2018.

Time: 10:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune System Plasticity in Dental, Oral, and Craniofacial Diseases.
Date: October 30, 2018.
Time: 1:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immune System Plasticity in Dental, Oral, and Craniofacial Diseases.
Date: October 30, 2018.
Time: 2:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Linking Provider Recommendation to Adolescent HPV Uptake.
Date: October 30, 2018.
Time: 12:00 p.m. to 4:00 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: Tasmeen Weik, DRPH, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–6480, *weikts@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIB Clinical Pediatric and Fetal Applications.
Date: October 31, 2018.
Time: 11:00 a.m. to 2:00 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: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 28, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–21573 Filed 10–3–18; 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 project 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: State Opioid Response (SOR) and Tribal Opioid Response (TOR) Program Data Collection and Performance Measurement—NEW

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) is requesting approval from the Office of Management and Budget (OMB) for data collection activities associated with the State Opioid Response (SOR) and Tribal Opioid Response (TOR) discretionary grant programs. Approval of this information collection will allow SAMHSA to continue to meet the Government Performance and Results Modernization Act of 2010 (GPRMA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs which are consistent with OMB guidance. Information collected through this request will be used to monitor performance throughout the grant period.

There will be up to 359 award recipients (states, territories, and tribal entities) in these grant programs. Grantee-level data will include information related to naloxone purchases and distribution. This grantee-level information will be collected quarterly.

All funded states/territories and tribal entities will also be required to collect and report client-level data on individuals who are receiving opioid treatment services to ensure program goals and objectives are being met. Client-level data will include information such as: Demographic information, services planned/received, mental health/substance use disorder diagnoses, medical status, employment status, substance use, legal status, and psychiatric status/symptoms. Client-level data will be collected at intake/baseline, three months post intake, six months post intake, and at discharge.

CSAT anticipates that the time required to collect and report the grantee-level data is approximately 10 minutes per response, and the time required to collect and report the client-level data is approximately 47 minutes per response. CSAT's estimate of the burden associated with the client-level instrument includes an adjustment for data elements that are currently being collected by entities that are likely to be funded by the SOR/TOR grant programs.

TABLE 1—ESTIMATE OF ANNUALIZED HOUR BURDEN FOR SOR/TOR GRANTEES

SAMHSA data Collection	Number of respondents	Responses per respondent	Total number of responses	Burden hours per response	Total burden Hours
Grantee-Level Instrument	359	4	1,436	.17	244
Client Level Instrument: Baseline Interview	165,000	1	165,000	.78	128,700
Client-Level Instrument: Follow-up Interview [1]	132,000	2	264,000	.78	205,920
Client-Level Instrument: Discharge Interview [2]	85,800	1	85,800	.78	66,924
CSAT Total	165,359		516,236		401,788

Notes:
[1] It is estimated that 80% of baseline clients will complete the three month and six month follow-up interviews.
[2] It is estimated that 52% of baseline clients will complete this interview.

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, Maryland 20857, *OR* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by December 3, 2018.

Summer King,

Statistician.

[FR Doc. 2018–21576 Filed 10–3–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18X.LLAK941000 L14100000.ET0000; AA–61299, F–16304, AA–64307, F–85667, AA–61301]

Public Land Order No. 7874; Partial Revocation of Public Land Orders No. 5179, 5180, 5181, 5184, and 5188, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This Order partially revokes five Public Land Orders (PLO) insofar as they affect approximately 229,715 acres of public lands. The lands were reserved for study and classification as appropriate by the Department of the Interior (DOI). The purposes for which these lands were withdrawn no longer exist as described in the analysis and decisions made through the Bay Resource Management Plan (RMP) and associated Environmental Impact Statement. Of the lands described within the Orders being revoked, approximately 83.30 acres have been conveyed out of Federal ownership and the revocation of the Order on these lands is a record-clearing action only.

DATES: This Public Land Order takes effect on October 4, 2018.

FOR FURTHER INFORMATION CONTACT: David V. Mushovic, Bureau of Land Management (BLM) Alaska State Office, 222 West Seventh Avenue, Mailstop #13, Anchorage, AK 99513–7504, 907–271–4682, or *dmushovi@blm.gov.* People who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This Order follows the recommendations made in the BLM's 2008 Bay RMP which serves as the detailed statement required under the National Environmental Policy Act, Section 102(2)(C). PLO No. 5179 withdrew lands in aid of legislation concerning addition to or creation of units of the National Park, National Forest, Wildlife Refuge, and Wild and Scenic Rivers systems, and to allow for classification of the lands. Any additions to or creation of new units of National Parks, National Forests, Wildlife Refuges, or Wild and Scenic Rivers from the land withdrawn by Public Land Order No. 5179 were met by the Alaska National Interest Lands Conservation Act (ANILCA). The classification of the lands withdrawn by PLO No. 5179 has been satisfied by the analysis conducted during the development of the BLM's 2008 Bay RMP. PLO No. 5180 withdrew lands to allow for classification and for the protection of the public interest in these lands. The classification and protection of the public interest in the lands withdrawn by PLO No. 5180 has been satisfied by the analysis conducted during the development of the BLM's 2008 Bay RMP. PLO No. 5181 withdrew lands to allow for classification and study as possible additions to the National Wildlife Refuge System. The purposes of PLO No. 5181 were satisfied by both the ANILCA and the analysis conducted during the development of the BLM's 2008 Bay RMP. PLO No. 5184 withdrew lands to allow for classification or reclassification of some of areas withdrawn by Section 11 of the Alaska Native Claims Settlement Act (ANCSA). These purposes were satisfied by the analysis conducted during the development of the BLM's 2008 Bay RMP. PLO No. 5188 withdrew lands to allow for classification and protection of the public interest in the lands in former reservations for use and benefit of Alaska Natives. These purposes were satisfied by the analysis conducted during the development of the BLM's 2008 Bay RMP. In addition, PLO No. 5418, effective March 1974, amends PLO No. 5180 to add all unreserved public lands in Alaska, or those which may become unreserved unless specified by order at that time. Upon revocation, the lands in this Order will not be subject to the terms and conditions of PLO No. 5418, which amended PLO No. 5180, but will continue to be subject to the terms and conditions of any other withdrawal, segregation of record, and other applicable law. Some lands covered by the revocation of the above listed withdrawals have been top filed by the State of Alaska per the Alaska Statehood Act. Upon revocation of the above listed withdrawals, the top filings will convert to selections. Lands validly selected or conveyed to the State of Alaska are not subject to Sec. 810 of the ANLICA as they no longer fit the definition of public lands. The Sec. 810 analysis for the approved Bay RMP found no significant restriction on subsistence uses.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, and Section 22(h)(4) of the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1621(h)(4), it is ordered as follows:

1. Subject to valid existing rights, Public Land Orders Nos. 5179 (37 FR 5579 (1972)); 5180 (37 FR 5583 (1972));

5181 (37 FR 5584 (1972)); 5184 (37 FR 5588 (1972)) and any amendments, modifications or corrections to these Orders, if any, are hereby revoked insofar as they affect the following described Federal lands or interests in lands:

a. Those lands within PLO No. 5179, as amended, modified, or corrected:

Seward Meridian, Alaska

T. 8 S, R. 71 W, partly unsurveyed,
Secs. 1, 2, 12, 13, and 24.
T. 9 S, R. 71 W, partly unsurveyed,
Sec. 20, W1/2NW1/4NE1/4 and E1/2NE1/4NW1/4.
T. 9 S, R. 72 W, unsurveyed.

The area described contains 26,076 acres.

b. Those lands within PLO No. 5180 as amended by PLO No. 5418:

Seward Meridian, Alaska

T. 10 S, R. 76 W,
Secs. 1 and 12,
Sec. 13, those portions lying outside Alaska Maritime National Wildlife Refuge, excepting U.S. Survey No. 13740,
Secs. 14, 23, 24, 26, 27, and 34, those portions lying outside Alaska Maritime National Wildlife Refuge.

The area described contains 516.54 acres.

c. Those lands within PLO No. 5181, including those lands amended by PLO No. 5388:

Seward Meridian, Alaska

T. 8 S, R. 72 W, partly unsurveyed,
Secs. 4 thru 9, secs. 16 thru 21, and secs. 25 thru 36.
Tps. 9 S, Rs. 72 and 73 W, unsurveyed.
T. 9 S, R. 74 W, unsurveyed,
Secs. 1 thru 5;
Sec. 6, excepting U.S. Survey No. 9603, lots 1 and 2;
Sec. 7, excepting U.S. Survey No. 9757, lots 1 and 2;
Secs. 8 thru 36.
T. 9 S, R. 75 W, unsurveyed,
Sec. 1, excepting U.S. Survey No. 9603, lot 2, those portions lying outside Alaska Maritime National Wildlife Refuge;
Sec. 2, those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 11 thru 16, those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 20 and 21, those portions lying outside Alaska Maritime National Wildlife Refuge;
Sec. 22, excepting U.S. Survey No. 9604, those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 23 thru 27, those portions lying outside Alaska Maritime National Wildlife Refuge;
Sec. 28, excepting U.S. Survey No. 9605, those portions lying outside Alaska Maritime National Wildlife Refuge;
Sec. 29, those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 32 thru 36, those portions lying outside Alaska Maritime National Wildlife Refuge.

The area described contains approximately 94,871.37 acres.

d. Those lands within PLO No. 5184, as amended, modified or corrected:

Seward Meridian, Alaska

T. 10 S, R. 71 W, tracts A and B.
T. 11 S, R. 71 W, tracts A and B.
T. 12 S, R. 71 W, partly unsurveyed,
Secs. 3 thru 36.
T. 10 S, R. 72 W,
Secs. 3, 6, 7, and 24.
T. 11 S, R. 72 W,
Secs.1, 12, 13, 24, 33, 34, and 35.
T. 12 S, R. 72 W,
Sec. 13;
Secs. 22 thru 36, excepting U.S. Survey Nos. 9851 and 9649.
T. 10 S, R. 73 W,
Secs. 19 and 30.
T. 13 S, R. 73 W,
Secs. 1 thru 5;
Secs. 7 thru 18, excepting U.S. Survey Nos. 9640 and 9641.
T. 10 S, R. 74 W,
Secs. 1 thru 9, 13, secs. 16 thru 21, secs. 23 thru 27, secs. 34, and 35.
T. 11 S, R. 74 W,
Secs. 3, 6, 7, 18, 19, 30, 31, and 32.
T. 12 S, R. 74 W,
Secs. 5 thru 8;
Secs. 17 thru 20, excepting U.S. Survey Nos. 2495, 9455, 9473, and 9760.
T. 14 S, R. 74 W,
Secs. 28 and 33; M.S. No. 2436.
T. 10 S, R. 75 W,
Secs. 1 thru 3, secs. 10 thru 15, and secs. 22 thru 24;
T. 14 S, R. 75 W,
Sec. 11, those portions lying within Federal mining claims AA031603 thru AA031606, AA031608 thru AA031610 and AA031665 only;
Sec. 12, those portions lying within Federal mining claims AA031518, AA031607 thru AA031609, AA031663 and AA031664 only;
Sec. 13, those portions lying within Federal mining claims AA031603, AA031607, AA031608, AA032237 thru AA032242, AA032271, AA032275, AA032276, AA032278, and AA032279 only;
Sec. 14, those portions lying within Federal mining claims AA031603 thru AA031606, AA031608, AA031665, AA032276 and AA032279 only;
Sec. 22, those portions lying within Federal mining claims AA031527, AA031528, and AA031620 only;
Ssec. 24, those portions lying within Federal mining claims AA032240 and AA032241 only;
Sec. 26, those portions lying within Federal mining claims AA031527, AA031616 thru AA031619, AA031627, AA031636 and AA031637 only;
Sec 27, those portions lying within Federal mining claims AA031527, AA31528, AA031617 thru AA031620, AA031626 thru AA031631, AA031636 thru AA031642, and AA031646 thru AA031650 only;
Sec. 34, those portions lying within Federal mining claims AA031636, AA031637, and AA031646 thru AA031650 only;
Sec. 35, those portions lying within Federal mining claim AA031636 only;
M.S. Nos. 2436, 2440 and 2442, those portions lying outside Alaska Maritime National Wildlife Refuge.
T. 15 S, R. 75 W, M.S. Nos. 2442 and 2443, those portions lying outside Togiak National Wildlife Refuge, Cape Newenham National Wildlife Refuge, and Alaska Maritime National Wildlife Refuge.
T. 11 S, R. 76 W,
Secs. 2 and 3; those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 11 thru 14 excepting U.S. Survey Nos. 9495 and 9488, Lot 1, those portions lying outside Alaska Maritime National Wildlife Refuge;
Secs. 23, 24, 25, and 36, excepting U.S. Survey Nos. 9487 and 9485, those portions lying outside Alaska Maritime National Wildlife Refuge.
T. 12 S, R. 76 W,
Sec. 1, excepting U.S. Survey No. 9485, those portions lying outside Alaska Maritime National Wildlife Refuge.

The area described contains 108,167.99 acres.

Total areas described in paragraph 1 aggregate 229,632 acres.

2. Subject to valid existing rights, PLO No. 5184 (37 FR 5588 (1972)), and PLO No. 5188 (37 FR 5591 (1972)) as amended, modified, or corrected, are hereby revoked insofar as they affect the following described Federal interests in land: Public Land Order No. 5184, as amended, modified, or corrected, which withdrew public lands located in Tps. 14 S, Rs. 74 and 75 W, Seward Meridian, Alaska, is hereby revoked insofar as it affects Federal interests in the following described lands:

U.S. Survey No. 9501, lots 2 and 3.

The area described contains 79.95 acres.

Public Land Order No. 5188, as amended, modified, or corrected, which withdrew public lands located in T. 12 S, R. 73 W, Seward Meridian, Alaska, is hereby revoked insofar as it affects Federal interests in the following described lands:

U.S. Survey No. 2024.

The area described contains 3.35 acres.

The area described in paragraph 2 aggregates 83.30 acres.

The area described in paragraphs 1 and 2 aggregate 229,715 acres.

3. The lands subject to revocation in this Order will not be subject to additional withdrawal by PLO 5418.

4. At 8 a.m. AKST on November 5, 2018, the lands described in Paragraph 1 shall be open to all forms of

appropriation under the public land laws, including selection by the State of Alaska under the Alaska Statehood Act, location and entry under the mining laws, leasing under the Mineral Leasing Act of February 25, 1920, as amended, and selection by Regional Corporations under section 12 of the ANCSA, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. AKST on November 5, 2018, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the lands referenced in this order under the mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. State law governs acts required to establish a location and to initiate a right of possession where not in conflict with Federal law. The BLM will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. The lands described in paragraph 2 have been conveyed out of Federal ownership. For those lands this is a record clearing action only.

Dated: September 26, 2018.

Joseph R. Balash,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 2018–21641 Filed 10–3–18; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000 L5105.0000.EA0000 LVRCF1806160 241A 18X; MO# 4500125059]

Notice of Temporary Closure of Public Land in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: The Las Vegas Field Office announces the temporary closure of certain public lands under its administration in Clark County, NV. This temporary closure is being made in the interest of public safety in relation to the authorized 2018 Rise Lantern Festival. This temporary closure controls access to multiple points of entry to the festival located on the Jean Dry Lake bed in order to minimize the risk of vehicle collisions with festival participants and workers. The temporary closure also ensures adequate time to conduct clean-up of the festival location.

DATES: The temporary closure takes effect at 12:01 a.m. on October 5, 2018, and remains in effect until 11:59 p.m. on October 6, 2018.

ADDRESSES: The temporary closure order, communications plan, and map of the temporary closure area will be posted at the BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130 and on the BLM website: *www.blm.gov.* These materials will also be posted at the access point of Jean Dry Lake Bed and the surrounding areas.

FOR FURTHER INFORMATION CONTACT: Kenny Kendrick, Outdoor Recreation Planner, (702) 515–5073, *Kkendrick@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Las Vegas Field Office announces the temporary closure of selected public lands under its administration. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the official Special Recreation Permit of the 2018 Rise Lantern Festival. The public lands affected by this temporary closure are described as follows:

Mount Diablo Meridian, Nevada

T. 24 S., R. 60 E.,
- Sec. 21, that portion lying easterly and southerly of the easterly and southerly right-of-way boundary of State Route 604;
- Sec. 22;
- Secs. 27 thru 28;
- Sec. 29, and 32 that portion lying easterly and southerly of the easterly and southerly right-of-way boundary of State Route 604;
- Secs. 33, and 34.

T. 25 S., R. 60 E.,
- Sec. 2, W1/2;
- Secs. 3 thru 5;
- Secs. 8 thru 10;
- Sec. 11, W1/2;
- Sec. 14, W1/2;
- Secs. 15 thru 17.

Roads leading into the public lands under the temporary closure will be posted to notify the public of the temporary closure. The temporary closure area includes the Jean Dry Lake Bed and is bordered by Hidden Valley to the east, the Sheep Mountain to the southwest, and the right-of-way boundary of State Route 604. Under the authority of Section 303(a) of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce the following rules in the area described above:

The entire area as listed in the legal description above is closed to all vehicles and personnel except Law Enforcement, Emergency Vehicles, event personnel, and ticketed festival participants. Access routes leading to the temporarily closed area are closed to vehicles. No vehicle stopping or parking in the closed area except for designated parking areas will be permitted. Festival participants are required to remain within designated spectator areas only.

The following restrictions will be in effect for the duration of the temporary closure to ensure public safety of festival participants. Unless otherwise authorized, the following activities within the closure area are prohibited:

- Camping.
- Possession and/or consuming any alcoholic beverage unless the person has reached the age of 21 years.
- Discharging, or use of firearms, or other weapons.
- Possession and/or discharging of fireworks.
- Allowing any pet or other animal in their care to be unrestrained at any time. Animals must be on a leash or other restraint no longer than 3 feet.
- Operation of any vehicle including any off-highway vehicle (OHV) and Golf Carts within the closure area, except along designated event routes to and from entrance/exit points and parking areas; or designated event vehicles and official vehicles.
- Parking any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or feature. Vehicles so parked are subject to citation, removal and impoundment at the owner's expense.
- Operating a vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier or device.

Signs and maps directing the public to designated spectator areas will be provided by the event sponsor.

Exceptions: Temporary closure restrictions do not apply to activities conducted under contract with the BLM, agency personnel monitoring the event, or activities conducted under an approved plan of operation. Authorized users must have in their possession, a

written permit or contract from BLM signed by the authorized officer.

Enforcement: Any person who violates this temporary closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

(Authority: 43 CFR 8360.0–7 and 8364.1)

Gayle Marrs-Smith,

Field Manager—Las Vegas Field Office.

[FR Doc. 2018–21650 Filed 10–3–18; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1135]

Certain Strength-Training Systems and Components Thereof Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 4, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Hoist Fitness Systems, Inc. of Poway, California. A supplement to the Complaint was filed on September 14, 2018. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain strength-training systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,549,949 (''the '949 patent''); U.S. Patent No. 7,563,209 (''the '209 patent''); U.S. Patent No. 7,594,880 (''the '880 patent''); U.S. Patent No. 7,654,938 (''the '938 patent''); and U.S. Patent No. 7,976,440 (''the '440 patent''). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 28, 2018, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 2, 8, and 23 of the '949 patent; claims 6 and 21 of the '209 patent; claim 22 of the '880 patent; claims 1, 12, and 13 of the '938 patent; and claims 5, 12, 13, and 20 of the '440 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''machines with a dynamic user support used to perform chest press, fly or butterfly, abdominal, shoulder press, triceps dip, triceps extension, rowing, lat pulldown, bicep curl, seated dip, chin up, lateral raise, inner and outer thigh, low back, glute, leg extension, leg curl, and/or leg press exercises'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Hoist Fitness Systems, Inc., 11900 Community Road, Poway, CA 92064.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

TuffStuff Fitness International, Inc., 13971 Norton Avenue, Chino, CA 91710.

Shandong Relax Health Industry Co., Lt, No. 6 Tainshan 2 Road, Jimo City, Qingdao, Shandong Province, 266000, China.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be named as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 1, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–21631 Filed 10–3–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1134]

Certain Sleep-Disordered Breathing Treatment Mask Systems and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 31, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of ResMed Corp. of San Diego, California; ResMed Inc. of San Diego, California; and ResMed Ltd. of Australia. A supplement was filed on September 4, 2018. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment mask systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,119,931 (''the '931 patent''); U.S. Patent No. 9,027,556 (''the '556 patent''); U.S. Patent No. 9,962,511 (''the '511 patent''); U.S. Patent No. 9,962,510 (''the '510 patent''); U.S. Patent No. 9,937,315 (''the '315 patent''). The complaint further alleges that an industry in the United States exists, or is in the process of being established, as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, The Office of the Secretary, Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 28, 2018, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 5, 8, 26, and 31 of the '931 patent; claims 1, 10, 19, 36, 46, and 52 of the '556 patent; claims 1, 2, 14, 22, and 24 of the '511 patent; claims 5, 10, 28, and 30 of the '510 patent; and claims 1, 2, 30, and 33 of the '315 patent; and whether an industry in the United States exists, or is in the process of being established, as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''full-face and nasal mask systems for treatment of obstructive sleep apnea that are currently manufactured in Mexico and/or New Zealand and currently sold under the trade names 'Simplus,' 'Eson,' and 'Eson 2' that include the unitary combination of a cushion module, a shroud module, and an elbow among other things'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are: ResMed Corp., 9001 Spectrum Center Drive, San Diego, CA 92123.

ResMed Inc., 9001 Spectrum Center Drive, San Diego, CA 92123.

ResMed Ltd., 1 Elizabeth Macarthur Drive, Bella Vista NSW 2153, Australia.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Fisher & Paykel Healthcare Limited, 15 Maurice Paykel Place, East Tamaki, Auckland 2013, PO Box 14348, Panmure, Auckland 1741, New Zealand.

Fisher & Paykel Healthcare, Inc., 173 Technology Drive, Suite 100, Irvine, CA 92618.

Fisher & Paykel Healthcare Distribution Inc., 173 Technology Drive, Suite, Irvine, CA 92618.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be named as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 1, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–21634 Filed 10–3–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–586 and 731–TA–1384 (Final)]

Stainless Steel Flanges From India

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of stainless steel flanges from India that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of India.[2]

Background

The Commission instituted these investigations effective August 16, 2017, following receipt of a petition filed with the Commission and Commerce by the Coalition of American Flange Producers on behalf of itself and its individual members, Core Pipe Products, Inc., Carol Stream, Illinois, and Maass Flange Corporation, Houston, Texas. Effective January 23, 2018, the Commission established a general schedule for the conduct of the final phase of its investigations on stainless steel flanges, following notification of preliminary determinations by Commerce [3] that imports of stainless steel flanges from China and India were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 7, 2018 (83 FR 5459). The hearing was held in Washington, DC, on April 10, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission subsequently issued its final affirmative determinations regarding subsidized imports of stainless steel flanges from China on May 29, 2018 (83 FR 25714, June 4, 2018) and regarding dumped imports of stainless steel flanges from China on July 25, 2018 (83 FR 36622, July 30, 2018). Following notification of final determinations by Commerce that imports of stainless steel flanges from India were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)),[4] and subsidized by the government of India within the meaning of section 705(a) of the Act (19 U.S.C. 1671d(a)),[5] notice of the supplemental scheduling of the final phase of the Commission's antidumping and countervailing duty investigations with respect to India was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 6, 2018 (83 FR 45278).

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b)) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on September 28, 2018. The views of the Commission are contained in USITC Publication 4828 (September 2018), entitled *Stainless Steel Flanges from India: Investigation Nos. 701–TA–586 and 731–TA–1384 (Final).*

By order of the Commission.

Issued: October 1, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–21636 Filed 10–3–18; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the antidumping and countervailing duty orders on stainless steel flanges from India.

[3] *Countervailing Duty Investigation of Stainless Steel Flanges from the People's Republic of China: Preliminary Affirmative Determination,* 83 FR 3124, January 23, 2018 and *Stainless Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative and Alignment of Final Determination With Final Antidumping Duty Determination,* 83 FR 3118, January 23, 2018.

[4] *Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745, August 16, 2018.

[5] *Stainless Steel Flanges from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances,* 83 FR 40748, August 16, 2018.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 28, 2018, the Department of Justice and the State of California's Department of Toxic Substances Control (''DTSC'') filed a complaint and lodged a proposed Consent Decree with the United States District Court for the Eastern District of California (''Court'') pertaining to environmental soil, solid waste, and soil gas contamination at Operable Unit 2 (''OU2'') of the Laboratory for Energy-Related Health Research/Old Campus Landfill Superfund Site (''Site'') in Solano County, California. The complaint and proposed Consent Decree were filed contemporaneously in the matter of *United States of America and the California Department of Toxic Substances Control* vs. *Regents of the University of California,* Civil Action No. 2:18–cv–02651 (E.D. Cal.).

The proposed Consent Decree resolves certain claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606, 9607, as well as related state law claims, in connection with soil, solid waste, and soil gas contamination at OU2. The Consent Decree requires the settling defendant, the Regents of the University of California, to perform cleanup of soil, solid waste, and soil gas contamination at OU2, and to reimburse the United States' and DTSC's related oversight costs on an ongoing basis.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and the California Department of Toxic Substances Control* vs. *Regents of the University of California,* D.J. Ref. No. 90–11–3–1606/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*

To submit comments:	Send them to:
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.usdoj.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $57.00 (25 cents per page reproduction cost) for the Consent Decree, including appendices and signature pages, payable to the United States Treasury. For a paper copy of the Consent Decree without the appendices and signature pages, the cost is $15.50.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–21589 Filed 10–3–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Notice of 194th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 194th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on November 5–6, 2018.

The meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 on November 5, from 1:00 p.m. to approximately 5:00 p.m. and on November 6, from 9:00 a.m. to approximately 4:00 p.m., with a break for lunch. The afternoon session on November 5 and the morning session on November 6 will be in C–5521 Room 4. The afternoon session on November 6 will take place in Room S–2508. The purpose of the sessions on November 5 and the morning of November 6 is for the Advisory Council members to finalize the recommendations they will present to the Secretary of Labor. At the November 6 afternoon session, the Council members will receive an update from leadership of the Employee Benefits Security Administration (EBSA) and present their recommendations.

The Council recommendations will be on the following issues: (1) Evaluating the Department's Regulations and Guidance on ERISA Bonding Requirements and Exploring Reform Considerations and (2) Lifetime Income Products as a Qualified Default Investment Alternative (QDIA)—Focus on Decumulation and Rollovers. Descriptions of these topics are available on the Advisory Council page of the Employee Benefits Security Administration website, at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before October 29, 2018 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW, Washington, DC 20210. Statements also may be submitted as email attachments in word processing or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before October 29 will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by October 29, 2018 at the address indicated.

Signed at Washington, DC, this 28th day of September 2018.

Preston Rutledge,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2018–21663 Filed 10–3–18; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Science and Engineering; 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: Advisory Committee for International Science and Engineering Meeting (AC–ISE) (#25104)

RESCHEDULED DATES AND TIMES: (October 29–30, 2018; Cancelled)

January 24, 2019; 9:00 a.m. to 4:45 p.m. (EDT)

January 25, 2019; 9:00 a.m. to 2:00 p.m. (EDT)

PLACE: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

To help facilitate your entry into the NSF building, please contact Victoria Fung (*vfung@nsf.gov*) on or prior to January 21, 2019.

TYPE OF MEETING: Open.

CONTACT PERSON: Simona Gilbert, AC–ISE Executive Secretary and Staff Associate for Budget, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia, 22314; Telephone: 703–292–8710.

PURPOSE OF MEETING: To provide advice, recommendations and counsel on major goals and policies pertaining to international programs and activities.

Agenda

- Updates on OISE activities
- Discussion on International Strategic Plan Working Group
- Updates on MULTIplying Impact Leveraging International Expertise in Research (MULTIPLIER)
- Updates on IRES Evaluation
- Discussion on International Strategic Plan
- Meet with NSF leadership

Dated: October 1, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–21630 Filed 10–3–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–00036; NRC–2018–0223]

Westinghouse Electric Company, LLC; Hematite Site

AGENCY: Nuclear Regulatory Commission.

ACTION: License termination; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice of the termination of Source Materials License No. SNM–00033. The NRC has terminated the license of the decommissioned Westinghouse Electric Company, LLC Hematite facility in Festus, Missouri and has approved the site for unrestricted release.

DATES: Notice of termination of Source Materials License No. SNM–00033 was issued on September 26, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0223 or NRC Docket No. 070–00036 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0223. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: James Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6103, email: *James.Smith@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated December 20, 2017, the NRC received a request from Westinghouse Electric Company, LLC (Westinghouse) to terminate NRC Source Materials License No. SNM–00033 (ADAMS Accession No. ML17355A043). In this request, Westinghouse stated that it has completed decommissioning and decontamination of the Hematite facility located at 3300 State Road P, Festus, Missouri, in accordance with its approved Decommissioning Plan (ADAMS Accession No. ML112101699).

On the basis of decommissioning activities carried out by Westinghouse, the NRC evaluation of the Final Status Surveys (FSS) and Final Status Survey Report (FSSR), combined with the results of NRC's independent and confirmatory surveys, and on-site inspections, the NRC staff concluded that the site radiological levels meet the requirements in part 20 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Standards for Protection Against Radiation,'' section 20.1402, ''Radiological criteria for unrestricted use.'' A safety evaluation report (SER) documenting the NRC staff's review of Westinghouse's remediation activities, the FSS, and the FSSR of the Hematite site are available in ADAMS under Accession No. ML18241A066. This SER, coupled with Westinghouse providing NRC form 314 and the records required by 10 CFR 70.51(a), documents that the requirements of 10 CFR 20.1402 and 10 CFR 70.38(k) have been met. As such, the NRC considers the site acceptable for unrestricted use, and Source Materials License No. SNM–00033 has been terminated.

Dated at Rockville, Maryland, on September 28, 2018.

For the Nuclear Regulatory Commission.

Andrea Kock,

Acting Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–21583 Filed 10–3–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84312; File No. SR–ICC–2018–009]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to ICC's Treasury Operations Policies and Procedures

September 28, 2018.

I. Introduction

On July 31, 2018, ICE Clear Credit LLC (''ICC'') 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 (SR–ICC–2018–009) to revise the ICC Treasury Operations Policies and Procedures (''Treasury Policy'').[3] The proposed rule change was published in the **Federal Register** on August 16, 2018.[4] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would amend the Treasury Policy. In accordance with CFTC Regulation 1.25,[5] the Treasury Policy currently prohibits ICC from investing both Euro-denominated and U.S. Dollar-denominated cash posted by Clearing Participants (''CPs'') for their margin requirements related to client positions (''Customer Origin Cash'') in foreign sovereign debt. ICC may hold U.S. Dollar-denominated cash in its account at the Federal Reserve Bank of Chicago. ICC's default position is to hold U.S. Dollar-denominated cash, including both Customer Origin Cash and cash posted by CPs for their Guaranty Fund (''GF'') and margin requirements related to their own positions (''House Origin Cash'') in its Federal Reserve account. ICC cannot hold Euro-denominated Cash in its Federal Reserve account, however, and therefore holds such cash elsewhere. Specifically, Euro-denominated House Cash is either invested in certain sovereign debt (currently, German, French, Dutch, or Finnish debt) pursuant to ICC's current Euro Investment Guidelines or at commercial banks in unsecured demand deposit accounts subject to the credit risk of the commercial bank. Until recently, CFTC Regulation 1.25 prohibited Euro-denominated Customer Cash from being invested in foreign sovereign debt, and so was held exclusively at commercial banks in unsecured demand deposit accounts. However, the Commodities Futures Trading Commission (''CFTC'') recently issued an exemptive order[6] (the ''CFTC Order'') permitting ICC to invest, subject to certain conditions, Euro-denominated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used herein but not otherwise defined have the meaning set forth in the ICC Rules or the Treasury Policy. *Available at https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf.*

[4] Securities Exchange Act Release No. 34–83819 (August 10, 2018), 83 FR 40813 (August 16, 2018) (SR–ICC–2018–009) (''Notice'').

[5] 17 CFR 1.25.

[6] Order Granting Exemption From Certain Provisions of the Commodity Exchange Act Regarding Investment of Customer Funds and From Certain Related Commission Regulations, 83 FR 35241 (July 25, 2018) (''CFTC Order'').

Customer Origin Cash in French and German sovereign debt.[7]

Accordingly, the proposed rule change would update the Treasury Policy in light of the CFTC Order. Specifically, as described in more detail below, the proposed rule change would, among other things, amend the Treasury Policy to permit ICC to invest Euro-denominated Customer Cash in certain foreign sovereign debt.

A. Changes Relating to Customer Origin Cash and House Origin Cash

To implement the change described above in response to the CFTC Order, the proposed rule change would (1) allow ICC to invest Customer Origin Cash in accordance with the Treasury Policy's guidelines for investing House Origin Cash; (2) revise those investment guidelines to provide for the investment of Euro-denominated Customer Origin Cash in French and German sovereign debt in accordance with the requirements of CFTC Regulation 1.25 [8] and the CFTC Order; (3) separate the 'ICC Investment of Guaranty Fund and Margin Cash' subsection into USD and Euro headings and make additional edits under those headings; and (4) amend provisions regarding ICC's use of its Federal Reserve Account.

First, the proposed rule change would allow ICC to invest Customer Origin Cash in the same manner as House Origin Cash in accordance with the Treasury Policy's investment guidelines (proposed changes to treatment of House Origin Cash are described below) by adding a new 'Investment of Client Margin Cash' subsection within the 'Treasury Management for Client Business' section, which would state that ICC will invest Customer Origin Cash in accordance with Sections III.B.2 and III.B.3 of the Treasury Policy, which describe how ICC invests House Origin Cash.[9] The proposed rule change would specify that any such investment will be executed in compliance with CFTC Regulation 1.25 [10] and any applicable exemptive orders, including, without limitation, the conditions in CFTC Regulation 1.25 [11] related to the investment of Customer Origin Cash in non-U.S. sovereign debt.[12]

Second, the proposed rule change would revise the Treasury Policy's Euro investment guidelines to allow ICC, or an Investment Manager acting on its behalf, to invest Euro-denominated Customer Origin Cash.[13] Currently, the Euro investment guidelines only provide for the investment of Euro-denominated House Origin Cash. In light of the fact that the CFTC Order would permit ICC to now invest Euro-denominated Customer Origin Cash in French and German sovereign debt, the proposed rule change would apply the Euro investment guidelines to Customer Origin Cash to allow for such investment.[14]

In accordance with the CFTC Order,[15] the proposed rule change would amend the Euro investment guidelines to limit permissible investment, directly and through reverse repurchase agreements (''reverse repo''), to French and German sovereign debt.[16] If 100% of the allocated cash cannot be placed in overnight reverse repo, the investment guidelines would provide for backup investments in term reverse repo [17] and then direct investment in the sovereign debt.[18] The proposed rule change would apply these changes to both Euro-denominated Customer Origin Cash and Euro-denominated House Origin Cash. Previously the Euro investment guidelines permitted investment of Euro-denominated House Origin Cash in Dutch and Finnish sovereign debt, in addition to French and German. To be consistent with ICC's treatment of Customer Origin Cash, the proposed rule change would also limit investment of House Origin Cash to French and German sovereign debt.

With respect to Euro-denominated Customer Origin Cash only, however, the proposed rule change would require that investments comply with any applicable conditions or restrictions set forth in CFTC Regulation 1.25 [19] including any applicable exemptive orders.[20] The proposed rule change would also provide that should conditions change so that the French or German sovereign debt no longer meets the conditions or restrictions of CFTC Regulation 1.25,[21] the outside investment manager shall discontinue making any additional investments in such sovereign debt issuers.[22] These limitations would be necessary to comply with the terms of the CFTC Order.[23] Because the CFTC Order only applies to Customer Origin Cash, it is not necessary to apply these changes to House Origin Cash.[24]

Third, in response to the exemptive relief permitting ICC to invest Euro-denominated customer funds in French and German sovereign debt, the proposed rule change would separate the 'ICC Investment of Guaranty Fund and Margin Cash' subsection into USD and Euro headings. The proposed rule change would add a proposed 'Euro' heading, which would permit ICC's Treasury Department to directly invest Euro-denominated Customer Origin Cash and House Origin Cash. Under the proposed rule change, Euro-denominated House Origin Cash and Customer Origin Cash would be (1) held in bank deposits, (2) allocated to outside investment managers, or (3) directly held/invested by the ICC Treasury Department.[25] Under scenarios (2) and (3), the investment managers or the ICC Treasury Department, as applicable, would invest the Euro-denominated House Origin Cash and Euro-denominated Customer Origin Cash pursuant to the Euro investment guidelines (changes to which are described above).

Fourth, the proposed rule change would also move the reference to ICC's default position of holding U.S. Dollar-denominated Customer Origin Cash and House Origin Cash in its Federal Reserve Account from the 'Investment Strategy' subsection to the amended 'ICC Investment of Guaranty Fund and Margin Cash' subsection under the proposed USD heading.[26] This change would allow ICC to consolidate, under the proposed USD heading, all of the provisions relating to ICC's use of the Federal Reserve Account for holding U.S. Dollar-denominated Customer Origin Cash and House Origin Cash. As described above, the proposed rule change would also apply this 'ICC Investment of Guaranty Fund and Margin Cash' subsection to Customer Origin Cash.

Further in the proposed 'USD' heading, ICC would note that if it is unable to deposit U.S. Dollar-denominated Customer Origin Cash and House Origin Cash in its Federal Reserve Account, ICC's Treasury Department would be able to hold or invest such cash as specified within the Treasury Policy.[27] The proposed rule

[7] Notice, 83 FR at 40814.

[8] 17 CFR 1.25.

[9] Notice, 83 FR at 40814.

[10] 17 CFR 1.25.

[11] *Id.*

[12] Notice, 83 FR at 40814.

[13] *Id.*

[14] CFTC Order, 83 FR at 35244–35245.

[15] *Id.*

[16] Notice, 83 FR at 40814.

[17] With respect to Customer Origin Cash, an investment in term reverse repo would only be permissible if the Client has the right of optional early termination upon demand.

[18] Notice, 83 FR at 40814.

[19] 17 CFR 1.25.

[20] Notice, 83 FR at 40814.

[21] 17 CFR 1.25.

[22] Notice, 83 FR at 40814.

[23] CFTC Order, 83 FR at 35244–35245.

[24] *Id.*

[25] Notice, 83 FR at 40814.

[26] Notice, 83 FR at 40814.

[27] *Id.*

change would also correct a typographical error by adding the verb ''has'' to the phrase ''ICE Clear Credit arrangements.'' [28]

B. Changes Relating to Outside Investment Managements and Clean-Up Changes

To reflect ICC's engagement of multiple outside investment managers the proposed rule change would remove reference to a specific outside investment manager in the 'Outside Investment Management of Guaranty Fund and Margin Cash' subsection.[29] The proposed rule change would also correct certain typographical errors in this section to improve readability, including removing the indefinite article ''an'' in the phrase ''an alternative or additional outside investment managers'', adding the definite article ''the'' to the phrase ''Investment Manager's investment'', and changing ''Directory of Treasury'' to ''Director of Treasury'' in a footnote.[30]

The proposed rule change would also remove language from the 'Treasury Management for Client Business' section that references the introduction of client trades to clarify that ICC has already commenced client clearing.[31]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[32] For the reasons given below, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act [33] and Rules 17Ad–22(b)(2), 17Ad–22(b)(3), and 17Ad–22(d)(3) thereunder.[34]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and, in general, to protect investors and the public interest.[35]

As discussed above, the proposed rule change would update the Treasury Policy in light of the CFTC Order permitting ICC to invest, subject to certain conditions, Euro-denominated Customer Origin Cash in French and German sovereign debt. Currently, ICC cannot hold Euro-denominated cash in its Federal Reserve account. Therefore ICC invests Euro-denominated House Origin Cash in certain foreign sovereign debt, but holds Euro-denominated Customer Cash at commercial banks in unsecured demand deposit accounts. By providing ICC an alternative to holding Euro-denominated Customer Origin Cash at commercial banks, where such cash is subject to the credit risk of the commercial bank, the proposed rule change would help ICC ensure the reliable investment of assets in ICC's control while at the same time avoiding subjecting such cash to the credit risk of the commercial bank, thereby providing ICC with an important alternative for the protection and safeguarding of Customer Origin Cash and House Origin Cash. And permitting ICC to use multiple outside investment managers to invest Euro-denominated Customer Origin and House Origin Cash on behalf of ICC would further help facilitate the safeguarding of such cash by allowing ICC to employ as many managers as it may need to make its investments and remove investment managers who underperform, which would facilitate ICC's ability to invest such cash in accordance with the Treasury Policy. The Commission believes that, when compared to credit risk at commercial banks, French and German sovereign debt is a reasonably safe investment, and therefore investment by ICC in such debt provides a safe alternative to deposit in commercial banks and would help assure the safeguarding of Euro-denominated House Origin Cash and Customer Origin Cash.

We note that, although permitting ICC to invest Customer Origin Cash through a reverse repo still exposes ICC to the credit risk of the counterparty to the reverse repo transaction, unlike placing the cash in an unsecured demand deposit account at a commercial bank, ICC would receive German and French Sovereign Debt as collateral against the repo counterparty's credit risk, thereby helping to mitigate the risk. Similarly, to the extent a custodian holding the collateral in connection with a reverse repo transaction entered insolvency proceedings, ICC would have a claim to specific securities rather than a general claim against the assets of the custodian, as it would have with respect to cash on deposit at a commercial bank account, which could put ICC in a better position to recover losses in case of insolvency proceedings. For these reasons, the Commission believes that ICC's investment of Euro-denominated Customer Origin Cash and House Origin Cash in French and German sovereign debt, under the conditions of the proposed rule change, would help ICC ensure the reliable investment of assets in ICC's control while at the same time helping to assure the safeguarding of such cash by reducing the exposure to counterparty credit risk from commercial banks.

By helping to assure the safeguarding of Customer Origin Cash and House Origin Cash, which CPs post to satisfy their clients' margin requirements and their own margin and GF requirements, the Commission also believes the proposed changes could help reduce risks to ICC's margin system and Guaranty Fund, which in turn could help ensure that ICC is able to continue providing its critical central counterparty services in the event of a CP default. By ensuring that the assets that comprise the margin and Guaranty Fund collected by ICC, in the form of Customer Origin Cash and House Origin Cash, are safely invested and held in a manner that will allow ICC to access such assets when needed, the Commission believes that the propose rule change would help improve the overall effectiveness of ICC's margin system and Guaranty Fund as risk management tools. For the same reasons, the Commission believes the proposed rule change would, in general, help protect investors and the public interest.

Therefore, the Commission finds that the proposed rule change would assure the safeguarding of securities and funds in ICC's custody and control, and, in general, protect investors and the public interest, consistent with the Section 17A(b)(3)(F) of the Act.[36]

B. Consistency With Rules 17Ad–22(b)(2) and 17Ad–22(b)(3)

Rule 17Ad–22(b)(2) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.[37] Rule 17Ad–22(b)(3) requires that ICC establish, implement, maintain

[28] *Id.*

[29] *Id.*

[30] Notice, 83 FR at 40814.

[31] *Id.*

[32] 15 U.S.C. 78s(b)(2)(C).

[33] 15 U.S.C. 78q–1(b)(3)(F).

[34] 17 CFR 240.17Ad–22(b)(2), (b)(3), and (d)(3).

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] 15 U.S.C. 78q–1(b)(3)(F).

[37] 17 CFR 240.17Ad–22(b)(2).

and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.[38]

As discussed above, the Commission believes that the proposed changes facilitating the investment of Euro-denominated Customer Origin Cash and House Origin Cash in French and German sovereign debt would improve the safeguarding of such cash, and would thereby help reduce risks to ICC's margin system and GF. As described above, the proposed rule change would provide ICC two reasonably safe investments for such cash—French and German sovereign debt—which ICC could use to maintain and preserve the cash in ICC's margin system and GF, which in turn could help ICC to maintain margin requirements to limit its credit exposures to participants under normal market conditions. Likewise, by improving the safeguarding and investment of the cash in the GF, which ICC collects from CPs to maintain such sufficient financial resources, the Commission believes the proposed rule change would help ICC to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.

Therefore, for these reasons, the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(b)(2) and 17Ad–22(b)(3).[39]

C. Consistency With Rule 17Ad–22(d)(3)

Rule 17Ad–22(d)(3) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to hold assets in a manner that minimizes risk of loss or of delay in its access to them and invest assets in instruments with minimal credit, market and liquidity risk.[40]

As described above, the proposed rule change would allow the investment of Euro-denominated Customer Origin Cash and House Origin Cash in French and German sovereign debt, allowing ICC to avoid holding such cash in demand deposits at commercial banks. Moreover, the proposed rule change would prohibit investment in French and German sovereign debt when such investment would not comply with the conditions and restrictions set forth in CFTC Regulation 1.25,[41] the CFTC Order, and any other applicable exemptive orders. Such conditions and restrictions would, among other things, prohibit investment if the two year credit default spread of France or Germany exceeds 45 basis points (which the CFTC considered to approximate the risk level of the United States).[42] Finally, the Treasury Policy's Euro investment guidelines would set a target of 100% of investment through overnight reverse repos, meaning a reverse repo transaction for which the agreed upon repurchase date is the business day immediately following the purchase date.

For all the reasons discussed above, the Commission believes that in facilitating investment in French and German sovereign debt with minimal credit risk and creating risk controls surrounding such investments, the proposed rule change would allow ICC to hold Customer Origin Cash and House Origin Cash in a manner that minimizes risk of loss or of delay in ICC's access to them and would allow ICC to invest such funds in instruments with minimal credit, market and liquidity risk.

Therefore, for these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(d)(3).[43]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[44] and Rules 17Ad–22(b)(2), 17Ad–22(b)(3), and 17Ad–22(d)(3) thereunder.[45]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[46] that the proposed rule change (SR–ICC–2018–009) be, and hereby is, approved.[47]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21585 Filed 10–3–18; 8:45 am]

BILLING CODE 8011–01–P

[38] 17 CFR 240.17Ad–22(b)(3).

[39] 17 CFR 240.17Ad–22(b)(2), (b)(3).

[40] 17 CFR 240.17Ad–22(d)(3).

[41] 17 CFR 1.25.

[42] CFTC Order, 83 FR at 35243–35245.

[43] 17 CFR 240.17Ad–22(d)(3).

[44] 15 U.S.C. 78q–1(b)(3)(F).

[45] 17 CFR 240.17Ad–22(b)(2), (b)(3), and (d)(3).

[46] 15 U.S.C. 78s(b)(2).

[47] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84317; File No. SR–NASDAQ–2018–075]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 7039, 7047, 7049, 7055, and 7061 To Update the Definition of the Term FINRA/Nasdaq Trade Reporting Facility

September 28, 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 19, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I 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 Rules[3] 7039, 7047, 7049, 7055, and 7061 to update the definition of the term ''FINRA/Nasdaq Trade Reporting Facility ('TRF')'' for Nasdaq Basic, Nasdaq Last Sale (''NLS''), Nasdaq InterACT, the Short Sale Monitor and the Limit Locator to reflect approval of a second FINRA/Nasdaq TRF in Chicago, as described in further detail below.

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.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References to rules are to Nasdaq rules, unless otherwise noted.

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 update the definition of the term ''FINRA/Nasdaq Trade Reporting Facility ('TRF')'' for Nasdaq Basic, NLS, Nasdaq InterACT, the Short Sale Monitor and the Limit Locator to reflect approval of a second FINRA/Nasdaq TRF in Chicago.

The Commission has approved a proposed rule change by FINRA to establish a second FINRA/Nasdaq TRF in Chicago as consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[4] Consistent with the findings of the Commission, the Exchange proposes to define the term ''FINRA/Nasdaq Trade Reporting Facility'' in Rules 7039 (NLS and NLS Plus Data Feeds), 7047 (Nasdaq Basic), 7049 (Nasdaq InterACT), 7055 (Short Sale Monitor) and 7061 (Limit Locator) as the ''FINRA/Nasdaq Trade Reporting Facility ('TRF') Carteret and the FINRA/Nasdaq TRF Chicago.'' The Exchange anticipates that the FINRA/Nasdaq TRF Chicago will begin to accept trade reports for Reg NMS securities on September 24, 2018, and the Exchange will begin to distribute such data in the NLS and NLS Plus Data Feeds, Nasdaq Basic, Nasdaq InterACT, the Short Sale Monitor, and the Limit Locator on that same date. The Exchange expects to retire existing versions of these products, which do not include reports from the FINRA/Nasdaq TRF Chicago, on December 31, 2018.[5]

This is a conforming change to the FINRA filing that will not change any fee or charge by the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it fosters cooperation and coordination with persons engaged in regulating and processing information with respect to securities, facilitates transactions in securities, protects investors and the public interest, and does not unfairly discriminate between customers, issuers, brokers or dealers. As described above, the Exchange proposes to update the definition of the FINRA/Nasdaq TRF for Nasdaq Basic, NLS, Nasdaq InterACT, the Short Sale Monitor and the Limit Locator to reflect approval of a second FINRA/Nasdaq TRF in Chicago. Updating the definition of ''FINRA/Nasdaq TRF'' to mean ''the FINRA/Nasdaq TRF Carteret and the FINRA/Nasdaq TRF Chicago'' fosters cooperation with persons engaged in regulating and processing securities information, facilitates transactions in securities and protects investors and the public interest by conforming the Exchange's rule book to FINRA's, and by reflecting the findings of the Commission that creation of the Chicago facility is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. The proposal does not unfairly discriminate between customers, issuers, brokers or dealers because all customers, issuers, brokers and dealers will receive the benefit of a Nasdaq rule book that conforms to FINRA's rule book and decisions by the Commission.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

The Commission was speaking to the question of whether broker-dealers should be subject to a regulatory requirement to purchase data, such as depth-of-book data, that is *in excess of* the data provided through the consolidated tape feeds, and the Commission concluded that the choice should be left to them. Accordingly, Regulation NMS removed unnecessary regulatory restrictions on the ability of exchanges to sell their own data, thereby advancing the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

The market data products affected by this proposal are all voluntary products for which market participants can readily find substitutes. Accordingly, Nasdaq is constrained from pricing these products in a manner that would be inequitable or unfairly discriminatory. Moreover, the fees for these products, like all proprietary data fees, are constrained by the Exchange's need to compete for order flow.

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 change—which will simply define FINRA/Nasdaq TRF as it is used in the context of several market data products to reflect approval of a second FINRA/Nasdaq TRF in Chicago—does not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, but rather provides both current and potential customers more precise description of the information contained in certain Exchange products without changing any fee or charge by the Exchange.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs

[4] *See* Securities Exchange Act Release No. 83559 (June 29, 2018), 83 FR 31589 (July 6, 2018) (SR–FINRA–2018–013) (approving the FINRA/Nasdaq TRF Chicago); *see also* Securities Exchange Act Release No. 83082 (April 20, 2018), 83 FR 18379 (April 26, 2018) (SR–FINRA–2018–013) (proposing the FINRA/Nasdaq TRF Chicago).

[5] The new data feeds for NLS, NLS Plus, Nasdaq Basic, the Short Sale Monitor, and the Limit Locator will include coding that identifies the market system that generated the trade report message, which will enable the recipient to distinguish between information from the FINRA/Nasdaq TRF Chicago and the FINRA/Nasdaq TRF Carteret. To utilize that coding, Distributors will be required to make certain technical modifications to their software. Nasdaq is working with Distributors to ensure that all such modifications will be complete before the FINRA/Nasdaq TRF Chicago commences operations, but, as a courtesy to any Distributor that has not made such modifications before such operations commence, Nasdaq will continue to make legacy feeds available until December 31, 2018.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform, the cost of implementing cybersecurity to protect the data from external threats and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, the operation of the Exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[9]

In Nasdaq's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and each are subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, Nasdaq would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,[10] and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

An exchange's broker-dealer customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will disfavor a particular exchange if the expected revenues from executing trades on the exchange do not exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing more orders will become correspondingly more valuable.

Similarly, vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers offer their retail customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, Nasdaq believes that market data products can enhance order flow to Nasdaq by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to Distributors and investors decreases if order flow falls, because the products contain less content.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. Nasdaq pays rebates to attract orders, charges relatively low prices for market information and charges relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity, and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the

[9] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[10] It should be noted that the costs of operating the FINRA/Nasdaq TRF borne by Nasdaq include regulatory charges paid by Nasdaq to FINRA.

cost of executions, or the volume of both data and executions will fall.[11]

Moreover, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including SRO markets, internalizing broker-dealers and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and the FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for broker-dealers to further exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, broker-dealers, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and broker-dealer is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including Nasdaq, NYSE, NYSE American, NYSE Arca, IEX, and BATS/Direct Edge.

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) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to reflect in its rules that there are now two Nasdaq TRFs to which trades can be reported and would provide customers with more precise information about the data contained within certain Exchange products. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2018–075 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–2018–075. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–075, and should be submitted on or before October 25, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21584 Filed 10–3–18; 8:45 am]

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[11] *Cf. Ohio* v. *American Express,* No. 16–1454 (S. Ct. June 25, 2018), *https://www.supremecourt.gov/opinions/17pdf/16-1454_5h26.pdf* (recognizing the need to analyze both sides of a two-sided platform market in order to determine its competitiveness).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84311; File No. SR–Phlx–2018–55]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Approving a Proposed Rule Change Relating to Anticipatory Hedging

September 28, 2018.

I. Introduction

On August 3, 2018, Nasdaq PHLX LLC (''Exchange'' or ''Phlx'') 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 amending Phlx's Rule 1064(d), relating to anticipatory hedging of crossing, facilitation, and solicited orders. The proposed rule change was published for comment in the **Federal Register** on August 16, 2018.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange has proposed to amend Phlx Rule 1064(d), governing anticipatory hedging relating to crossing, facilitation, and solicitation orders. Specifically, the Exchange has proposed to lower the eligibility size for the ''tied hedge'' exception to the anticipatory hedging prohibition from 500 contracts to 50 contracts per order[4] for options on the Nasdaq 100 Index, including options with nonstandard expiration dates (''NDX'' and ''NDXP'').[5] The tied hedge exception eligibility size for all other options orders will remain at 500 contracts per order.[6]

Phlx Rule 1064(d) governing anticipatory hedging prohibits member organizations and associated persons of members and member organizations who have knowledge of the material terms and conditions of a solicited, facilitated, or crossed order that is to be imminently executed from entering, based on such knowledge, an order to buy or sell the underlying security, an option for the same underlying security, or any related instrument[7] until certain conditions set forth in the rule are met.[8] Specifically, the order may only be entered when (i) the terms and conditions of the order and any changes in the terms of the order that the member, member organization, or associated person has knowledge of are disclosed to the trading crowd, or (ii) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

Phlx Rule 1064(d)(iii) sets forth an exception to this rule, known as the ''tied hedge'' exception. Under such exception, a member or member organization is not prohibited from buying or selling a stock, security futures, or future position following the receipt of an option order, including a complex order, but prior to announcing such order to the trading crowd, provided that the option order is in a class designated as eligible for ''tied hedge'' transactions,[9] as determined by the Exchange, and is within the designated tied hedge eligibility size parameters, also determined by the Exchange and which may not be smaller than 500 contracts per order.[10]

The Exchange now proposes to lower the minimum tied hedge eligibility size threshold for NDX and NDXP, from 500 contracts to 50 contracts. The Exchange asserts that this smaller eligibility size for NDX and NDXP is appropriate because the index value for NDX and NDXP is high as compared to other securities instruments and would reduce the minimum notional value required for a trade to be eligible for the tied hedge exception.

The Exchange also proposes to amend Phlx Rule 1066 to delete the term ''Phlx XL'' and replace it with the term ''System.''[11] It also proposes to amend an incorrect cross-reference to the tied hedge exception, Commentary .04 to Phlx Rule 1064, and replace it with the correct cross-reference, Rule 1064(d)(iii).[12]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act[13] and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

When adopting the tied-hedge exception, Phlx described the provision as a limited exception that remained in keeping with the original design of the anticipatory hedging prohibition,[16] while responding to increased trading in the over-the-counter market and changes in the marketplace that favored volatility trading strategies.[17] The Exchange explained that the primary purpose of the 500 contracts minimum eligibility size provision of the tied hedge exception was to limit the use of the tied hedge procedures to larger orders that might benefit from the member's or member organization's ability to execute a facilitating hedge.[18]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83826 (Aug. 10, 2018), 83 FR 40797 (''Notice'').

[4] *See* Proposed Phlx Rule 1064(d)(iii)(A).

[5] NDX represents A.M.-settled options on the Nasdaq 100® Index. NDXP represent P.M.-settled options on the Nasdaq 100® Index.

[6] *See* Proposed Phlx Rule 1064(d)(iii)(A).

[7] *See* Phlx Rule 1064(d)(ii), which states that an order to buy or sell a ''related instrument'' means, in reference to an index option, an order to buy or sell securities comprising 10% or more of the component securities in the index or an order to buy or sell a futures contract on an economically equivalent index.

[8] *See* Phlx Rule 1064(d).

[9] *See* Phlx Rule 1064(d)(iii)(C)–(H).

[10] *See* Phlx Rule 1064(d)(iii)(A). The rule also provides that there shall be no aggregation of multiple orders to satisfy the size parameters.

[11] *See* Proposed Phlx Rule 1066. *See also* Phlx Rule 1000(b)(45) (defining ''System'').

[12] *See* Proposed Phlx Rule 1066(f)(4).

[13] 15 U.S.C. 78f.

[14] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] The Exchange stated that when it originally adopted the anticipatory hedging prohibition, it believed the prohibition was necessary to prevent members and associated persons from using undisclosed, non-public information about imminent solicited options transactions to trade in advance of persons represented in the options crowd. *See* Notice, *supra* note 3, at 40798. *See also* Securities Exchange Act Release No. 44740 (August 23, 2001), 66 FR 45721 (August 29, 2001) (SR–Phlx–2001–61).

[17] *See* Securities Exchange Act Release No. 61066 (November 25, 2009), 74 FR 63162 (December 2, 2009) (SR–Phlx–2009–98).

[18] *Id.*

As noted above, the Exchange asserts that a lower tied hedge minimum eligibility size is appropriate for options on the Nasdaq 100 Index because the index value for NDX and NDXP is high compared to the index values of other security instruments, adding that a size of 50 contracts for NDX is still considered a large size order given NDX's higher notional value.[19] To illustrate the high notional value of options on the Nasdaq 100 Index, Phlx stated that based on the index value, the multiplier, and the premium value, the current 500 minimum contract size parameter would require an NDX options transaction with a premium of approximately $6.5 million in order to qualify for the rule's tied hedge exception.[20]

The Commission believes that the reduced tied hedge eligibility size requirement of 50 contracts for options on the Nasdaq 100 Index is in line with the original intent of the provision, as it will continue to be limited to larger orders, given the relatively higher index value and notional value of NDX and NDXP.[21] While the reduction in the minimum size requirement may allow more transactions to qualify for the tied hedge exception, the Commission believes that the proposed change is narrow in scope as it relates only to options in NDX and NDXP and will continue to provide only a limited exception for larger orders meeting the conditions of the rule.[22]

The Commission also finds that the non-substantive changes to Phlx Rule 1066 are designed to protect investors and the public interest by adding clarity and transparency to the rules.

For the reasons noted above, the Commission finds that the proposed rule change is consistent with the Act.

[19] *See* Notice, *supra* note 3, at 40798–99.

[20] *See* Notice, *supra* note 3, at 40798.

[21] *See* Notice, *supra* note 3, at 40798–99. The Commission also notes that the Exchange represented that it conducts surveillance in connection with anticipatory hedging. Specifically, the Exchange represented that it conducts on-floor surveillance to ensure both the stock and option components of the trade were exposed in open outcry and that the trading crowd had a reasonable opportunity to participate in the transaction. The Exchange asserted that it also conducts post-trade surveillance. The Exchange also noted that prior to entering tied hedge orders on behalf of customers, the member or member organization must deliver to the customer a written notification informing the customer that his order may be executed using the Exchange's tied hedge procedures. *See* Phlx Rule 1064(d)(iii)(G).

[22] The Commission notes that the Exchange represented that tied hedge transactions do not occur with great frequency on the Exchange's trading floor. *Id.*

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Phlx–2018–55) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21586 Filed 10–3–18; 8:45 am]

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[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84320; File No. SR–IEX–2018–19]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 2.160 Related to the Qualification and Registration Requirements for Associated Persons of a Member and To Delete Rule 2.150 Which is Obsolete

September 28, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2018, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rule 2.160 to (i) harmonize IEX rules with certain Financial Industry Regulatory Authority, Inc. (''FINRA'') rules related to qualification and registration requirements for associated persons of a Member[6] which are pending effectiveness; (ii) specify when associated persons of a Member are required to be registered with the Exchange; and (iii) delete Rule 2.150 related to a temporary membership application process and waive-in, which is obsolete. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[7] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[8]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 2.160 to (i) harmonize with certain FINRA rules related to qualification and registration requirements for associated persons of a Member which are pending effectiveness; (ii) specify when associated persons of a Member are required to be registered with the Exchange; and (iii) delete Rule 2.150 related to a temporary membership application process and waive-in, which is obsolete. Each proposed change is described below.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] ''Person Associated with a Member'' or ''Associated Person of a Member'' mean [sic] any partner, officer, director, or branch manager of a Member (or person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such Member, or any employee of such Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules. *See* IEX Rule 1.160(y). *See also* 15 U.S.C. 78c(a)(18).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

Qualification and Registration Requirements

FINRA recently amended its rules relating to its qualification and registration requirements in a number of respects.[9] These amended rules will be effective beginning on October 1, 2018. The Exchange is proposing several amendments to IEX rules with respect to membership and registration requirements to harmonize with such rule amendments in the FINRA Filing and FINRA's existing rules, as described below. The Exchange is proposing to adopt such harmonizing rule amendments and registration categories that it determined are relevant to its operations.[10]

Rule 2.160, entitled ''Restrictions on Membership,'' sets forth various requirements applicable to Members and their associated persons, including registration requirements thereof. To make the title of the rule more descriptive of the current and proposed requirements set forth therein, the Exchange proposes to revise the title to ''Registration Requirements and Restrictions on Membership.'' The Exchange believes that this title will more clearly direct Members, their associated persons and other market participants to the total scope of the rule.

Rule 2.160(e) sets forth the requirement that no person shall become an associated person of a Member unless such person agrees:

(1) To supply the Exchange with such information with respect to such person's relationships and dealings with the Member as may be specified by the Exchange;

(2) to permit examination of such person's books and records by the Exchange to verify the accuracy of any information so supplied; and

(3) to be regulated by the Exchange and to recognize that the Exchange is obligated to undertake to enforce compliance with the provisions of IEX Rules, the Operating Agreement, the interpretations and policies of the Exchange, and the provisions of the Act and the regulations thereunder.

The manner in which an associated person of a Member agrees to such terms is by registering with the Exchange. However, as described below, the Exchange is proposing amendments to Rule 2.160(m) to specify that certain categories of associated persons of a Member are not required to be registered with the Exchange because such persons' roles and responsibilities are unrelated to the Exchange's operations, and registration therefore serves no regulatory purpose. Accordingly, the Exchange is proposing to amend Rule 2.160(e) to specify which associated persons of a Member must be registered with the Exchange, and also to provide that a Member shall not register or maintain the registration of any associated person unless consistent with the requirements of Rule 2.160.

Further, the Exchange is proposing to adopt Supplementary Material to Rule 2.160(e) governing permissive registrations and the status of persons serving in the Armed Forces of the United States, each based on provisions adopted by FINRA in the FINRA Filing that will be effective on October 1, 2018.[11]

As proposed, Supplementary Material .01 provides that a Member may make application for or maintain the registration as a representative or principal, pursuant to Rule 2.160, of any associated person of the Member and any individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the Member. Individuals maintaining such permissive registrations shall be considered registered persons and subject to all IEX rules, to the extent relevant to their activities. Supplementary Material .01 also addresses Members' supervisory obligations with respect to associated persons with permissive registrations. As proposed, consistent with the requirements of Rule 5.110, Members shall 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. With respect to an individual who solely maintains a permissive registration(s), the individual's direct supervisor shall not be required to be a registered person. However, for purposes of compliance with Rule 5.110(a)(5), a Member shall assign a registered supervisor who shall be responsible for periodically contacting such individual's direct 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 shall be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor shall be registered as a principal. Moreover, the registered supervisor of an individual who solely maintains a permissive registration(s) shall not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

As proposed, Supplementary Material .02 to Rule 2.160(e) addresses the status of current and former registered persons serving in active duty in the Armed Forces of the United States. With respect to a currently registered person of a Member who volunteers for or is called into active duty, paragraph (a) provides that after proper notification to the Exchange,[12] such person shall be placed on inactive status and need not be re-registered by such Member upon his or her return to active employment with the Member. Such person shall remain eligible to receive transaction-related compensation, including continuing commissions. The employing Member also may allow such 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 are inactive, they may not perform any of the functions and responsibilities performed by a registered person. Further, the registered person shall not be required to complete either the Regulatory Element or Firm Element, as set forth in Rule 2.160(p), while such person remains inactive and registered with the Member with which he or she was registered at the beginning of active duty, regardless of whether the person returns to active employment with another Member upon completion of his or her active duty. The relief shall be provided only to a person registered

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (SR–FINRA–2017–007) (Approval Order) (the ''FINRA Filing'').

[10] The Exchange is not proposing to adopt provisions comparable to Supplementary Material .05, .06, or .11 [sic] to FINRA Rule 1210 because such provisions are not directly relevant to the Exchange's operations. The Exchange is also not proposing to adopt a provision comparable to Supplementary Material .07 to FINRA Rule 1210 because comparable provisions are included in proposed Rule 2.160(a) [sic]. In addition, the Exchange is not proposing to adopt the registration categories specified in FINRA Rule 1220(a)(5), (6), (8), (9), (10), (11), (12), (13) or (14) or in (b)(3), (5), (6), (7), (8), or (9) because such registration categories are not directly relevant to the Exchange's operations.

[11] *See* FINRA Rules 1210.02 and 1210.10. The Exchange is not including references to an admission fee, which is included in FINRA Rule 1210.10(b), in paragraph (b) of Supplementary Material .02 of Rule 2.160(e) since the Exchange does not charge an admission fee to Members.

[12] The Exchange will issue a Regulatory Circular upon effectiveness of this proposed rule change describing the manner in which Members should provide notice to the Exchange with respect to the status of their current and former registered persons serving in active duty in the Armed Forces of the United States.

with a Member and only while the person remains on active military duty. Further, the Member with which such person is registered shall promptly notify the Exchange in such manner as the Exchange may specify of such person's return to active employment with the Member.[13]

Paragraph (b) of proposed Commentary .02 addresses the status of 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. As proposed, after proper notification to the Exchange,[14] such person shall be placed on inactive status solely while the Member remains on active military duty. Further, the sole proprietor shall promptly notify the Exchange in such manner as the Exchange may specify [15] of his or her return to active participation in the securities business of the Member relating to activity that occurs on the Exchange.

Paragraph (c) of proposed Commentary .02 addresses the status of formerly registered persons, with respect to active military duty. Specifically, as proposed, the provision specifies that the lapse of such person's registrations shall be deferred (*i.e.,* tolled) during the pendency of his or her active service in the Armed Forces of the United States, provided 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.[16] The deferral will terminate 90 days following the person's completion of active service in the Armed Forces of the United States. 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 shall defer the lapse of registration requirements based on existing information in the CRD system, provided that the Exchange is properly notified [17] 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.[18]

Rule 2.160(f) specifies that the Exchange may require the successful completion of a written proficiency examination to enable it to examine and verify that prospective Members and associated persons of Members have adequate training, experience, and competence to comply with IEX rules and policies of the Exchange. Rule 2.160(g) specifies that if the Exchange requires the completion of such proficiency examinations, it may waive such examinations in exceptional cases and where good cause is shown, upon written request of the applicant, and accept other standards as evidence of an applicant's qualifications.[19] The Exchange is proposing to add Supplementary Material .01 to provide for a waiver of examinations for individuals working for a financial services industry affiliate of a Member,[20] based on provisions adopted by FINRA in the FINRA Filing that will be effective on October 1, 2018.[21] As proposed, the waiver is available upon request by a Member for an individual designated with the Exchange as working for a financial services industry affiliate of a Member if the following conditions are met: (a) prior to the individual's initial designation, the individual was registered as a representative or principal with the Exchange or FINRA 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; (b) the waiver request is made within seven years of the individual's initial designation; (c) the initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5; (d) the individual continuously worked for the financial services industry affiliate(s) of a Member since the individual's last Form U5 filing; (e) the individual has complied with the Regulatory Element of continuing education as specified in Rule 2.160(a); and (f) 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 as defined in Section 3(a)(39) of the Exchange Act while the individual was designated as eligible for a waiver.

Rule 2.160(h) specifies that the Exchange requires the General Securities Representative Examination (''Series 7'') or an equivalent foreign examination module approved by the Exchange in qualifying persons seeking registration as General Securities Representatives, including as Authorized Traders, on behalf of Members. For those persons seeking limited registration as Securities Traders as described in paragraph (k) below, the Exchange requires the Securities Traders Qualification Examination (''Series 57''). Rule 2.160(h) also provides that the Exchange uses the Uniform Application for Securities Industry Registration or Transfer (''Form U4'') as part of its procedure for registration and oversight of Member personnel. The Exchange proposes several changes to Rule 2.160(h). First, the Exchange proposes to amend Rule 2.160(h) to specify that before the registration of a qualifying person can be effective, such person shall pass the Securities Industry Essentials (''SIE'') examination [22] and an appropriate registration qualification examination, as specified in Rule 2.160(h). The SIE is a new general knowledge examination that was adopted by FINRA in the FINRA Filing and will be effective on October 1, 2018. Going forward, representative-level registration will require successful completion of the SIE and a tailored, specialized knowledge examination for a person's particular registered role. The Exchange's proposed change aligns with changes to FINRA Rule 1210.03, which were included in the FINRA Filing and will be effective beginning on October 1, 2018. Conforming changes are also proposed to Rule 2.160(i) to reference the SIE with respect to representative-level prerequisites to the Series 14 and 24 principal-level examinations. The Exchange also proposes to adopt Commentary .01 to Rule 2.160(h) to provide that any person who is in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] The deferral shall 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 2.160(o).

[19] Any such waiver is pursuant to IEX Rule Series 9.600.

[20] For purposes of the Supplementary Material, a ''financial services affiliate of a Member'' is a legal entity that controls, is controlled by or is under common control with a Member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

[21] *See* FINRA Rule 1210.09.

[22] Individuals who are registered with the Exchange, FINRA, or another national securities exchange as of October 1, 2018 will be considered to have passed the SIE.

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. FINRA has adopted a similar provision in the FINRA Filing and will be effective beginning on October 1, 2018.

The Exchange also proposes to amend Rule 2.160(h) to provide that 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 and that controls, is controlled by or is under common control, with the Member is not required to be registered with the Exchange as a Securities Trader. This proposed change is substantially similar to existing National Association of Securities Dealers, Inc. (''NASD'') Rule 1032(f) and FINRA Rule 1220(b)(4)(A), that was included in the FINRA Filing and will be effective on October 1, 2018.

Rule 2.160(i) currently provides in part that a sole proprietorship Member is not required to register at least two Principals with the Exchange, and that the Exchange may waive the two-Principal requirement in situations that indicate conclusively that only one Principal associated with the Member should be required to be registered. Given that one-person Members may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), the Exchange proposes to amend the reference to a ''sole proprietorship'' to a ''Member with only one associated person'' so that any Member with only one associated person is not subject to the two-Principal requirement. This proposed change is substantially similar to Supplementary Material .01 to FINRA Rule 1210 that was included in the FINRA Filing and will be effective on October 1, 2018.

Rule 2.160(i) also specifies that the Exchange will accept the New York Stock Exchange Series 14 Compliance Examination in lieu of the Series 24 to satisfy the examination requirement for any person designated as a Chief Compliance Officer. The Exchange proposes to delete the phrase ''New York Stock Exchange'' since the Series 14 is now referred to as the Series 14 Compliance Official Examination.[23]

Further, the Exchange proposes to add Supplementary Material .01 related to the requirements for registered persons functioning as principals for a limited period of up to 120 calendar days. The provision aligns with FINRA Rule 1210.04 and is designed to provide appropriate flexibility to a Member to designate any person currently registered, or who becomes registered, with the Member as a representative to function as a principal for a limited period, providing such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. As proposed, the provision applies to designations to any principal category, including those that are not subject to a representative-level prerequisite examination.[24]

Rule 2.160(j) sets forth the requirements for designation and registration of a Financial/Operations Principal by a Member and relates to the requirements for a Member to designate a Financial/Operations Principal, the Financial/Operations Principal's obligations, and examination requirements. The rule specifies that the Financial/Operations Principal is required to successfully complete the Financial and Operations Principal Examination (''Series 27'') but that the Exchange may waive such requirement if a Member has otherwise satisfied the financial and operational requirements of its designated examining authority. With respect to an Exchange waiver, Rule 2.160(n) provides that an alternative acceptable examination to the Series 27 for a Financial/Operations Principal is any other examination acceptable to such Member's designated examining authority. The Exchange has provided waivers under these provisions for Members that operate as introducing broker-dealers when FINRA (as the Member's designated examining authority) has permitted the Member's Financial/Operations Principal to function as such based on successful completion of the Limited Principal—Introducing Broker-Dealer Financial and Operations Principal Examination (''Series 28'') under applicable FINRA Rules.[25] FINRA Rule 1220(a)(4) (which was included in the FINRA Filing and will be effective on October 1, 2018) specifies that a FINRA member, other than a member operating pursuant to Exchange Act Rules 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8), may designate an Introducing Broker-Dealer Financial and Operations Principal (who must successfully complete the Series 27 or 28 examination) instead of a Financial and Operations Principal (who must successfully complete the Series 27 examination).[26] Currently, an IEX Member that is eligible to designate an Introducing Broker-Dealer Financial and Operations Principal under FINRA rules or the rules of another national securities exchange must request a waiver from the Exchange, pursuant to Rule 2.160(j), so that its Financial/Operations Principal may successfully complete the Series 28 examination instead of the Series 27 examination. Rule 2.160(j) specifies that the Exchange may waive the requirement that the Member's Financial/Operations Principal successfully complete the Series 27 examination if the Member has otherwise satisfied the financial and operational requirements of its designated examining authority. Pursuant to such waiver provisions, the Exchange has waived the Series 27 examination requirement for a Member's Financial/Operations Principal and accepted the Series 28 examination. In order to simplify and provide additional clarity on the acceptable examination requirements for IEX Members' Financial/Operations Principals, the Exchange proposes to amend Rule 2.160(j) to specifically describe when the Series 28 is an acceptable examination for a Member's Financial/Operations Principal. As proposed, the Exchange would replace the language regarding possible waiver of successful completion of the Series 27 examination with language providing that in the case of a Member that operates other than pursuant to Exchange Act Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8), its Financial/Operations Principal must successfully complete either the Series 27 or Series 28 examination. Conforming amendments are also proposed to Rule 2.160(n).

The Exchange is proposing to amend Rule 2.160(o), which is currently reserved, to adopt rule provisions related to the circumstances under which registrations lapse and the SIE expires, aligning to FINRA Rule 1210.08 which was included in the FINRA Filing and will be effective on October 1, 2018. For purposes of this paragraph, an application shall not be considered to have been received by the Exchange

[23] *See* Series 14 examination description on FINRA website available at: *http://www.finra.org/industry/series14.*

[24] Principal categories for the Exchange that do not have such a prerequisite are the Financial and Operations Principal, Compliance Official, and Introducing Broker-Dealer Financial and Operations Principal.

[25] *See* NASD Rule 1022(c).

[26] The Exchange notes that the term Financial/Operations Principal in IEX rules is synonymous with the term Financial and Operations Principal in FINRA rules. A Member may designate an Introducing Broker-Dealer Financial and Operations Principal as its Financial/Operations Principal if the firm is not a clearing firm and does not operate pursuant to Exchange Act Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8).

if that application does not result in a registration. Rule 2.160(o) provides that a person who was last registered as a representative or principal two or more years immediately preceding the date of receipt by the Exchange of a new application as a representative or principal, shall be required to pass a representative and/or principal qualification examination appropriate to his or her category or registration as specified in paragraphs (h), (i), (j), (k), (l), and (n) of Rule 2.160. Further, any person who last passed the SIE or who was last registered as a representative, whichever occurred last, four or more years immediately preceding the date of receipt by the Exchange of a new application for registration as a representative, shall be required to pass the SIE in addition to a representative qualification examination appropriate to his or her category of registration as specified in paragraphs (h), (i), (j), (k), (l), and (n) of Rule 2.160. Additionally, any person whose registration has been revoked pursuant to Rule 8.310 shall be required to pass a principal or representative qualification examination appropriate to his or her category of registration as specified in paragraphs (h), (i), (j), (k), (l), and (n) of Rule 2.160 to be eligible for registration with the Exchange.

Rule 2.160(p) specifies the Regulatory Element of the continuing education requirements for associated persons of a Member and aligns with the FINRA requirements for the particular registration category of the registered person. Exchange rules do not currently address the Firm Element continuing education requirements.[27] The Exchange proposes to revise Rule 2.160(p) to harmonize with the amended continuing education requirements specified in FINRA Rule 1240, as included in the FINRA Filing that will be effective on October 1, 2018. As proposed, Rule 2.160(p) will specify the required Continuing Education Regulatory Element and Firm Element. The Exchange is proposing several changes to Regulatory Element provisions. First, the Exchange proposes to add introductory text at the beginning of Rule 2.160(p) stating that ''this [rule] prescribes requirements regarding the continuing education of specified persons subsequent to their initial registration with the Exchange. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.'' The Exchange also proposes to add subparagraph (a) entitled ''Regulatory Element'' immediately after the new introductory text to delineate that the provisions that follow relate to the Regulatory Element. The Exchange also proposes several amendments to subparagraphs (a)(1), (2) and (3) to align with changes to FINRA Rule 1240.

Several changes are proposed to subparagraph (a)(1). First, in lieu of the current text describing persons subject to the continuing education requirements that refers to any ''Authorized Trader, Principal, or Financial/Operations Principal'' abbreviated as ''Registered Representative,'' the language would be revised to refer to ''any associated person registered with the Exchange'' abbreviated as ''Registered Person'' to be simpler and more inclusive and descriptive, since not all registered persons listed are considered to be a Registered Representative. Conforming changes are proposed throughout the rule. Second, existing rule text in the first paragraph of subparagraph (a)(1) providing that ''no Member shall permit any . . . Registered Representative to continue to, and no Registered Representative shall continue to, perform duties as a Registered Representative on behalf of such Member, unless such person has complied with the continuing education requirements in this IEX Rule'' will be replaced with language aligned with language in FINRA Rule 1240(a) and (5), providing that all registered persons, including any person who is permissively registered pursuant to Commentary .02 to Rule 2.160 and any person who is designated as eligible for a waiver pursuant to Commentary .01 to Rule 2.160(g), shall comply with the requirement to complete the Regulatory Element. Additionally, the Exchange proposes to add language at the end of subparagraph (a)(1) stating that the content of the Regulatory Element for a person designated as eligible for a waiver pursuant to Commentary .01 to Rule 2.160(g) shall be determined based on the person's most recent registration status, and the Regulatory Element shall be completed based on the same cycle had the person remained registered.

Subparagraph (p)(2) [sic] specifies the consequences to a Registered Person who fails to complete the Regulatory Element of the continuing education program within the prescribed time frames. Currently, the rule provides that such a person will have their [sic] registration deemed inactive until such time as the requirements of the program have been satisfied and shall cease all activities requiring registration. The Exchange proposes to amend the rule to codify existing FINRA guidance regarding the impact of failing to complete the Regulation Element on a Registered Person's activities and compensation.[28] Specifically, as proposed, Rule 2.160(p)(2) [sic] provides that any person whose registration has been deemed inactive under the rule shall not be permitted to be registered in another registration category under Rule 2.160 with that Member or to be registered in any registration category under Rule 2.160 with another Member, until the person has satisfied the deficiency. This provision is comparable to FINRA Rule 1210.07 (which was included in the FINRA Filing and will be effective on October 1, 2018). Further, the Exchange proposes to add provisions that such a person may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the Member with which such person is associated has a policy prohibiting such trail or residual commissions. This clarifying language is substantially similar to amendments to FINRA Rule 1240 (which was included in the FINRA Filing and will be effective on October 1, 2018). In addition, the Exchange proposes to add language specifying that if a person designated as eligible for a waiver pursuant to Supplementary Material .01 to Rule 2.160(g) fails to complete the Regulatory Element within the prescribed time frames, the person shall no longer be eligible for such a waiver. The Exchange also proposes a conforming change to subparagraph (a)(3) with respect to the requirement to retake the Regulatory Element and satisfy all of its requirements in the event the person is subject to certain

[27] The Exchange notes that the FINRA Firm Element requirement is only applicable to: (i) Persons registered with a FINRA member who have direct contact with customers in the conduct of the member's securities sales, trading, and investment banking activities; (ii) persons registered as an operations professional or research analyst; and (iii) their immediate supervisors. An Exchange Member with associated persons registered in each of the aforementioned categories would be conducting a customer business. The Exchange is not proposing to adopt similar language modifying the ''direct contact with customers'' language in FINRA's rule. Any Exchange Member with a customer business is required to be a FINRA member pursuant to Section 15(b)(8) of the Act. Thus any Exchange Member that is not a FINRA member would not be conducting a customer business and thus would not have any associated persons that meet the FINRA criteria to be subject to the FINRA Firm Element rule. Therefore, there is no gap in the application of the Firm Element requirement to Exchange Members and their associated persons.

[28] *See, e.g.,* NASD Notice to Members 95–35 (May 1995).

specified disciplinary action. These provisions align with FINRA Rule 1240.

Additionally, the Exchange proposes to add subparagraphs (a)(5)–(7) to align with FINRA Rule 1240. As proposed, subparagraph (a)(5) is reserved. The corresponding part of FINRA Rule 1240 pertains to the definition of a ''Covered Person'' under FINRA rules, who is subject to the Regulatory Element. As discussed above, the Exchange is using the term ''Registered Person'' which is incorporated into subparagraph (a)(1).[29] Subparagraph (a)(6) specifies that delivery of the Regulatory Element will be administered through web-based delivery or such other technological manner and format as specified [sic] by FINRA. Subparagraph (a)(7) requires designation and identification of the Regulatory Element Contact Person to FINRA on behalf of the Exchange and describes the role of such person to receive email notifications provided via CRD regarding Regulatory Element deadlines for Registered Persons subject to the Regulatory Element, including when such a person is deemed inactive for failure to complete the Regulatory Element.

The Exchange also proposes to add new subparagraph (b) to Rule 2.160(p) to set forth the Firm Element requirements, which are substantially similar to FINRA Rule 1240(b)[30] and consist of annual, Member-developed and administered training programs designed to enhance covered registered persons' securities knowledge, skill, and professionalism, taking into consideration the Member's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element.[31] If a Member's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the Member's training plan.

As proposed, any person registered with a Member pursuant to Rule 2.160 who has direct contact with customers[32] in the securities business of the Member relating to activity that occurs on the Exchange, and the immediate supervisors of such persons, must take all appropriate and reasonable steps to participate in the Firm Element training as required by his or her Member. Subparagraph (b)(2)(B) sets forth the minimum standards for the Firm Element training programs. Such programs must be appropriate for the business of the Member and, at a minimum, must cover training in ethics and professional responsibility and the following matters concerning securities products, services and strategies offered by the Member: General investment features and associated risk factors; suitability and sales practice considerations; and applicable regulatory requirements. Further, a Member must administer its continuing education programs in accordance with its annual evaluation and written plan, and must maintain records documenting the content of the programs and completion of the programs by covered Registered Persons.[33]

Finally, the Exchange also proposes to correct a typographical error in the footnote numbering of the chart in Rule 2.160(n).

Exchange Registration Exceptions

The Exchange is proposing to amend Rule 2.160(m), which is currently reserved, to specify that certain associated persons of a Member are not required to be registered with the Exchange, because such person's roles and responsibilities are unrelated to the Exchange's operations, and registration therefore serves no regulatory purpose. As proposed, the following categories of associated persons of a Member are not required to be registered with the Exchange:

(1) Associated persons of a Member whose functions are solely and exclusively clerical or ministerial.

(2) Associated persons of a Member whose functions are related solely and exclusively to:

(A) Effecting transactions on the floor of a national securities exchange and who are appropriately registered with such exchange;

(B) transactions in municipal securities;

(C) transactions in commodities; or

(D) transactions in securities futures, provided that any such person is appropriately registered with a registered futures association.

(3) Associated persons of a Member that are restricted from accessing the Exchange and that do not engage in the securities business of the Member relating to activity that occurs on the Exchange.

The Exchange notes that each proposed exception is based on existing exceptions in FINRA rules or those of other exchanges. The proposed exceptions in Rule 2.160(m)(1) and (2) are substantially similar to FINRA rules, and the exception in Rule 2.160(m)(3) is substantially similar to a CBOE [sic] Exchange, Inc. (''CBOE'') rule.[34]

With respect to the proposed exception in Rule 2.160(m)(3), the Exchange believes that such individuals do not need to be registered with the Exchange because those individuals do not access the Exchange directly and do not engage in the securities business of the Member relating to activity that occurs on the Exchange. For example, suppose that Firm XYZ is an Exchange Member and a member of the Nasdaq Stock Market LLC (''Nasdaq''). Ms. ABC is an associated person of XYZ, assigned to XYZ's Nasdaq market maker ''desk'' which only sends orders to Nasdaq. Ms. ABC is subject to Nasdaq's registration and qualification requirements. Ms. ABC would not be required to separately register with the Exchange so long as Ms. ABC does not send orders directly to the Exchange through XYZ and not another Exchange Member.[35]

In addition, the Exchange proposes to add Supplementary Material .01 to clarify the registration requirements applicable to associated persons of a Member who accept customer orders, and the applicability to a determination of whether the functions of an associated person of a Member are solely and exclusively clerical or ministerial. As proposed, Supplementary Material .01 provides that the function of accepting customer orders is not considered a clerical or ministerial function. Each associated person of a Member who accepts

[29] The term ''Registered Person'' in the Regulatory Element rule provisions has substantially the same meaning as FINRA's term ''Covered Person'' except that FINRA excludes ''Foreign Associates'' from the term ''Covered Person.'' Foreign Associate is a discontinued FINRA registration category, as described in the FINRA Filing, and is not recognized by IEX rules. Accordingly, the Exchange does not believe it is necessary to exclude Foreign Associates from the definition of ''Registered Person.''

[30] In setting forth the persons subject to the Firm Element, proposed Rule 2.160(b)(1) [sic] is limited to persons registered with a Member pursuant to Rule 2.160 who have direct contact with customers in the securities business of the Member relating to activity that occurs on the Exchange, and to their immediate supervisors. FINRA Rule 1240(b)(1) is broader in scope given FINRA's broader regulatory mandate.

[31] The definition of ''covered registered person'' under proposed Rule 2.160(p)(b) does not include Registered Options Professionals [sic] because that is not a registration category provided for in Exchange rules.

[32] ''Customer'' means any natural person and any organization, other than another broker or dealer, executing securities transactions with or through a Member.

[33] The Exchange may also require a Member, individually or as part of a larger group, to provide specific training to its covered Registered Persons in such areas as the Exchange deems appropriate. *See* proposed Rule 2.160(p)(b)(4).

[34] *See* current NASD Rule 1060, FINRA Rule 1230 (which is pending effectiveness), and CBOE [sic] Exchange, Inc. Rule 3.6A(a)(2)(D).

[35] For example, an order originating from XYZ's Nasdaq market maker desk may be routed to the Exchange by another Member.

customer orders under any circumstances shall be registered in an appropriate registration category pursuant to Rule 2.160. However, an associated person of a Member shall not be considered to be accepting a customer order where occasionally, when an appropriately registered person is unavailable, such person transcribes order details submitted by a customer and the registered person contacts the customer to confirm the order details before entering the order. This clarification is substantially similar to Supplementary Material .01 to FINRA Rule 1230 (which was included in the FINRA Filing and will be effective on October 1, 2018), and is designed to provide that acceptance of customer orders is appropriately overseen by a registered associated person of a Member.

The Exchange also proposes a conforming amendment to Rule 2.160(e) to incorporate the registration exception.

Deletion of Obsolete Rule 2.150

As approved by the Commission as part of the Exchange's Form 1 application,[36] Rule 2.150 provided a temporary Member Application and Waive-In Process that permitted current subscribers to the alternative trading system previously operated by the Exchange's affiliate, IEX Services, LLC, to apply to become a Member of the Exchange by submitting a ''waive-in application'' within ninety (90) days of approval of the Form 1 by the Commission. The Commission approved the Exchange's Form 1 application on June 17, 2016, meaning that waive-in applications must have been received by the Exchange on or prior to September 15, 2016. Accordingly, Rule 2.150 is obsolete, and the Exchange proposes to delete the rule.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act [37] in general, and furthers the objectives of Section 6(b)(5) of the Act [38] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule change furthers the objectives of Section 6(c)(3)(B) of the Act,[39] which authorizes the exchange to prescribe standards of training, experience and competence for persons associated with an IEX Member.

The Exchange believes that the proposed rule change overall will harmonize its membership and registration rules with FINRA rules,[40] thus assisting Members and associated persons of Members in complying with those rules and thereby enhancing regulatory efficiency. In addition, the Exchange believes that providing greater harmonization between IEX and FINRA rules with a similar purpose will result in less burdensome and more efficient regulatory compliance for IEX Members that are subject to regulatory examination and oversight by FINRA pursuant to a regulatory services agreement between IEX and FINRA, and facilitate FINRA's performance of its regulatory functions for IEX under the regulatory services agreement, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) of the Act.

As described in the Purpose section, the Exchange proposes various revisions to Rule 2.160, which sets forth the requirements applicable to Members and their associated persons, including registration requirements thereof. The Exchange believes that these proposed rule amendments are consistent with the public interest and the protection of investors. With respect to the revisions to the rule title, the Exchange believes that referencing registration requirements, as well as restrictions on membership, is a clearer description of the scope of the rule and will thereby enable Members, their associated persons, and other market participants to better identify such requirements in IEX rules. Similarly, the Exchange believes that adding text to paragraph (e) of Rule 2.160 to reference proposed changes to paragraph (m) regarding registration exemptions (as discussed further below) and impermissible registrations will help to assure that IEX's rules are clear regarding such requirements.

The Exchange further believes that the addition of Supplementary Material .01 to Rule 2.160(e), to permit permissive registrations, is consistent with the Act in order to allow Members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. The Exchange also believes that the addition Supplementary .02 to Rule 2.160(e) regarding the status of current and former registered persons serving in active duty in the Armed Forces of the United States is consistent with the Act because it provides a reasonable accommodation to such persons, who are engaged in efforts to protect and defend the United States, with an appropriate notification process to the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) [sic] of the Act.

Additionally, the Exchange believes it is consistent with the Act to provide an examination waiver for individuals working for a financial services industry affiliate of a Member, pursuant to Supplementary Material .02 to Rule 2.160(g), because it will provide appropriate flexibility to Members and their financial services industry affiliates in the management of their personnel, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5 [sic] of the Act.

The Exchange also believes that its proposed changes to Rule 2.160(h) are consistent with the Act. Specifically, adoption of the SIE is designed to promote uniformity and consistency with FINRA's rules of similar purpose, thereby fostering cooperation and coordination with persons engaged in regulating and facilitating transactions in securities. In addition, the Exchange believes that it is consistent with the Act to not require Exchange registration as a Securities Trader for associated persons of a Member whose trading activities are conducted principally on behalf of an investment company affiliate of the Member, as described in the Purpose section. This exemption has been part of FINRA (and its predecessor, the NASD) rules applicable to the current Securities Trader examination as well as the predecessor Series 55 examination for many years, and recognizes that such traders are generally in the same position as ''buy-side'' professionals employed within investment companies, who would not be subject to the examination requirement.[41]

[36] *See* Securities Exchange Act Release No. 34–78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10–222).

[37] 15 U.S.C. 78f.

[38] 15 U.S.C. 78f(b)(5).

[39] 15 U.S.C. 78(c)(3)(B).

[40] The Exchange is proposing to harmonize with those aspects of FINRA rules that IEX determined are relevant to its operations.

[41] *See, e.g.,* NASD Notice to Members 98–17 and Securities Exchange Act Release No. 75783 (August

The Exchange also believes it is appropriate to provide an exemption from the SIE for any person who is in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulatory. The Exchange believes that there is sufficient overlap between the SIE and such foreign qualification requirements to permit them to act as exemptions to the SIE, and that the exemption provides appropriate flexibility to such persons, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5 [sic] of the Act.

With respect to the amendment to Rule 2.160(i) to revise the reference to ''sole proprietorship'' to a ''Member with only one associated person'' the Exchange believes that this change is consistent with the Act because it recognizes that one-person Members may be organized in legal forms other than a sole proprietorship, and thus provides fair and consistent regulatory requirements to all one-person Members. Further, the Exchange believes that elimination of the reference to ''New York Stock Exchange'' with respect to the Series 14 Compliance Official Examination is consistent with the Act because it will make the Exchange's rule in this respect accurate. The Exchange also believes that the addition of Supplementary Material .01 to Rule 2.160(i) to provide for registered persons to function as principals for a limited period of time is consistent with the Act because it provides appropriate flexibility to Members, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5 [sic] of the Act.

With respect to the amendment to Rules 2.160(j) and (n) to specify the circumstances under which the Series 28 would be an acceptable examination for a Member's Financial/Operations Principal, the Exchange believes that the proposed change will provide additional clarity to Members with respect to such examination requirements and also reduce the existing burden on impacted Members to request a waiver from the Exchange for an examination that has already been accepted by the Member's designated examining authority, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) of the Act.

With respect to the amendments to Rule 2.160(o) to add rule provisions regarding the circumstances under which registrations lapse and the SIE expires, the Exchange believes such amendments are consistent with the Act because they will align with FINRA rules of similar purpose, thereby fostering cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

With respect to the proposed amendments to Rule 2.160(p) regarding continuing education requirements, the Exchange believes that the proposed changes are consistent with the Act and the public interest, because they will provide additional clarity and consistency to the rule provisions in several respects and also align with FINRA rules of similar purpose, thereby fostering cooperation and coordination with persons engaged in regulating and facilitating transactions in securities. First, the Exchange believes that the terminology change to collectively refer to a ''Registered Person'' rather than a ''Registered Representative'' is more inclusive and descriptive of the categories of associated persons of a Member who are registered with the Exchange and subject to the continuing education requirements, thereby avoiding any potential confusion. Second, the Exchange believes that harmonizing with FINRA's continuing education requirements will promote uniformity in the application of the continuing education requirements for Registered Persons and thereby avoid any confusion on the part of IEX Members and their associated persons on what is required under IEX rules.

The Exchange also believes that correcting the typographical error in the footnote numbering of the chart in Rule 2.160(n) is consistent with the Act because it will avoid any potential confusion regarding the chart and its footnotes.

The Exchange believes that the proposed amendments to Rule 2.160(m) (and conforming amendment to Rule 2.160(e)) to specify that certain categories of associated persons of a Member are not required to be registered with the Exchange is consistent with the Act because such persons' roles and responsibilities are unrelated to the Exchange's operations, and registration therefore serves no regulatory purpose. Further, the Exchange believes that (except for floor members of another national securities exchange and associated persons restricted from accessing the Exchange and that do not engage in the securities business of the Member relating to activity that occurs on the Exchange) such persons would not be considered actively engaged in the securities business. With respect to persons registered as floor members on another national securities exchange and associated persons restricted from accessing the Exchange and that do not engage in the securities business of the Member relating to activity that occurs on the Exchange, the Exchange believes that requiring registration with IEX is not warranted since the associated person's activities are unrelated to activity that occurs on the Exchange. As discussed in the Purpose section, the proposed registration exemptions are substantially similar to existing registration exemptions in FINRA and CBOE [sic] rules, and thus do not raise any new or novel issues not already considered by the Commission. Thus, the Exchange believes that the proposed exemptions will remove impediments to and perfect the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) of the Act.

In addition, the Exchange believes that proposed Supplementary Material .01 to Rule 2.160(m) is consistent with the Act because it provides clarity on when the functions of an associated person are solely and exclusively clerical or ministerial, which also is consistent with the objectives of Section 6(b)(5) of the Act.

Finally, the Exchange believes that deletion of Rule 2.150 is consistent with the Act because the rule is obsolete, as described in the Purpose section. Accordingly, deletion of the rule will remove any potential confusion among potential Members as to the membership application process.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments are intended to promote transparency in the Exchange's rules, and consistency with the rules of FINRA and other national securities exchanges with respect to the examination, qualification, and continuing education requirements applicable to Members and their associated persons. Accordingly, the Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of such regulatory objectives. Further,

28, 2015), 80 FR 53369 (September 03, 2015) (approving File No. SR–FINRA–2015–17).

the proposed changes would apply to all Members and their associated persons in the same manner and therefore would not impose any unnecessary intramarket burdens. The Exchange also does not believe that the proposed rule change would impose any burden on intermarket competition since all national securities exchanges are expected to adopt similar rules with uniform standards for the qualification, registration and continuing education requirements.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)[42] of the Act and Rule 19b–4(f)(6)[43] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[44] of the Act and Rule 19b–4(f)(6)[45] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[46] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[47] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the proposed rule change may become operative on October 1, 2018. According to the Exchange, waiving the 30-day operative delay would allow the Exchange to harmonize its rules with FINRA as of the effective date of the FINRA Filing. The Commission notes that, as described in detail above, the Exchange's proposal does not raise any new or novel issues, as the Exchange is harmonizing its rules with FINRA and Cboe, and deleting obsolete text. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.[48]

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)[49] 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–IEX–2018–19 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–IEX–2018–19. 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–IEX–2018–19 and should be submitted on or before October 25, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21582 Filed 10–3–18; 8:45 am]

BILLING CODE 8011–01–P

[42] 15 U.S.C. 78s(b)(3)(A).

[43] 17 CFR 240.19b–4(f)(6).

[44] 15 U.S.C. 78s(b)(3)(A).

[45] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[46] 17 CFR 240.19b–4(f)(6).

[47] 17 CFR 240.19b–4(f)(6)(iii).

[48] For purposes only of waving the 30-day operative delay, the Commission has considered the purposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[49] 15 U.S.C. 78s(b)(2)(B).

[50] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15698 and #15699; South Carolina Disaster Number SC–00054]

Presidential Declaration Amendment of a Major Disaster for the State of South Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–4394–DR), dated 09/21/2018.

Incident: Hurricane Florence.

Incident Period: 09/08/2018 and continuing.

DATES: Issued on 09/26/2018.

Physical Loan Application Deadline Date: 11/20/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and

Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of South Carolina, dated 09/21/2018, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (*Physical Damage and Economic Injury Loans*):
Georgetown.

Contiguous Counties (Economic Injury Loans Only):
South Carolina: Berkeley, Charleston.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–21614 Filed 10–3–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15567 and #15568; HAWAII Disaster Number HI–00049]

Presidential Declaration Amendment of a Major Disaster for the State of Hawaii

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–4366–DR), dated 06/14/2018.

Incident: Kilauea Volcanic Eruption and Earthquakes.

Incident Period: 05/03/2018 through 08/17/2018.

DATES: Issued on 09/26/2018.

Physical Loan Application Deadline Date: 09/12/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 03/14/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Hawaii, dated 06/14/2018, is hereby amended to establish the incident period for this disaster as beginning 05/03/2018 and continuing through 08/17/2018.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–21578 Filed 10–3–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 15522 and # 15523; HAWAII Disaster Number HI–00047]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Hawaii

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Hawaii (FEMA—4366—DR), dated 05/11/2018.

Incident: Kilauea Volcanic Eruption and Earthquakes.

Incident Period: 05/03/2018 through 08/17/2018.

DATES: Issued on 09/26/2018.

Physical Loan Application Deadline Date: 07/10/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/11/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Hawaii, dated 05/11/2018, is hereby amended to establish the incident period for this disaster as beginning 05/03/2018 and continuing through 08/17/2018.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–21581 Filed 10–3–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10581]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition—Determinations: ''Blue Prints: The Pioneering Photographs of Anna Atkins'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Blue Prints: The Pioneering Photographs of Anna Atkins,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The New York Public Library, New York, New York, from on or about October 18, 2018, until on or about February 18, 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: Julie Simpson, 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. 2018–21691 Filed 10–3–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0304]

California Meal and Rest Break Rules; Petition for Determination of Preemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of petition for determination of preemption; request for comments.

SUMMARY: FMCSA requests comments on a petition submitted by the American Trucking Associations, Inc. (ATA) requesting a determination that the State of California's meal and rest break rules are preempted by Federal law. Among other things, FMCSA requests comments on what effect, if any, California's meal and rest break requirements may have on interstate commerce.

DATES: Comments must be received on or before October 29, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2018–0304 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Medalen, Regulatory Affairs Division; FMCSA Chief Counsel; Telephone: (202) 366–1354; Email: *Charles.Medalen@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2018–0304), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2018–0304'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

Docket. For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act. In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its determination. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

On September 24, 2018, ATA submitted a petition to FMCSA requesting a determination under 49 U.S.C. 31141 that the State of California's Meal and Rest Break rules are preempted by Federal law (Petition). The petition stated that, under California law, within the transportation industry, an employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. Petition at 1–2 (citing Cal. Lab. Code § 512(a)). The petition stated that an employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. *Id.* Ordinarily, the employee must be ''relieved of all duty'' for the period, unless ''the nature of the work prevents an employee from being relieved of all duty,'' and the employee enters into a written agreement to remain on duty, which he or she may revoke at any time. *Id.* at 2 (citing Cal. Industrial Wage Commission Wage Order No. 9 § 11(C)).

The petition also stated that California law provides that, within the transportation industry, every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. *Id.* (citing Wage Order No. 9 § 12(a)). The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. *Id.*

In short, California generally requires employers in the transportation industry to provide employees with an off-duty 30-minute break for every five hours worked, before the end of each five-hour period; and a ten-minute off-duty break for every four hour period (or ''major fraction thereof,'' *i.e.,* period greater than two hours), in the middle of each such period if possible. Commercial drivers covered by collective bargaining agreements that meet certain statutorily enumerated criteria, however, are not

subject to the meal period requirement. *See id.* (citing Cal. Lab. Code § 512(e), (f)(2)).

Applicable Law

Section 31141 of title 49, United States Code, prohibits States from enforcing a law or regulation on commercial motor vehicle safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether a State law or regulation: (1) Has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations (FMCSRs); (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation. 49 U.S.C. 31141(c)(1).

If the Secretary decides that a State law or regulation has the same effect as a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may be enforced. *Id.* § 31141(c)(2). If the Secretary decides that a State law or egulation is less stringent than a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may not be enforced. *Id.* § 31141(c)(3). If the Secretary decides that a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under 49 U.S.C. 31136, the State law or regulation may be enforced unless the Secretary decides that the State law or regulation (1) Has no safety benefit; (2) is incompatible with the regulation prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce. *Id.* § 31141(c)(4). In deciding whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect on implementation of the State law or regulation and all similar laws and regulations of other States. *Id.* § 31141(c)(5). The Secretary's authority under 49 U.S.C. 31141 is delegated to the FMCSA Administrator by 49 CFR 1.87(f).

Request for Comments

Although preemption under 31141 is a legal determination reserved to the judgment of the Agency, FMCSA seeks comment on any issues raised in ATA's petition or otherwise relevant. The Agency has placed ATA's petition in the docket.

Issued on: September 28, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–21624 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number: NHTSA–2017–0057]

Reports, Forms, and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on September 6, 2017. This notice addresses comments received.

DATES: Written comments should be submitted on or before November 5, 2018.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Amy Berning, Office of Behavioral Safety, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, W46–497, Washington, DC 20590; telephone: (202) 366–5587; email: *amy.berning@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Information Collection Request

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB.

OMB Control Number: To be issued at time of approval.

Title: Drug Use Characteristics of Drivers Arrested for Driving Under the Influence (DUI) or Driving Under the Influence of Drugs (DUID).

Form Numbers: NHTSA Form 1468, 1469.

Type of Review: New information collection.

Abstract:

NHTSA proposes to conduct a study to estimate the prevalence of drugs in drivers arrested for driving under the influence or driving under the influence of a drug. Approximately 1,000 drivers arrested for DUI or DUID at two or three locations across the country will be interviewed and administered an oral fluid drug test. The primary aim of this project is to better understand the frequency of alcohol, prescription, over-the-counter (OTC), and illicit drugs in impaired driving arrests. Trained researchers will ask participants questions regarding demographics, driving, alcohol, and drug use. Participants will then be asked to provide an oral fluid sample using a collection device which will be used to test for alcohol and approximately 50 other specific drugs.

Data collection will take place over a six-month period at two to three sites across the country. The research team will coordinate with the local police departments and officials at these sites. The sites will have a private room at the booking facility for use by the research team. Each site will have at least 1,250 impaired driving arrests per year and be willing to enter into a Memorandum of Understanding with the research team regarding the study.

Data for the study will primarily be collected at a central booking facility for the site's police department. Upon arriving at the booking facility, the arresting officer or other approved police staff will briefly inform the potential participants that they have the opportunity to participate in a research study sponsored by NHTSA. Police staff will ask the participants if they would be interested in learning more about the study. If they respond yes, then they will be introduced to the trained research staff in the private study room.

The research staff will further describe the study to the potential participant. The researcher will explain to the potential participant that study data is anonymous, s/he must be 18 years of age or older to participate, s/he is free to withdraw from the study at any time, the results of the drug test and questionnaire will not be provided to anyone outside of the research team (including to the participant), and participation in the study will not be used to help or hurt the individual in

any related legal proceedings. If the individual agrees to participate, then he or she will be asked to take an oral fluid drug test. This is essentially a cotton swab that must be held in an individual's mouth for approximately two to three minutes (no more than ten minutes). The oral fluid specimen will be shipped to an independent laboratory for analysis. The participant will be asked to respond to approximately ten minutes of questions through a self-report survey on alcohol and drug use, perceptions of impaired driving, and driving behaviors. The survey will be completed via an electronic tablet or, where deemed necessary, a paper copy of the survey. All electronic data will be recorded on a secure data collection and management site without any identifying information.

A goal of the collection will be to minimize the possibility of collecting any potentially-identifying information on a participant. The drug test result will be associated with participant responses using a subject code, but no identifying information on the participant will be collected.

Respondents: The research will collect both an oral fluid drug test and a questionnaire from approximately 1,000 participants. Data collection will take place over a six-month period at two to three sites across the United States.

Estimated Time per Response: It will take just under 15 minutes to participate. We anticipate that it will take 1.5 minutes (*i.e.,* 90 seconds) for the individual to hear about the study and process the information. Our total burden estimate includes this 90-second estimate for 1,200 individuals, with the goal of 1,000 participants (total burden 30 hours). It will take an average of an additional 1.2 minutes for participants to ask any questions and verbally agree to participate in the study (total burden 20 hours). This results in an estimated 50 total burden hours for the verbal consent process. The drug test and questionnaire will be completed at a single point in time. It can take up to 10 minutes to collect a sufficient quantity of saliva for the oral fluid drug test. However, it is anticipated that the average oral fluid collection time is four minutes and the survey will take an additional eight minutes to complete (*i.e.,* 12 total minutes). The total burden for the participant questionnaire and oral fluid collection is 200 hours.

Estimated Total Annual Burden: 250 hours total over the six-month data collection period.

Frequency of Collection: Each participant will only respond to the survey and/or biological sample requests a single time during the six-month study period.

II. Comment Response

On September 9th, 2017, NHTSA published a notice in the **Federal Register** (NHTSA–2017–0057) with a 60-day public comment period to announce this proposed information collection. As of the closing date of November 6th, 2017 two comments were received in response to this notice.

One comment described frustration with the EPA and massive costs of regulation. This project does not involve the EPA and the comment is thus not relevant to the current project. A second commenter emailed NHTSA directly to request access to the project's full methodology.

The comment will be provided to OMB to be placed in the docket. The methodology will be available from OMB upon NHTSA's submission of the Information Collection Request to OMB.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.95.

Issued in Washington, DC, on October 1, 2018.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2018–21623 Filed 10–3–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and aircraft that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons and this aircraft are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On September 25, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons and the following aircraft subject to U.S. jurisdiction are blocked under the relevant sanctions authorities listed below.

Individuals

1. FLORES DE MADURO, Cilia Adela (a.k.a. FLORES, Cilia), Capital District, Venezuela; DOB 15 Oct 1956; POB Tinaquillo, Cojedes, Venezuela; citizen Venezuela; Gender Female; Cedula No. 5315632 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13692 of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela'' (E.O. 13692), for being a current or former official of the Government of Venezuela.

2. PADRINO LOPEZ, Vladimir, Capital District, Venezuela; DOB 30 May 1963; nationality Venezuela; Gender Male; Cedula No. 6122963 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

3. PAREDES, Jose Omar, Miranda, Venezuela; DOB 22 Feb 1950; nationality Venezuela; citizen Venezuela; Gender Male; Cedula No. 3476436 (Venezuela); Passport D0503056 (Venezuela) expires 17 Oct 2011; alt. Passport 038031243 (Venezuela) expires 16 Sep 2015; alt. Passport 113210615 (Venezuela) expires 01 Feb 2020; Pilot License Number 2326384 (individual) [VENEZUELA] (Linked To: AVERUCA, C.A.).

Designated pursuant to section 1(a)(ii)(E) of E.O. 13692 for having acted or purported to act for or on behalf of, directly or indirectly, Averuca C.A., a person whose property and interests in

property are blocked pursuant to E.O. 13692.

Also designated pursuant to section 1(a)(ii)(D) of E.O. 13692 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Averuca C.A., a person whose property and interests in property are blocked pursuant to E.O. 13692.

4. RODRIGUEZ GOMEZ, Delcy Eloina (a.k.a. RODRIGUEZ, Delcy), Capital District, Venezuela; DOB 18 May 1969; citizen Venezuela; Gender Female; Cedula No. 10353667 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

5. RODRIGUEZ GOMEZ, Jorge Jesus (a.k.a. JORGE J., Rodriguez Gomez; a.k.a. JORGE JESUS, Rodriguez Gomez; a.k.a. RODRIGUEZ GOMEZ, Jorge J; a.k.a. RODRIGUEZ, Jorge), El Valle, Libertador, Capital District, Venezuela; DOB 09 Nov 1965; citizen Venezuela; Gender Male; Cedula No. 6823952 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692 for being a current or former official of the Government of Venezuela.

6. SARRIA DIAZ, Edgar Alberto (a.k.a. SARRIA, Edgar Alberto; a.k.a. SARRIAS, Edgar), Miranda, Venezuela; DOB 24 Jan 1976; nationality Spain; alt. nationality Venezuela; citizen Venezuela; Gender Male; Cedula No. 11734796 (Venezuela); Passport 042347444 (Venezuela) expires 14 Feb 2016; alt. Passport D0422201 (Venezuela) expires 07 Sep 2011; Tax ID No. 26664550Y (Spain) (individual) [VENEZUELA] (Linked To: QUIANA TRADING LIMITED).

Designated pursuant to section 1(a)(ii)(E) of E.O. 13692 for having acted or purported to act for or on behalf of, directly or indirectly, Averuca C.A. and Quiana Trading Limited, persons whose property and interests in property are blocked pursuant to E.O. 13692.

Entities

1. AVERUCA, C.A. (a.k.a. AGENCIA VEHICULOS ESPECIALES RURALES Y URBANOS, C.A.), Calle Paris, Torre Global, Piso 5, Las Mercedes, Caracas, Venezuela [VENEZUELA] (Linked To: SARRIA DIAZ, Rafael Alfredo).

Designated pursuant to section 1(a)(ii)(E) of E.O. 13692 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, SARRIA DIAZ, Rafael Alfredo, a person whose property and interests in property are blocked pursuant to E.O. 13692.

2. PANAZEATE SL, Calle Nou d'Octubre, 18–BJ, Valencia 46014, Spain; Calle Nou d'Octubre, 18 Bajo, Valencia 46014, Spain; Tax ID No. B98525348 (Spain) [VENEZUELA] (Linked To: SARRIA DIAZ, Edgar Alberto).

Designated pursuant to section 1(a)(ii)(E) of E.O. 13692 for being owned or controlled by SARRIA DIAZ, Edgar Alberto, a person whose property and interests in property are blocked pursuant to E.O. 13692.

3. QUIANA TRADING LIMITED (a.k.a. QUIANA TRADING LTD.), Virgin Islands, British [VENEZUELA] (Linked To: SARRIA DIAZ, Rafael Alfredo).

Designated pursuant to section 1(a)(ii)(E) of E.O. 13692 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, SARRIA DIAZ, Rafael Alfredo, a person whose property and interests in property are blocked pursuant to E.O. 13692.

Aircraft

1. N488RC; Aircraft Model G200; Aircraft Manufacturer's Serial Number (MSN) 228; Aircraft Tail Number N488RC (aircraft) [VENEZUELA] (Linked To: SARRIA DIAZ, Rafael Alfredo).

Identified pursuant to E.O. 13692 as property in which SARRIA DIAZ, Rafael Alfredo, a person whose property and interests in property are blocked pursuant to E.O. 13692, has an interest.

Dated: September 25, 2018.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2018–21591 Filed 10–3–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Creating Options for Veterans Expedited Recovery (COVER) Commission; Notice of Meeting

In accordance with the Federal Advisory Committee Act, the Creating Options for Veterans Expedited Recover (COVER) Commission gives notice that a meeting will be held:

1. October 16, 2018 Palo Alto Heath Care System (PAHCS), Main Campus

2. October 17, 2018 PAHCS, Menlo Park Facility.

3. November 5 and 6, 2018, from 1–4 p.m. or completion of out-briefs whatever comes first, VANTS Call.

The October 16, 2018 meeting will convene at the Palo Alto Medical Facility and will be open to the public from 9:00 a.m. to 11:30 a.m.; location for opens sessions is the Auditorium at the Palo Alto Division Campus (Building 101, Room C1–100). On October 17, 2018 the meeting will be held at the Menlo Park Facility and open to the public from 8:30 a.m. to 10:00 a.m.; location for open sessions at Menlo Park Facility is the Welcome Center Community Room (Building 400, Room 107. All other sessions will be closed as the Commissioners will split into several interview/data collection teams to accomplish research, discuss relevance of the interviews and research and focus group information collected, and conduct sensitive interviews/focus groups with Veterans. The public is not invited to interviews in order protect privacy data and proprietary information under S.C. 552b(c) under (9)(B) ''because it would reveal information the disclosure of which would, ''in the case of an agency, be likely to significantly frustrate implementation of a proposed agency action.''

October 16, 2018 open meetings will consist of briefings on:

1. Mental Health and Suicide Prevention by the facility Chief
2. Complementary and Integrative Health
3. Whole Health

October 17, 2018, open meetings will consist of briefings on:

1. Office of Mental Health data (to include statistics on mental health providers
2. Presentation by Dr. Amit Etkin, Associate Professor of Psychiatry and Behavioral Sciences, Stanford University and Investigator for Sierra-Pacific Mental Illness Research Education and Clinical Center (MIRECC); topic:

Research related to Veterans with Mental Health Conditions

November 5 and 6, 2018 meetings are VANTS line by Commissioners and a listening line for the public to call in. These meetings are for commissioners to out brief and summarize the interview/data collection teams' findings from October 16 and 17 and to further discuss applicability to the charter and legislative requirements.

The line number for the public on October 16 and 17 for open sessions and November 5 and 6 for open calls is 800–767–1750; access code 48664#. The line number will be activated 10 minutes before each of the open or call in sessions.

The purpose of the COVER Commission is to examine the evidence-based therapy treatment model used by the Department of Veterans Affairs (VA) for treating mental health conditions of

Veterans and the potential benefits of incorporating complementary and integrative health approaches as standard practice throughout the Department.

Members of the public are invited to open sessions. Videotaping or recording, tweeting commission or staff photos or comments are discouraged as they are disruptive to Commission members and staff and other audience members. Any member of the public seeking additional information should email COVER *Commission@va.gov.* The Designated Federal Officer for the Commission is Ms. Sheila B. Hickman. She and the staff will be monitoring and responding to questions or comments sent to this email box. The Committee will also accept written comments which may be sent to the same email box. In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: October 1, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–21626 Filed 10–3–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Thursday,
No. 193 October 4, 2018

Part II

Securities and Exchange Commission

17 CFR Parts 210, 229, 230, et al.
Disclosure Update and Simplification; Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 230, 239, 240, 249, and 274

[Release No. 33–10532; 34–83875; IC–33203; File No. S7–15–16]

RIN 3235–AL82

Disclosure Update and Simplification

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting amendments to certain of our disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. Generally Accepted Accounting Principles (''U.S. GAAP''), or changes in the information environment. We are also referring certain Commission disclosure requirements that overlap with, but require information incremental to, U.S. GAAP to the Financial Accounting Standards Board (''FASB'') for potential incorporation into U.S. GAAP. The amendments are intended to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. These amendments are part of an initiative by the Division of Corporation Finance to review disclosure requirements applicable to issuers to consider ways to improve the requirements for the benefit of investors and issuers. We are also adopting these amendments as part of our efforts to implement title LXXII of the Fixing America's Surface Transportation Act.

DATES: Effective on November 5, 2018.

FOR FURTHER INFORMATION CONTACT: Ryan Milne, Associate Chief Accountant, at (202) 551–3400, Division of Corporation Finance; Alison Staloch, Chief Accountant, at (202) 551–6918, Division of Investment Management; Tim White, Senior Special Counsel, at (202) 551–5777, Division of Trading and Markets; Harriet Orol, Branch Chief, at (212) 336–9080, Office of Credit Ratings; Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to, or referring to the FASB:

Commission reference	CFR citation (17 CFR)
Regulation S–X [1]:	
Rule 1–02	§ 210.1–02.
Rule 2–01	§ 210.2–01.
Rule 2–02	§ 210.2–02.
Rule 3–01	§ 210.3–01.
Rule 3–02	§ 210.3–02.
Rule 3–03	§ 210.3–03.
Rule 3–04	§ 210.3–04.
Rule 3–05	§ 210.3–05.
Rule 3–12	§ 210.3–12.
Rule 3–14	§ 210.3–14.
Rule 3–15	§ 210.3–15.
Rule 3–17	§ 210.3–17.
Rule 3–20	§ 210.3–20.
Rule 3A–01	§ 210.3A–01.
Rule 3A–02	§ 210.3A–02.
Rule 3A–03	§ 210.3A–03.
Rule 3A–04	§ 210.3A–04.
Rule 4–01	§ 210.4–01.
Rule 4–07	§ 210.4–07.
Rule 4–08	§ 210.4–08.
Rule 4–10	§ 210.4–10.
Rule 5–02	§ 210.5–02.
Rule 5–03	§ 210.5–03.
Rule 5–04	§ 210.5–04.
Rule 6–03	§ 210.6–03.
Rule 6–04	§ 210.6–04.
Rule 6–07	§ 210.6–07.
Rule 6–09	§ 210.6–09.
Rule 6A–04	§ 210.6A–04.
Rule 6A–05	§ 210.6A–05.
Rule 7–03	§ 210.7–03.
Rule 7–04	§ 210.7–04.
Rule 7–05	§ 210.7–05.
Rule 8–01	§ 210.8–01.
Rule 8–02	§ 210.8–02.
Rule 8–03	§ 210.8–03.
Rule 8–04	§ 210.8–04.
Rule 8–05	§ 210.8–05.
Rule 8–06	§ 210.8–06.
Rule 9–03	§ 210.9–03.
Rule 9–04	§ 210.9–04.
Rule 9–05	§ 210.9–05.
Rule 9–06	§ 210.9–06.
Rule 10–01	§ 210.10–01.
Rule 11–02	§ 210.11–02.
Rule 11–03	§ 210.11–03.
Rule 12–16	§ 210.12–16.
Rule 12–17	§ 210.12–17.

Commission reference	CFR citation (17 CFR)
Rule 12–18	§ 210.12–18.
Rule 12–21	§ 210.12–21.
Rule 12–22	§ 210.12–22.
Rule 12–23	§ 210.12–23.
Rule 12–24	§ 210.12–24.
Rule 12–27	§ 210.12–27.
Rule 12–28	§ 210.12–28.
Rule 12–29	§ 210.12–29.
Regulation S–K [2]:	
Item 10	§ 229.10.
Item 101	§ 229.101.
Item 201	§ 229.201.
Item 302	§ 229.302.
Item 303	§ 229.303.
Item 406	§ 229.406.
Item 503	§ 229.503.
Item 504	§ 229.504.
Item 508	§ 229.508.
Item 512	§ 229.512.
Item 601	§ 229.601.
Regulation M–A [3]:	
Item 1010	§ 229.1010.
Regulation AB [4]:	
Item 1118	§ 229.1118.
Securities Act of 1933 (Securities Act) [5]:	
Rule 158	§ 230.158.
Rule 405	§ 230.405.
Rule 436	§ 230.436.
Form S–1	§ 239.11.
Form S–3	§ 239.13.
Form S–11	§ 239.18.
Form S–4	§ 239.25.
Form F–1	§ 239.31.
Form F–3	§ 239.33.
Form F–4	§ 239.34.
Form F–6	§ 239.36.
Form F–7	§ 239.37.
Form F–8	§ 239.38.
Form F–10	§ 239.40.
Form F–80	§ 239.41.
Form SF–1	§ 239.44.
Form SF–3	§ 239.45.
Form 1–A	§ 239.90.
Form 1–K	§ 239.91.
Form 1–SA	§ 239.92.
Securities Exchange Act of 1934 (Exchange Act) [6]:	
Rule 3a51–1	§ 240.3a51–1.
Rule 10A–1	§ 240.10A–1.
Rule 12b–2	§ 240.12b–2.
Rule 12g–3	§ 240.12g–3.
Rule 13a–10	§ 240.13a–10.
Rule 13b2–2	§ 240.13b2–2.
Rule 15c3–1g	§ 240. 15c3–1g.
Rule 15d–2	§ 240.15d–2.
Rule 15d–10	§ 240.15d–10.
Rule 17a–5	§ 240.17a–5.
Rule 17a–12	§ 240.17a–12.
Rule 17g–3	§ 240.17g–3.
Rule 17h–1T	§ 240.17h–1T.
Form 10	§ 249.210.
Form 20–F	§ 249.220f.
Form 40–F	§ 249.240f.
Form 10–K	§ 249.310.
Form 11–K	§ 249.311.
Form 10–D	§ 249.312.
Form X–17A–5	§ 249.617.
Investment Company Act of 1940 (Investment Company Act) [7]:	
Form N–8B–2	§ 274.12.
Securities Act and Investment Company Act:	
Form N–5	§ 239.24 and 274.5.
Form N–1A	§ 239.15A and 274.11A.
Form N–2	§ 239.14 and 274.11a–1.
Form N–3	§ 239.17a and 274.11b.

Commission reference	CFR citation (17 CFR)
Form N–4	§ 239.17b and 274.11c.
Form N–6	§ 239.17c and 274.11d.

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I. Introduction and Background

On July 13, 2016, the Commission proposed amendments to certain disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, International Financial Reporting Standards (''IFRS''), or changes in the information environment.[8] The Commission also solicited comments on a number of disclosure requirements that overlap with, but require information incremental to, U.S. GAAP[9] to determine whether to retain, modify, eliminate, or refer them to the FASB for potential incorporation into U.S. GAAP.[10] Today we are adopting most of the proposed amendments substantially as proposed. In some cases, based on input from commenters, we are making modifications to the proposed amendments, and in other cases, we are not adopting the proposed amendments. In a few instances, we are adopting additional changes to our rules to make technical corrections and similar amendments identified in connection with this rulemaking. We believe the amendments will facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors.[11] We also believe that by eliminating redundant, duplicative, overlapping, outdated, or superseded disclosure requirements we may improve investors' ability to make investment decisions more efficiently and reduce issuer compliance costs, which may encourage capital formation. These amendments are a result of the staff's ongoing evaluation of our disclosure requirements[12] and also are part of our efforts to implement title LXXII, section 72002(2) of the Fixing America's

[1] 17 CFR 210.10 through 210.12–29.
[2] 17 CFR 229.10 through 229.1208.
[3] 17 CFR 229.1000 through 229.1016.
[4] 17 CFR 229.1100 through 229.1125.
[5] 15 U.S.C. 77a *et seq.*
[6] 15 U.S.C. 78a *et seq.*
[7] 15 U.S.C. 80a *et seq.*

[8] *See Disclosure Update and Simplification* Release No. 33–10110 (July 13, 2016) [81 FR 51607 (Aug. 4, 2016)] (''Proposing Release'').

[9] In this release, we refer to such requirements as ''incremental'' Commission disclosure requirements.

[10] We refer to the proposed amendments and this additional comment solicitation collectively as ''proposals.''

[11] The Supreme Court has held that a fact is material if there is ''a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available.'' *See* TSC Industries, Inc. v. Northway, Inc., 426 U.S. 438 (1976).

[12] The staff, under its Disclosure Effectiveness Initiative, is reviewing the disclosure requirements in Regulation S–K and Regulation S–X and is considering ways to improve the disclosure regime for the benefit of both companies and investors. The goal is to comprehensively review the requirements and make recommendations on how to update them to facilitate timely, material disclosure by companies and investors' access to that information.

Surface Transportation Act [13] (the ''FAST Act'').

The staff will review these amendments, including any impact on disclosure and capital formation, not later than five years after the effective date of the amendments, and report to the Commission.

A. Scope of Amendments

The amendments affect a variety of entities we regulate. Throughout this release, we refer to the affected entities as issuers. The requirements discussed may apply to entities other than issuers of securities or to subsets of such issuers and, thus, each requirement should be referenced for its specific scope. Entities other than issuers may include, for example, significant acquirees for which financial statements are required under Rule 3–05 of Regulation S–X, significant equity method investments for which financial statements are required under 17 CFR 210.3–09 (''Rule 3–09'' of Regulation S–X), broker-dealers, investment advisers, and nationally recognized statistical rating organizations (''NRSROs'').

1. Issuers With Offerings Registered Under the Securities Act and Classes of Securities Registered Under the Exchange Act

The final rule amendments affect different categories of issuers differently. Our references to domestic issuers encompass large accelerated filers,[14] accelerated filers,[15] and non-accelerated filers,[16] as well as emerging growth companies [17] (''EGCs'') and smaller reporting companies [18] (''SRCs''). In this release, we have highlighted the Commission disclosure requirements that affect SRCs differently from non-SRCs. Our references to foreign private issuers [19] include issuers that may be large accelerated filers, accelerated filers, or non-accelerated filers, as well as EGCs.[20] Specifically:

- Amendments involving Regulation S–K relate to domestic issuers [21] and foreign private issuers that elect to file on forms used by domestic issuers.
- Amendments involving Regulation S–X generally relate to domestic issuers and foreign private issuers that report under U.S. GAAP or a comprehensive body of accounting principles other than U.S. GAAP or IFRS [22] with a reconciliation to U.S. GAAP.[23]
- Amendments involving Commission forms relate to either domestic issuers or foreign private issuers, depending on the form under discussion. For example, the amendments to the ''F'' series of forms [24] only affect foreign private issuers.

Some of the amendments also affect asset-backed issuers.[25]

2. Issuers Offering Securities Under Regulation A

Some of the amendments affect Regulation A issuers, as follows: [26]

- Amendments involving Regulation S–K affect Regulation A issuers that provide narrative disclosure that follows Part I of Form S–1 or Part I of Form S–11 in Part II of Form 1–A.
- Amendments involving Rule 4–10, Rule 8–04, Rule 8–05, and Rule 8–06 of Regulation S–X affect all Regulation A issuers. Amendments involving Rule 8–03(a) of Regulation S–X affect Regulation A issuers that report under U.S. GAAP. Amendments involving the remaining rules in 17 CFR 210.8–01 through 210.8–08 (''Article 8'' of Regulation S–X) affect only Regulation A issuers in a Tier 2 offering that report under U.S. GAAP. No other amendments involving Regulation S–X affect Regulation A issuers.
- Amendments involving Regulation A forms may affect issuers that report

[13] Public Law 114–94.

[14] Under Exchange Act Rule 12b–2 [17 CFR 240.12b–2], a large accelerated filer is an issuer with an aggregate worldwide market value of voting and non-voting common equity held by its non-affiliates of $700 million or more, as of the last business day of its most recently completed second fiscal quarter. In addition, the issuer needs to have been subject to reporting requirements for at least twelve calendar months, have filed at least one annual report, and not be eligible to use the requirements for smaller reporting companies for its annual and quarterly reports.

[15] Under Exchange Act Rule 12b–2, an accelerated filer is an issuer with an aggregate worldwide market value of voting and non-voting common equity held by its non-affiliates of $75 million or more, but less than $700 million, as of the last business day of its most recently completed second fiscal quarter. In addition, the issuer needs to have been subject to reporting requirements for at least twelve calendar months, have filed at least one annual report, and not be eligible to use the requirements for smaller reporting companies for its annual and quarterly reports.

[16] Although the term ''non-accelerated filer'' is not defined in Commission rules, we use it throughout this release to refer to a reporting company that does not meet the definition of either an ''accelerated filer'' or a ''large accelerated filer'' under Exchange Act Rule 12b–2.

[17] An EGC is an issuer with less than $1.07 billion in total annual gross revenues during its most recently completed fiscal year. If an issuer qualifies as an EGC on the first day of its fiscal year, it maintains that status until the earliest of (1) the last day of the fiscal year of the issuer during which it has total annual gross revenues of $1.07 billion or more; (2) the last day of its fiscal year following the fifth anniversary of the first sale of its common equity securities pursuant to an effective registration statement; (3) the date on which the issuer has, during the previous 3-year period, issued more than $1.07 billion in non-convertible debt; or (4) the date on which the issuer is deemed to be a ''large accelerated filer'' (as defined in Exchange Act Rule 12b–2). *See* Rule 405 of Regulation C under the Securities Act and Rule 12b–2 of the Exchange Act.

[18] An SRC is an issuer that had a public float of less than $75 million as of the last business day of its most recently completed second fiscal quarter or had annual revenues of less than $50 million during the most recently completed fiscal year for which audited financial statements are available. *See* Rule 405 of Regulation C, Rule 12b–2 of the Exchange Act, and Item 10(f) of Regulation S–K.

On June 28, 2018, the Commission adopted amendments to the SRC definition. Under the amended rules, a company with a public float of less than $250 million will qualify as a SRC. A company with no public float or with a public float of less than $700 million will qualify as a SRC if it had annual revenues of less than $100 million during its most recently completed fiscal year. *See Amendments to Smaller Reporting Company Definition,* Release No. 33–10513 (Jun. 28, 2018) [83 FR 31992 (July 10, 2018)]. The rules will be effective September 10, 2018.

[19] *See* Rule 405 of Regulation C and Exchange Act Rule 3b–4(c) [17 CFR 240.3b–4(c)]. A foreign private issuer is any foreign issuer other than a foreign government, except for an issuer that has more than 50 percent of its outstanding voting securities held of record by U.S. residents and any of the following: a majority of its officers or directors are citizens or residents of the United States; more than 50 percent of its assets are located in the United States; or its business is principally administered in the United States.

[20] Foreign private issuers may only use the scaled rules available to SRCs if they file on domestic forms under U.S. GAAP. *See* Rule 8–01 of Regulation S–X. The amendments affect these SRCs in the same ways as domestic SRC issuers.

[21] Domestic issuers include foreign issuers that do not meet the definition of foreign private issuer.

[22] Throughout this release, we refer to a comprehensive body of accounting principles other than U.S. GAAP or IFRS as ''Another Comprehensive Body of Accounting Principles.''

[23] Foreign private issuers that report under IFRS must comply with the IFRS requirements for the form and content of financial statements, rather than with the specific presentation and disclosure provisions in Articles 3A, 4, 5, 6, 6A, 7, 8, 9, 10, and certain parts of Article 3 of Regulation S–X. Where an amendment to Regulation S–X also affects foreign private issuers that report under IFRS, we discuss both U.S. GAAP and IFRS.

[24] For example, these forms include Forms F–1, F–3, F–4, and 20–F.

[25] ''Asset-backed issuer'' is defined in Item 1101(b) of Regulation AB [17 CFR 229.1101(b)]. *See* the amendments regarding: (1) Invitations for competitive bids discussed in Section III.B.2, (2) available information discussed in Section IV.C.2, (3) matters submitted to a vote of security holders discussed in Section V.C.2, and (4) incorrect references in General Instruction J(1)(e) to Form 10–K discussed in Section V.D.

[26] *See* Rules 251–263 of Regulation A [17 CFR 230.251–230.263]. Regulation A is an exemption from Securities Act registration for offerings by issuers that comply with the requirements of the exemption. A Tier 1 offering under Regulation A limits the sum of the aggregate offering price and the aggregate sales within 12 months before the start of the offering to $20 million, while a Tier 2 offering limits that sum to $50 million. Rule 251(a)(1) and (2) of Regulation A.

under U.S. GAAP or Canadian issuers that report under IFRS.[27]

In this release, we have highlighted the Commission disclosure requirements that affect Regulation A issuers.[28]

3. Issuers Regulated Under the Investment Company Act

Certain amendments are applicable to issuers regulated under the Investment Company Act, as follows:

- Amendments involving Regulation S–K affect business development companies to which the regulation applies.
- Amendments involving Regulation S–X affect investment companies to which the regulation applies.
- Amendments involving Investment Company Act forms may affect investment companies, depending on the form in question.

4. Other Entities

Certain amendments also are applicable to registered broker-dealers, investment advisers, and NRSROs.

B. Comments on Objective and Scope of the Proposing Release

Many commenters were generally supportive of the objective of the release.[29] These commenters indicated that the proposed amendments would improve the effectiveness and usefulness of the information presented to investors while also decreasing the costs of preparing that information, which would also benefit investors. Some of these commenters also identified additional redundancies and overlapping disclosures that the Commission should address.[30] In addition, some commenters recommended that the Commission establish a process to address future redundant, overlapping, outdated, or superseded disclosures.[31]

Some commenters objected to the overall objective and scope of the release to the extent it could result in the elimination of any currently required disclosures.[32] These commenters stated that investors want more (not less) disclosures and provided examples, such as environmental, social, and governance disclosures.[33] Some commenters also expressed concern that, due to the proposed amendments' reliance on U.S. GAAP, and considering the FASB's standard-setting projects related to disclosure framework and materiality, information that is material under the current disclosure framework would no longer be provided to investors.[34]

Several commenters also expressed concern about the timing of the proposal.[35] For example, some commenters were concerned that there was not sufficient time for the staff to consider the comments received on the Commission's earlier concept release on disclosures required by Regulation S–K[36] in determining its proposals because those comments were due the same month the proposal was issued.[37] Other commenters were concerned that the 60-day comment period specified in the Proposing Release did not provide an adequate amount of time to fully consider and provide thoughtful, comprehensive comments.[38] In response to these comments, the Commission extended the comment period by 30 days.[39] We also note that the topics discussed in the Regulation S–K Concept Release were generally broader in scope than the relatively more discrete changes set forth in the Proposing Release.

C. FASB-Related Considerations

1. Role of the FASB

The federal securities laws set forth the Commission's broad authority and responsibility to prescribe the methods to be followed in the preparation of accounts and the form and content of financial statements to be filed under those laws,[40] as well as its responsibility to ensure that investors are furnished with other information necessary for investment decisions.[41] To assist it in meeting this responsibility, the Commission historically has looked to private-sector standard-setting bodies to develop accounting principles and standards.[42] At the time of the FASB's formation in 1973, the Commission reexamined its policy and formally recognized pronouncements of the FASB that establish and amend accounting principles and standards as ''authoritative'' in the absence of any contrary determination by the Commission.[43] The Commission concluded at that time that the expertise and resources that the private sector could offer to the process of setting accounting standards would be beneficial to investors.

The Sarbanes-Oxley Act of 2002[44] (''Sarbanes-Oxley Act'') established criteria that must be met in order for the work product of an accounting standard-setting body to be recognized as ''generally accepted'' for purposes of the federal securities laws.[45] In accordance with these criteria, the Commission has designated the FASB as the private-sector accounting standard setter for U.S. financial reporting purposes.[46] As the designated private-

[27] Only U.S. and Canadian issuers may rely on Regulation A and use Form 1–A. *See* Rule 251(b)(1) of Regulation A [17 CFR 230.251(b)(1)]. U.S. issuers must report under U.S. GAAP. Canadian issuers may report under U.S. GAAP or IFRS. *See* paragraph (a)(2) of Part F/S of Form 1–A, Item 7(b) of Form 1–K, and Item 3 of Form 1–SA.

[28] Statements about the effect of an amendment on Regulation A issuers throughout this release reflect that the form and content requirements in Regulation S–X do not apply to Canadian Regulation A issuers that report under IFRS. Please refer to Section V.C.2.

[29] *See, e.g.* letters from Center for Audit Quality (Oct. 3, 2016) (''CAQ''); CFA Institute (Dec. 7, 2016) (''CFA''); Financial Executives International (Oct. 27, 2016) (''FEI''); Shearman & Sterling LLP (Dec. 1, 2016) (''Shearman''); and U.S. Chamber of Commerce (Oct. 27, 2016) (''USCC'').

[30] *See, e.g.* letters from CAQ and Ernst & Young LLP (Oct. 31, 2016) (''E&Y'').

[31] *See, e.g.* letters from CAQ; CFA; Corporate Governance Coalition for Investor Value (Oct. 27, 2016) (''CGCIV''); FEI; and USCC.

[32] *See, e.g.* letters from American Federation of Labor and Congress of Industrial Organizations (Oct. 31, 2016) and Americans for Financial Reform (''AFL–CIO and AFR''); Financial Accountability and Corporate Transparency Coalition (Oct. 3, 2016) (''FACT Coalition''); Public Citizen (Oct. 18, 2016) (''Public Citizen''); and Robert E. Rutkowski (Nov. 7, 2016) (''Rutkowski'').

[33] *Id.*

[34] *See, e.g.* letters from AFL–CIO and AFR; California Public Employees' Retirement System (Nov. 2, 2016) (''CalPERS''); and Public Citizen. *See also* discussion in Section I.D below.

[35] *See, e.g.* letters from AFL–CIO and AFR; Domini Social Investments LLC (Nov. 1, 2016) (''Domini''); and Public Citizen.

[36] *See* Business and Financial Disclosure Required by Regulation S–K, Release No. 33–10064 (Apr. 13, 2016) (''Regulation S–K Concept Release'') [81 FR 23915 (Apr. 22, 2016)]

[37] *See, e.g.* letters from AFL–CIO and AFR and FACT Coalition.

[38] *See, e.g.* letters from American Gas Association (Aug. 24, 2016) and Center for Audit Quality (Aug. 4, 2016).

[39] *See Extension of Comment Period for Disclosure Update and Simplification,* Release No. 33–10220 (September 23, 2016) [81 FR 66898 (Sept. 29, 2016)]

[40] *See, e.g.,* Sections 7 [15 U.S.C. 77g], 19(a) [15 U.S.C. 77s(a)] and Schedule A, Items (25) and (26) of the Securities Act [15 U.S.C. 77aa(25) and (26)]; Sections 3(b) [15 U.S.C. 78c(b)], 12(b) [17 CFR 78l(b)] and 13(b) [17 CFR 78m(b)] of the Exchange Act; and Sections 8 [15 U.S.C. 80a–8], 30(e) [15 U.S.C. 80a–29(e)], 31[15 U.S.C. 80a–30], and 38(a) [15 U.S.C. 80a–37(a)] of the Investment Company Act.

[41] *See Policy Statement: Reaffirming the Status of the FASB as a Designated Private-Sector Standard Setter,* Release No. 33–8221 (Apr. 25, 2003) [68 FR 23333 May 1, 2003], *(''2003 FASB Policy Statement'').*

[42] *Id.*

[43] *See* Accounting Series Release No. 150 (Dec. 20, 1973).

[44] Public Law 107–204, 116 Stat. 745 (2002)

[45] *See* section 19 of the Securities Act [15 U.S.C. 77s].

[46] Section 108 of the Sarbanes-Oxley Act amended section 19 of the Securities Act to provide that the Commission ''may recognize, as 'generally accepted' for purposes of the securities laws, any accounting principles established by a standard setting body that met certain criteria.'' The Commission has determined that the FASB satisfies the criteria in section 19 and, accordingly, the FASB's financial accounting and reporting standards are recognized as ''generally accepted''

sector accounting standard setter in the United States, the FASB seeks to undertake a transparent, public standard-setting process.[47] As required under the securities laws, including the Sarbanes-Oxley Act, the Commission monitors the FASB's ongoing compliance with the expectations and views expressed in the 2003 FASB Policy Statement.[48]

2. Interaction of Commission Disclosure Requirements and U.S. GAAP

a. Overview

Although the FASB functions as the designated private-sector accounting standard setter in the United States, some Commission rules contain accounting and disclosure requirements. In some cases, these Commission requirements mandate disclosures that the FASB later added to U.S. GAAP.[49] Other Commission disclosure requirements have been superseded by U.S. GAAP.[50] From time to time, the Commission has reviewed and amended its disclosure requirements to eliminate rules that became redundant, duplicative, or overlapping as the FASB updated U.S. GAAP.[51] In keeping with this historical practice, many of the amendments we are adopting revise or eliminate Commission disclosure requirements related to information that is addressed by more recently updated U.S. GAAP requirements.

A number of Commission disclosure requirements require information that is incremental to U.S. GAAP rather than being duplicative or overlapping. In the Proposing Release, the Commission solicited comment on certain of these incremental Commission disclosure requirements to determine whether to retain, modify, eliminate, or refer them to the FASB for potential incorporation into U.S. GAAP.

b. Comments on Interaction of Commission Disclosure Requirements and U.S. GAAP

Several commenters generally supported the referral of certain Commission disclosure requirements to the FASB for potential incorporation into U.S. GAAP.[52] These commenters were supportive of a disclosure regime that can be consistently applied to all issuers and indicated that it is beneficial to limit the sources of financial disclosure requirements. In expressing support for a consistently applied disclosure regime, some of these commenters also indicated that having different financial reporting requirements[53] based on the size of the issuer may eliminate information that is material to investors and may make preparation of financial statements as well as analysis of various issuers' financial statements more difficult.[54]

Some commenters expressed concern about placing more reliance on U.S. GAAP disclosure requirements without more formal Commission input or approval in the FASB standard-setting process.[55] One commenter expressed concern about relying on the FASB to develop or require financial disclosures that might be considered appropriate for issuers but not other entities that apply U.S. GAAP.[56] This commenter stated that such an approach could result in ''unnecessarily costly'' disclosure by entities that are not issuers.

c. Final Amendments

We have determined to retain these incremental requirements and refer some of them to the FASB for its consideration of whether to incorporate such disclosure requirements into U.S. GAAP[57] as part of its standard-setting process.[58] The discussions in this Section, as well as Sections II.B, III.B, and III.D, constitute our referral to the FASB.[59]

Any incorporation of these incremental Commission disclosure requirements into U.S. GAAP could potentially affect all entities that prepare financial statements under U.S. GAAP, including those outside the scope of our regulatory authority. Because U.S. GAAP historically has scaled disclosure requirements only by public business entities versus other entities, and not by issuer status, incorporation into U.S. GAAP could result in the application of some of these requirements to SRCs and issuers relying on Regulation A or Regulation Crowdfunding.

By April 4, 2020, we request that the FASB complete its process to determine whether the referred disclosure items will be added to its agenda of projects

for purposes of the federal securities laws. *See 2003 FASB Policy Statement.*

[47] *See http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1351027215692. See* also pages 2 and 5 of the FASB Rules of Procedures, available at *http://www.fasb.org/cs/ContentServer?c=Document_C&pagename=FASB%2FDocument_C%2FDocumentPage&cid=1176162391050.*

[48] The 2003 FASB Policy Statement describes the Commission's three key expectations for the FASB. First, the FASB shall consider, in adopting accounting principles, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors, including consideration of moving towards greater reliance on principles-based accounting standards whenever it is reasonable to do so. Second, the FASB shall take reasonable steps to continue to improve the timeliness with which it completes its projects, while satisfying appropriate public notice and comment requirements. Last, the FASB shall continue to be objective in its decision-making and to weigh carefully the views of its constituents and the expected benefits and perceived costs of each standard.

See https://www.sec.gov/rules/policy/33–8221.htm.

[49] *See, e.g.,* Rule 4–08(h) of Regulation S–X, parts of which were subsequently incorporated into U.S. GAAP.

[50] *See, e.g.,* Rule 10–01(a)(7) of Regulation S–X, which refers to the disclosures required by ASC 915 on development stage entities, which the FASB has since eliminated.

[51] *See, e.g., General Revision of Regulation S–X,* Release No. 33–6233 (Sept. 2, 1980) [45 FR 63660 (Sept. 25, 1980)], *Phase One Recommendations of Task Force on Disclosure Simplification* Release No. 33–7300 (May 31, 1996) [61 FR 30397 (June 14, 1996)], and *Technical Amendments to Rules, Forms, Schedules, and Codification of Financial Reporting Policies,* Release No. 33–9026, (Apr. 15, 2009) [74 FR 18612 (Apr. 23, 2009)].

[52] *See, e.g.* letters from CAQ; CFA; Crowe Horwath LLP (Oct. 28, 2016); Grant Thornton LLP (Nov. 1, 2016) (''Grant''); and KPMG LLP (Oct. 19, 2016) (''KPMG'').

[53] For example, Rules 8–03(b)(5) and 10–01(b)(7) of Regulation S–X both require disclosure of the effect of changes in reporting entities on net income and per share amounts in interim periods. However, Rule 10–01(b)(7) incrementally requires, for non-SRCs, disclosure of the effect on retained earnings.

[54] *See* letters from CAQ; CFA; Grant; and KPMG.

[55] *See* letters from American Bankers Association (Sept. 15, 2016) (''ABA''); California State Teachers' Retirement System (Nov. 18, 2016) (''CalSTRS;''); R.G. Associates, Inc. (Nov. 2, 2016) (''R.G. Associates''); and Stephen P. Percoco. (Nov. 7, 2016).

[56] *See* letter from ABA. The FASB scopes financial accounting and reporting for companies by (1) public business entities (PBEs); (2) not-for-profit entities; and (3) all other entities. The definition of PBEs encompasses an entity that ''(a) is required by the U.S. Securities and Exchange Commission (SEC) to file or furnish financial statements, or does file or furnish financial statements (including voluntary filers), with the SEC (including other entities whose financial statements or financial information are required to be or are included in a filing).'' This definition is broader than entities with a class of securities registered under the Exchange Act. For example, a privately-owned entity meets the definition of a PBE if it is acquired by a registrant and its financial statements are required under Rule 3–05 of Regulation S–X. *See* FASB's Accounting Standards Update 2013–12, *Definition of a Public Business Entity.*

[57] *See* further discussion in Sections II and III below.

[58] The FASB's Rules of Procedure sets forth procedures followed by the FASB in establishing and improving standards of financial accounting and reporting for nongovernmental entities, including procedures related to the issuance of such standards and other communications. *See http://fasb.org/cs/ContentServer?c=Document_C&cid=1176162391050&d=&pagename=FASB%2FDocument_C%2FDocumentPage.*

The International Accounting Standards Board (''IASB''), which is subject to oversight by the IFRS Foundation, is responsible for IFRS and establishes its own standard-setting agenda. The staff monitors and participates in the IASB's standard setting activities. In connection with such participation, staff will seek to discuss this rulemaking with the IASB's staff. For further information, see *http://www.ifrs.org/About-us/Pages/IFRS-Foundation-and-IASB.aspx.*

[59] *See* Section II.B of the 2003 FASB Policy Statement.

for potential standard-setting.[60] The FASB will determine whether and, if so, how to respond to our referrals.[61] In the meantime, we are retaining these disclosure requirements as suggested by commenters. Any future consideration of amendments to these disclosure requirements will take into account the outcome of the standard-setting activities undertaken by the FASB, if any, in response to the referrals we are making.

3. Current FASB Projects Concerning the Application of U.S. GAAP

The FASB updates U.S. GAAP from time to time through its standard-setting projects. In the Proposing Release, the Commission invited commenters to consider two projects on the FASB's agenda when evaluating the proposals and providing feedback. In one project, the FASB proposed changes to U.S. GAAP[62] to describe how entities would assess whether disclosures are material[63] and included a proposal to revise U.S. GAAP to include a reference to materiality as a legal concept.[64] In another project, the FASB undertook to evaluate disclosure requirements for interim reporting.[65] In that project, the FASB has reached a tentative decision that disclosures about matters required to be provided in annual financial statements should be updated in the interim report if there is a substantial likelihood that the updated information would be viewed by a reasonable investor as significantly altering the total mix of information available to the investor.[66]

These FASB projects were, and the interim reporting project remains, subject to public comment and FASB deliberation and could impact those disclosure requirements we have decided to eliminate or revise on the basis that U.S. GAAP requires the same or similar disclosure. In particular, for Commission rules that contain a specified disclosure threshold, investors may receive less information if the disclosure requirement is incorporated into U.S. GAAP and the issuer determines that the information is not material. Throughout the Proposing Release, the Commission identified disclosure requirements that contemplate a disclosure threshold in some manner, for example, through the use of terms such as ''material'' or ''significant'' or through the use of bright line disclosure thresholds.

Several commenters expressed concern about the interaction between the current FASB projects and the proposed amendments.[67] Prior to the FASB's decision on materiality discussed below, some commenters submitted comment letters opposing reliance on U.S. GAAP as a basis to eliminate redundant or overlapping disclosure requirements, citing the FASB's potential change in its definition of materiality as the main reason for this opposition. One of these commenters also expressed concern that the FASB's materiality project could remove the phrase ''an entity shall at a minimum provide'' from several of the U.S. GAAP disclosure requirements referenced in the Proposing Release.[68] Other commenters stated that the FASB's disclosure framework projects[69] would not have a significant effect on the proposed amendments, provided that definitions of materiality applied by the Commission and the FASB remain consistent.[70] Several commenters were supportive of interim disclosure requirements and supported the FASB's tentative decision.[71]

After the end of the comment period for the Proposing Release, the FASB concluded deliberations on a number of matters. For instance, in March 2018, the FASB decided not to amend U.S. GAAP to include a definition of materiality and also not to amend the disclosure sections currently in U.S. GAAP.[72] The FASB also made decisions related to FASB Concepts Statement No. 8. The FASB Concepts Statements are not U.S. GAAP; rather, the FASB Concepts Statements collectively compose the FASB's Conceptual Framework, which sets forth general principles to aid the FASB in identifying factors to be considered when setting disclosure requirements for individual accounting standards and evaluating existing disclosure requirements.[73] Among the decisions from March, the FASB will revise the concept of materiality included in the Conceptual Framework to clarify that the definition that was previously contained in FASB Concepts Statement No. 2,[74] which is also the definition quoted in SEC Staff Accounting Bulletin No. 99,[75] is the definition to be used by the FASB when it considers and formulates its standard setting projects. We believe these decisions by the FASB have clarified that the concept of materiality has not changed from the historical view of how an issuer applies materiality to the financial statements.

We believe the FASB's decision not to amend U.S. GAAP to include a definition of materiality, as well as the decisions related to FASB Concepts Statement No. 8, substantially address the concerns expressed by commenters about the impact of the current FASB standard-setting projects. As a result of these decisions, we believe there will not be changes to how an issuer applies the concept of materiality to its financial statements, including the related notes. We are therefore eliminating certain of

[60] We recognize that the FASB will need to expend time and resources to consider the referrals we are making in this release, in addition to carrying out its other standard-setting activities. We believe that 18 months should provide sufficient time for the FASB to appropriately consider these referrals without imposing undue constraints on the FASB's current standard-setting agenda. Any impact to the FASB's current operations, as a result of the referrals described in this release, including any potential change to its annual budget and related accounting support fee paid for by issuers, could depend on how much overlap there is with existing FASB projects and how the FASB allocates its resources. *See* Section 109(e) of the Sarbanes-Oxley Act.

[61] *See supra* note 59.

[62] FASB Exposure Draft, *Notes to Financial Statements (Topic 235): Assessing Whether Disclosures Are Material* (Sept. 24, 2015), available at: *http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176166402325&acceptedDisclaimer=true.*

[63] In 2014, the IASB amended IFRS to clarify that an entity does not have to disclose information required by IFRS if that information would not be material. *See Disclosure Initiative (Amendments to IAS 1).*

[64] Commenters on the FASB's standard-setting project have expressed a range of views on the proposed amendments and their potential impact on the volume of financial disclosures. The comment letters are available at: *http://www.fasb.org/jsp/FASB/CommentLetter_C/CommentLetterPage&cid=1218220137090&project_id=2015-310.*

[65] *See* Project Update for Disclosure Framework: Disclosures-Interim Reporting, available at: *http://fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176164227056.*

See also Minutes from FASB Board Meeting (May 29, 2014), available at: *http://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176164227056.*

[66] *See* Minutes from FASB Board Meeting (May 29, 2014), available at: *http://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176164227056.*

[67] *See, e.g.* letters from AFL–CIO and AFR; CalPERS; Domini; and Public Citizen.

[68] *See* letter from CalPERS.

[69] The current topic-specific FASB disclosure framework projects include the interim reporting project and four disclosure areas that are relevant to the amendments. These disclosure areas are: Fair value measurement, defined benefit plans, income taxes, and inventory.

[70] *See, e.g.* letters from CAQ; E&Y; and KPMG.

[71] *See* letters from CAQ; CFA; KPMG; and PricewaterhouseCoopers LLP (Nov. 1, 2016) (''PwC'').

[72] *See* summary of decisions reached at the FASB Board Meeting (Mar. 21, 2018), available at: *https://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdateExpandPage&cid=1176170687841.*

[73] *See* Project Update for Disclosure Framework: Board's Decision Process, available at: *http://fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176163077030.*

[74] Statement of Financial Accounting Concepts No. 2, *Qualitative Characteristics of Accounting Information.*

[75] *See* SEC Staff Accounting Bulletin: No. 99—Materiality, which is available at: *https://www.sec.gov/interps/account/sab99.htm.*

our disclosure requirements, as proposed, on the basis that U.S. GAAP requires the same or similar disclosures.[76] In addition, issuers remain liable for their disclosures, including the omission of any information required to make the disclosures not misleading.[77] Issuers should continue to consider both quantitative and qualitative factors in assessing materiality for the accounting and disclosure of an item, and also should continue to consider whether they have made critical accounting estimates and assumptions for which disclosure should be provided in MD&A.[78] Further, U.S. GAAP requires a description of an issuer's significant accounting policies.[79]

D. Disclosure Location Considerations

a. Overview

In some cases, our amendments result in the relocation of disclosures within a filing,[80] with the following consequences:

- Prominence Considerations—the current location of some disclosures may provide a certain level of prominence and/or context to other disclosures located with them. The relocation of these disclosures may change the prominence and/or context of both the relocated disclosures and the remaining disclosures. We refer to these consequences collectively as ''Disclosure Location—Prominence Considerations.''
- Financial Statement Considerations—the amendments related to some topics result in the relocation of disclosures from outside to inside the financial statements, subjecting this information to annual audit and/or interim review, internal control over financial reporting (''ICFR''), and XBRL tagging requirements, as applicable. The safe harbor under the Private Securities Litigation Reform Act of 1995 (''PSLRA'') would not be available for such disclosures.[81] Conversely, relocation of disclosures from inside to outside the financial statements would have the opposite effect—namely, this information would not be subject to annual audit and/or interim review, ICFR, and XBRL tagging requirements, as applicable, while the safe harbor under the PSLRA would be available. These topics would also be subject to Disclosure Location—Prominence Considerations. We refer to these consequences collectively as ''Disclosure Location—Financial Statement Considerations.''
- Bright Line Disclosure Threshold Considerations—some overlapping requirements, while similar, are not redundant or duplicative because one set of requirements includes a bright line disclosure threshold, while the other set of requirements does not.[82] Where a requirement contains a bright line disclosure threshold, matters involving amounts below that threshold are not required to be disclosed. With the exception of disclosure requirements about major customers, the Commission disclosure requirements we discuss contain bright line disclosure thresholds, while the corresponding U.S. GAAP requirements do not. For these topics, the elimination of the bright line threshold would potentially change the disclosure provided to investors. We refer to these considerations collectively as ''Bright Line Disclosure Threshold Considerations.''

b. Comments on Disclosure Location Considerations

Some commenters indicated that, due to the emergence of electronic data analysis and search tools, investors and other users are generally placing less emphasis on disclosure location.[83] Views were mixed on relocating disclosures into the financial statements. Some commenters stated that they prefer most financial disclosures to be within the financial statements given the audit requirement and ICFR,[84] while others opposed relocation for these same reasons.[85] Numerous commenters also expressed concern about moving disclosures that contain forward-looking information into the financial statements. These commenters noted that such relocation would introduce liability concerns for registrants because the safe harbor under PSLRA would no longer apply and could create potential verification and auditability issues for auditors.[86] Other commenters also expressed concern that it could result in loss of information that may currently be provided by registrants voluntarily.[87]

Some commenters opposed eliminating any bright line thresholds in Commission disclosure requirements because the thresholds establish a baseline of disclosure for all registrants in certain areas.[88] These commenters expressed concern about using a materiality standard for disclosure because it may reduce the information made available to investors or diminish comparability of registrants. Other commenters were supportive of eliminating the bright line thresholds, especially the thresholds discussed in the Proposing Release, and generally supported a more principles-based disclosure framework.[89] These commenters also indicated that materiality is a better disclosure standard because certain of the existing bright line thresholds result in disclosure that, in their view, is immaterial to investors and costly to provide.

c. Final Amendments

We are adopting the majority of the proposed amendments that were identified with Disclosure Location—Prominence Considerations or Financial Statement Considerations because (a) commenters were supportive of the amendment and did not express concern with the relocation of the disclosure; or (b) the overlapping U.S. GAAP disclosure requirements, identified in the Proposing Release, are already subject to audit and ICFR requirements.[90] We also are amending

[76] *See* Sections II.B., III.B., and V.B. below.

[77] Exchange Act Rule 12b–20 [17 CFR 240.12b–20].

[78] *See Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations,* Release No. 33–8350 (Dec. 19, 2003) [68 FR 75056 (Dec. 29, 2003)] (''2003 MD&A Release'').

[79] ASC 235–10–50 requires identification and description of the accounting principles followed by an issuer and the methods of applying those principles that materially affect the determination of financial position, cash flows, or results of operations.

[80] For example, as discussed in Section III.B.2, our amendments eliminate the disclosures about an issuer's status as a real estate investment trust (''REIT'') in the audited notes to the financial statements, in reliance on required disclosures within the same filing, but outside the audited financial statements. *See also* Section III.C.1 of the Proposing Release, *supra* note 1, at 51616.

[81] Public Law 104–67, 109 Stat. 737 (1995).

[82] For example, Regulation S–K requires, as discussed in Section III.D.5, disclosure of the amount of revenue from products and services that account for 10 percent or more of consolidated revenue. *See also* Section III.E.13 of the Proposing Release, *supra* note 1, at 51632. The corresponding U.S. GAAP requirements do not contain such bright line disclosure thresholds.

[83] *See, e.g.* letters from CAQ and Davis Polk & Wardwell LLP (Nov. 2, 2016) (''Davis'').

[84] *See, e.g.* letters from Council of Institutional Investors (Sept. 22, 2016) (''CII'') and The Ohio Society of CPAs (Nov. 2, 2016).

[85] *See, e.g.* letters from CGCIV and Edison Electric Institute and American Gas Association (November 2, 2016) (''EEI and AGA''); and USCC.

[86] *See, e.g.* letters from CAQ; Davis; EEI and AGA; and FEI.

[87] *See, e.g.* letters from CalPERS; FEI; and R.G. Associates.

[88] *See, e.g.* letters from AFL–CIO and AFR; CalPERS; CFA; Public Citizen; and R.G. Associates.

[89] *See, e.g.* letters from CAQ; CGCIV; The Clearing House Association L.L.C. (Oct. 28, 2016) (''Clearing House''); Davis; FEI; and USCC.

[90] The proposed amendments that give rise to Disclosure Location Prominence or Financial Statement Considerations include those discussed

Continued

one disclosure requirement identified with Bright Line Disclosure Thresholds Considerations relating to restrictions on dividends as proposed.[91] We are not adopting other proposed amendments due to concern about the relocation of the disclosure and possible loss of forward-looking and voluntary information. In addition, we are referring some of the disclosure requirements with Disclosure Location or Bright Line Disclosure Threshold Considerations to the FASB for potential incorporation into U.S. GAAP.

II. Redundant or Duplicative Requirements

A. Background

In the Proposing Release, the Commission identified a number of disclosure requirements that require substantially similar disclosures as U.S. GAAP, IFRS, or other Commission disclosure requirements. The Commission proposed to eliminate these redundant or duplicative Commission disclosure requirements to simplify issuer compliance efforts in light of the obligation to provide substantially the same information to investors under other requirements.

B. Redundant or Duplicative Disclosure Requirements With U.S. GAAP

1. Foreign Currencies

Rule 3–20 of Regulation S–X describes the currency requirements for financial statements of foreign private issuers. The third sentence of Rule 3–20(d) of Regulation S–X provides the definition of ''the currency of an operation's primary economic environment'' and ''a hyperinflationary environment.'' The Commission proposed to eliminate these definitions because U.S. GAAP provides substantially the same definitions.[92]

While most commenters [93] supported the elimination, two commenters [94] recommended that the Commission retain these provisions. These commenters indicated that while the definitions are the same in the Commission disclosure requirement and U.S. GAAP, the definition in U.S. GAAP [95] can be interpreted to apply only to a subsidiary, division, branch or joint venture of the issuer rather than the issuer itself, whereas Rule 3–20(d) applies to both the issuer and each of its material operations.[96]

After further consideration and in light of concerns raised about whether Rule 3–20(d) and U.S. GAAP are duplicative, we are retaining the definitions in the current rule and referring the issue to the FASB for potential clarification in U.S. GAAP.

2. Other

The Commission proposed to eliminate a number of other requirements that are substantially redundant or duplicative of U.S. GAAP disclosures. The table below describes each of these requirements and identifies the corresponding U.S. GAAP requirement.[97] For the Commission disclosure requirements proposed for elimination that apply to foreign private issuers that report using IFRS, we identify the corresponding IFRS requirement.[98]

Commission disclosure requirement proposed for elimination	Description of commission disclosure requirement proposed for elimination	Corresponding U.S. GAAP requirement
Consolidation		
All except fourth sentence of Rule 3A–02(b)(1) of Regulation S–X.	Permits consolidation of an entity's financial statements for its fiscal period if the period does not differ from that of the issuer by more than 93 days and requires recognition by disclosure or otherwise of material intervening events.	ASC 810–10–45–12.[99]
First sentence of Rule 3A–02(d) of Regulation S–X.	Requires consideration of the propriety of consolidation under certain restrictions.[100]	ASC 810–10–15–10.
Last two sentences of first paragraph of Rule 3A–02 of Regulation S–X and 3A–03(a) of Regulation S–X.	Requires disclosure of the accounting policies followed in consolidation or combination.[101]	ASC 235–10–50–1 and ASC 810–10–50–1.
First sentence of Rule 3A–04 of Regulation S–X.	Requires elimination of intercompany transactions.	ASC 323–10–35–5a and ASC 810–10–45–1 through 45–9.
Obligations		
Reference to issuances in Rule 4–08(f) of Regulation S–X.	Requires disclosure of significant changes [102] in amounts of debt issued subsequent to the latest balance sheet date.	ASC 855–10–50–2 and 855–10–55–2a.
Income Tax Disclosures		
First sentence of Rule 4–08(h)(2) of Regulation S–X.	Requires an income tax rate reconciliation	ASC 740–10–50–12.

in the following sections of the Proposing Release: Section III.B.2 *REIT Disclosures—Status as a REIT;* Section III.B.3.f *Insurance Companies—Reinsurance Transactions, Interim Financial Statements—Material Events Subsequent to the End of the Most Recent Fiscal Year;* Section III.B.3.c *Segments;* Section III.B.3.d *Geographic Areas;* Section III.B.3.e *Seasonality;* Section III.B.1.c *Research and Development Activities;* Section III.B.1.d *Warrants, Rights, and Convertible Instruments;* Section III.C.2 *Restrictions on Dividends and Related Items;* Section III.C.3 *Geographic Areas;* Section III.D.3 *Major Customers;* Section III.D.5 *Products and Services;* and Section V.B.2 *Dividends Per Share in Interim Financial Statements.* We are not adopting any requirements to disclose forward-looking information in a registrant's financial statements.

[91] *See* discussion in Section III.C.2 below.

[92] ASC 830–10–45–2, ASC 830–10–45–12, and ASC 830–10–55–10.

[93] *See* letters from Davis; Deloitte; & Touche LLP (Oct. 5, 2016) (''Deloitte''); E&Y; EEI and AGA; Grant; KPMG; and R.G. Associates.

[94] *See* letters from CAQ and PwC.

[95] ASC 830–10–45–2, ASC 830–10–45–12, and ASC 830–10–55–10.

[96] First sentence of Rule 3–20(d) of Regulation S–X.

[97] These proposed amendments are discussed in further detail in Section II.B of the Proposing Release.

[98] *See supra* note 23.

Commission disclosure requirement proposed for elimination	Description of commission disclosure requirement proposed for elimination	Corresponding U.S. GAAP requirement
Fourth sentence of Rule 4–08(h)(2) of Regulation S–X.	Permits the income tax rate reconciliation to be presented in either percentages or dollars.	ASC 740–10–50–12
Warrants, Rights, and Convertible Instruments		
Rule 4–08(i) of Regulation S–X	Requires disclosure of the title and amount of securities subject to warrants or rights, the exercise price, and the exercise period.[103]	Non-compensatory[104] warrants or rights: ASC 505–10–50–3 and ASC 815–40–50–5. Compensatory warrants or rights: ASC 505–10–50–3, ASC 718–10–50–1, and ASC 718–10–50–2.
Related Parties		
Reference to identification of related party transactions in Rule 4–08(k)(1) of Regulation S–X.	Requires identification of related party transactions.	ASC 850–10–50–1.
Contingencies		
References to ''material contingencies'' in Rule 8–03(b)(2),[105] the second sentence of Rule 10–01(a)(5) of Regulation S–X, and the entire last sentence of Rule 10–01(a)(5) of Regulation S–X.[106]	Require disclosure of material contingencies in interim financial statements, notwithstanding disclosure in the annual financial statements.	ASC 270–10–50–6.
Earnings per Share		
Reference to ''earnings per share'' in first sentence of Rule 10–01(b)(2) of Regulation S–X.	Requires presentation of earnings per share on the face of an interim income statement.	ASC 270–10–50–1b.
Item 601(b)(11) of Regulation S–K[107] and Instruction 6 to ''Instructions as to Exhibits'' of Form 20–F.	Require disclosure of the computation of earnings per share in annual filings.	ASC 260–10–50–1a, Rule 10–01(b)(2) of Regulation S–X, and IAS 33, paragraph 70.[108]
Insurance Companies		
Last sentence of Rule 7–03(a)(11) of Regulation S–X.	Requires a description of the activities being reported in the separate accounts.[109]	ASC 944–80–50–1a.
Rule 7–04.3(c) of Regulation S–X	Requires disclosure of the method followed in determining the cost of investments sold.[110]	ASC 235–10–50–1 and ASC 320–10–50–9b.
Bank Holding Companies		
Rule 9–03.6(a) of Regulation S–X	Requires disclosure of the carrying and market values of (1) securities of the U.S. Treasury and other U.S. Government agencies and corporations, (2) securities of states of the U.S. and political subdivisions, and (3) other securities.	ASC 320–10–50–1B, ASC 320–10–50–2, ASC 320–10–50–5, and ASC 942–320–50–2.
Rule 9–03.7(d) of Regulation S–X	Requires disclosure of changes in the allowance for loan losses.	ASC 310–10–50–11B(c).
First part of Rule 9–04.13(h) of Regulation S–X	Requires disclosure of the method followed in determining the cost of investment securities sold.	ASC 235–10–50–1 and ASC 320–10–50–9b.
Changes in Accounting Principles		
Requirement to disclose reason for change in accounting principle in Rule 8–03(b)(5)[111] and Rule 10–01(b)(6)[112] of Regulation S–X.	Requires disclosure of the reasons for making material accounting changes in an interim period.	ASC 250–10–45–12 to 16, ASC 250–10–50–1a, and ASC 270–10–50–1g.
Interim Adjustments		
Third sentence of Rule 3–03(d) and third sentence of Rule 10–01(b)(8) of Regulation S–X.	Provide examples of adjustments in order for interim financial statements to be fairly stated.	ASC 270–10–45–10.
Interim Financial Statements—Common Control Transactions		
Part of first sentence of Rule 10–01(b)(3) of Regulation S–X.	Requires that common control transactions be reflected in current and prior comparative period's interim financial statements.	ASC 805–50–45–1 to 5.

Commission disclosure requirement proposed for elimination	Description of commission disclosure requirement proposed for elimination	Corresponding U.S. GAAP requirement
Interim Financial Statements—Dispositions		
Rule 10–01(b)(5) of Regulation S–X	Requires disclosure of the effect of discontinued operations on interim revenues, net income, and earnings per share for all periods presented.	ASC 205–20–50–5B, ASC 205–20–50–5C, ASC 260–10–45–3, and ASC 270–10–50–7.

Commenters generally supported these proposed amendments due to the redundant or duplicative nature of the Commission disclosure requirements with U.S. GAAP and IFRS, [113] and no commenter specifically opposed the amendments. We are adopting all of the amendments described in the table above as proposed.

C. Redundant or Duplicative Disclosure Requirements With Other Commission Requirements

1. Proposed Amendments

In the Proposing Release, the Commission identified disclosure requirements that are redundant or duplicative of other Commission requirements. In most of these cases, the rule or item proposed to be eliminated is a reference to another Commission requirement and elimination would not affect compliance with the underlying requirement. The table below describes each proposed amendment.

Commission disclosure requirement proposed for elimination	Description of commission disclosure requirement proposed for elimination	Corresponding other commission disclosure requirement
Foreign Currency		
Last sentence of Rule 3–20(d) of Regulation S–X.	States that foreign private issuers must comply with Item 17(c)(2) of Form 20–F, which requires disclosure and quantification of departures from the methodology of Rule 3–20 if their financial statements are prepared on a basis other than U.S. GAAP or IFRS.	Item 17(c)(2) of Form 20–F. Also Item 4 of Form F–1, General Instructions I.B of Form F–3, and Items 11, 12, and 13 of Form F–4, which indirectly refer to Item 17 of Form 20–F.
Consolidation		
Rule 4–08(a) of Regulation S–X	Requires compliance with Article 3A.[114]	Article 3A itself requires compliance. The requirement is repeated in Rule 4–08(a).
Rule 3A–01 of Regulation S–X	States subject matter of Article 3A	The same information is set forth in the title of Article 3A.
Report Furnished to Security Holders		
Item 601(b)(19) of Regulation S–K. [115]	Provides specific instructions to address the incorporation by reference into Form 10–Q [116] of information that is separately made available to security holders.	General Instruction D(3) to Form 10–Q, which refers to Item 601(b)(13) of Regulation S–K.[117]

[99] ASC 810–10–45–12 uses the phrase ''about three months'' instead of 93 days.

[100] Rule 3A–02(d) requires due consideration of the propriety of consolidation in the presence of political, economic, or currency restrictions. ASC 810–10–15–10 states that subsidiaries shall not be consolidated in the presence of foreign exchange restrictions, controls, or other governmentally imposed uncertainties so severe that they cast significant doubt on the parent's ability to control the subsidiary.

[101] Rule 3A–02 states that the accounting policy disclosure should also include the circumstances associated with any departure from the normal practice of consolidating majority owned subsidiaries and not consolidating entities that are not majority owned. ASC 235–10–50–1 states that the accounting disclosure shall encompass important judgments about the appropriateness of accounting principles and unusual or innovative applications of U.S. GAAP.

[102] ASC 855–10–50–2 requires disclosure of events subsequent to the balance sheet date that are of such a nature that non-disclosure would render the financial statements misleading. ASC 855–10–55–55–2a provides that the sale of a bond subsequent to the balance sheet date is an example of such a subsequent event.

[103] For compensatory warrants or rights, U.S. GAAP requires disclosure of the nature and terms of such arrangements, the number and weighted-average exercise price, and the weighted-average contractual term.

[104] Compensatory warrants and rights are those issued to an employee, non-employee or other entity for supply of goods or services for the issuer's benefit, whereas non-compensatory warrants and rights are those issued for all other reasons.

[105] This rule specifically applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP.

[106] This rule specifically applies to companies other than SRCs (''non-SRCs'').

[107] We also proposed conforming revisions to delete references to Item 601(b)(11) of Regulation S–K in the Exhibit Table and in Rule 10–01(b)(2) of Regulation S–X.

[108] IAS 33, paragraph 70, is the IFRS requirement that corresponds to the Commission disclosure requirement in Instruction 6 to ''Instructions as to Exhibits'' of Form 20–F.

[109] ASC 944–80–50–1a requires disclosure of the nature of the contracts reported in separate accounts.

[110] ASC 320–10–50–9b refers to the ''cost of a security sold.''

[111] This rule specifically applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP.

[112] This rule specifically applies to non-SRCs.

[113] *See, e.g.* letters from CAQ; Davis; EEI & AGA; and R.G. Associates.

[114] 17 CFR 210.3A–01 through 210.3A–04.

[115] We also proposed conforming revisions to delete the reference to Item 601(b)(19) of Regulation S–K in the Exhibit Table.

[116] 17 CFR 249.308a.

[117] We also proposed to amend the Exhibit Table within Item 601 of Regulation S–K to clarify that Item 601(b)(13) applies to Form 10–Q.

2. Comments on Proposed Amendments

Commenters generally supported these proposed amendments.[118] One commenter recommended retaining the last sentence of Rule 3–20(d) of Regulation S–X without providing further explanation.[119]

3. Final Amendments

We are adopting the other amendments as proposed, with one exception. After additional analysis, we are not adopting the proposed elimination of the last sentence in Rule 3–20(d) because it relates to a small population of issuers (*i.e.* foreign private issuers that do not apply either U.S. GAAP or IFRS) and to avoid any unintended consequences in light of a commenter's recommendation. Additionally, the amendments eliminate a redundant requirement in Instruction 3 to Item 504 of Regulation S–K that was identified subsequent to the proposal.[120]

III. Overlapping Requirements

A. Background

In the Proposing Release, the Commission identified disclosure requirements that are related to, but not the same as, U.S. GAAP, IFRS, or other Commission disclosure requirements, which we refer to in this release as overlapping requirements. The Commission proposed the following related to these requirements:

- Delete disclosure requirements that: (1) Require disclosures that convey reasonably similar information to or are encompassed by the disclosures that result from compliance with the overlapping U.S. GAAP, IFRS, or Commission disclosure requirements; or (2) require disclosures incremental to the overlapping U.S. GAAP, IFRS, or Commission disclosure requirements and may no longer be useful to investors.
- Integrate Commission disclosure requirements that overlap with, but require information incremental to, other Commission disclosure requirements.

The Commission also solicited comment on certain Commission disclosure requirements that overlap with, but require information incremental to, U.S. GAAP to determine whether to retain, modify, eliminate, or refer them to the FASB for potential incorporation into U.S. GAAP.

B. Overlapping Requirements—Proposed Deletions

1. Overlapping Disclosure Requirements With U.S. GAAP

The Proposing Release identified several disclosure requirements that the Commission believed to be overlapping with U.S. GAAP.

a. Repurchase and Reverse Repurchase Agreements [121]

(1) Proposed Amendments

Since the requirements in Regulation S–X governing repurchase and reverse repurchase agreements were adopted in 1986, the FASB has amended the U.S. GAAP requirements for the accounting and disclosures for repurchase agreements and similar transactions,[122] which has resulted in overlapping disclosure requirements. We discuss these overlapping requirements and the proposed amendments below.

(a) Balance Sheet Presentation

Regulation S–X [123] and U.S. GAAP [124] both require separate presentation of repurchase liabilities associated with repurchase agreements on the face of the balance sheet.[125] Regulation S–X, unlike U.S. GAAP, sets forth a 10 percent threshold for separate presentation.[126] The Commission proposed to delete the requirement for separate presentation in Rule 4–08(m)(1)(i) and the related 10 percent threshold and noted the Bright Line Disclosure Threshold Considerations. The Commission also proposed to retain the requirement to include accrued interest payables in the separately presented liability amounts.

(b) Disaggregated Disclosures

While Regulation S–X [127] and U.S. GAAP [128] both require disaggregated disclosures about repurchase agreements, they differ in the form and content of the disaggregated disclosures. First, Regulation S–X and U.S. GAAP both require disaggregated disclosures of repurchase liabilities by class of collateral and maturity interval. U.S. GAAP permits an entity to determine the appropriate level of disaggregation and classes of collateral to be presented on the basis of the nature, characteristics, and risks of the collateral pledged, whereas Regulation S–X provides a few illustrative examples of classes. Regulation S–X also specifies maturity intervals (*e.g.,* overnight, up to 30 days), whereas U.S. GAAP permits judgment to determine an appropriate range of maturity intervals. Further, Rule 4–08(m)(1)(ii) of Regulation S–X requires the disaggregated disclosure to be combined in the form of a single table. Although U.S. GAAP is silent about the form of disclosure, its sole example of an approach to comply with its requirements is a single table that includes both classes of collateral as well as maturity intervals similar to those required by Regulation S–X.[129] Overall, U.S. GAAP permits more judgment to determine the classes to be presented, the range of maturity intervals, and the form of disclosure than Regulation S–X.[130]

Second, Regulation S–X specifies tabular disclosure of the carrying amount of associated assets sold under repurchase agreements disaggregated by class of asset sold and maturity interval (*e.g.,* overnight, up to 30 days) of the repurchase agreement.[131] Instead of a tabular format, U.S. GAAP requires separate presentation on the transferor's balance sheet of the carrying amount of assets that the transferee has the right to sell or repledge.[132] U.S. GAAP also requires disclosure in the notes to the financial statements of the carrying amount and balance sheet classification of both the assets pledged as collateral that the transferee does not have the right to sell or repledge and the associated liabilities, along with quantitative information about the relationship(s) between them.[133]

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[118] *See* letters from Davis; Deloitte; E&Y; EEI and AGA; Grant; KPMG; and R.G. Associates.

[119] *See* letter from PwC. The last sentence of Rule 3–20(d) states that ''Departures from the methodology presented in this paragraph shall be quantified pursuant to Item 17(c)(2) of Form 20–F.''

[120] The requirement to disclose the sources of any material amounts of other funds needed to accomplish the specific purpose is stated twice within the instruction.

[121] *See* the related discussion in Section III.D.5.

[122] *See* Accounting Standards Update (''ASU'') No. 2014–11, *Transfers and Servicing (Topic 860): Repurchase-to-Maturity Transactions, Repurchase Financings, and Disclosures.*

[123] *See* Rule 4–08(m)(1)(i) of Regulation S–X.

[124] *See* ASC 860–30–45–2.

[125] Regulation S–X requires separate presentation of repurchase liabilities incurred pursuant to repurchase agreements. U.S. GAAP is broader in that it includes other transactions with similar characteristics—specifically, ''transactions in which cash is obtained in exchange for financial assets with an obligation for an opposite exchange later,'' such as dollar rolls (an agreement to sell and repurchase similar but not identical securities) and securities lending transactions. *See* ASC 860–30–15–3.

[126] Specifically, Regulation S–X requires separate presentation if the carrying amount (or market value, if higher than the carrying amount or if there is no carrying amount) of the securities or other assets sold under repurchase agreements, in the aggregate, exceeds 10 percent of total assets.

[127] *See* Rule 4–08(m)(1)(ii) of Regulation S–X.

[128] *See* ASC 860–30–50–7.

[129] *See* ASC 860–30–55–4.

[130] *Id.*

[131] *See* Rules 4–08(m)(1)(ii)(A)(i) and 4–08(m)(1)(ii)(B) of Regulation S–X.

[132] *See* ASC 860–30–25–5a.

[133] *See* ASC 860–30–50–1A.b.1 and 2.

The Commission proposed to delete the identified Regulation S–X requirements because the disclosures that result from compliance with U.S. GAAP, and the accompanying disclosure objectives and aggregation principles, convey reasonably similar information as the disclosures required by Regulation S–X.[134]

Third, Regulation S–X requires disaggregated disclosures of the market value of assets sold under repurchase agreements for which unrealized changes in market value are reported in income.[135] Although the FASB deliberated adding a requirement to U.S. GAAP to disclose the market value of these assets, it ultimately decided against doing so due to operability concerns.[136]

Based on the foregoing, the Commission proposed to delete Rule 4–08(m)(1)(ii), with the exception of the requirement in Rule 4–08(m)(1)(ii)(A)(ii) to disclose the interest rate on repurchase liabilities, which the Commission would retain. Regulation S–X, unlike U.S. GAAP, sets forth a 10 percent threshold for the disaggregated disclosures;[137] therefore, the proposed amendments give rise to Bright Line Disclosure Threshold Considerations.

(c) Collateral Policy

The Commission proposed to delete the requirement in Regulation S–X [138] to disclose an issuer's policy with regard to taking possession of assets purchased under reverse repurchase agreements because U.S. GAAP requires disclosure of the issuer's policy for requiring collateral or other security.[139] Although U.S. GAAP is not as specific as Regulation S–X about taking possession of collateral, the Commission believed Regulation S–X requires disclosures that are encompassed by the disclosures that result from compliance with U.S. GAAP.

Regulation S–X, unlike U.S. GAAP, requires these disclosures when the aggregate carrying amount of reverse repurchase agreements exceeds 10 percent of total assets. As such, the proposed amendment gives rise to Bright Line Disclosure Threshold Considerations.

(2) Comments on Proposed Amendments

Commenters were split on the proposals related to the requirements for repurchase and reverse repurchase agreements. A number of commenters expressed support for the proposed amendments except for the elimination of the collateral policy disclosure requirement.[140] These commenters agreed that the U.S. GAAP disclosures provide reasonably similar information for the balance sheet presentation and disaggregated disclosure requirements. Certain commenters were not supportive of the deletion of the collateral policy disclosure requirements [141] and recommended referring the requirement to the FASB for potential incorporation into U.S. GAAP.[142] These commenters stated that the disclosure provides useful information to understanding the credit risk associated with the transactions in which the issuer does not take possession of the collateral.

Several other commenters opposed the proposed amendments, expressing concern that the amendments would eliminate disclosures that are material to investors and other users of the financial statements.[143] For example, one of the commenters stated that the information required by Rule 4–08(m)(1)(ii) is essential to understanding an issuers' liabilities in the repo market.[144] Another commenter indicated that it cannot support the proposed revisions to repurchase and reverse repurchase agreements disclosure requirements at this time, given the importance of these disclosures, the relative newness of the changes to the U.S. GAAP requirements, and the existence of differences in the form and content of the respective requirements.[145] One commenter also indicated that it believes repurchase and reverse repurchase agreements should be discussed in SEC filings more than just in the financial statement footnotes because they are complex financial instruments that can have a dramatic impact on the financing and liquidity of financial institutions and other businesses.[146]

Additionally, while one commenter explicitly supported the elimination of the 10 percent threshold in Rule 4–08(m)(1)(ii),[147] other commenters expressed concerns, indicating that the removal could result in less disclosure of information that is material to investors.[148]

(3) Final Amendments

In light of the comments about the importance of the information, we are retaining the Regulation S–X disclosure requirements related to repurchase and reverse repurchase agreements and referring these requirements to the FASB for potential incorporation into U.S. GAAP.

b. Derivative Accounting Policies

(1) Proposed Amendments

Regulation S–X [149] and U.S. GAAP [150] both require disclosure in the notes to the financial statements of accounting policies for certain derivative instruments. Regulation S–X applies to: (1) Derivative financial instruments, as

[134] U.S. GAAP requires that its minimum disclosure requirements about transactions such as repurchase agreements be supplemented as necessary to meet certain disclosures objectives (*e.g.,* providing investors with an understanding of how transfers of financial assets affect an issuer's financial statements) and aggregation principles (*e.g.,* presentation in a manner that clearly and fully explains the transferor's risk exposure related to the transferred financial assets and any restrictions on the assets of the entity). *See* ASC 860–10–50.

[135] *See* Rules 4–08(m)(1)(ii)(A)(i) and 4–08(m)(1)(ii)(B) of Regulation S–X. These rules, however, do not require disclosure of the carrying amount and market value of securities and other assets for which unrealized changes in market value are reported in current income or which have been obtained under reverse repurchase agreements. This scope is narrower than that for the U.S. GAAP requirement to separately present carrying amounts, which applies to all assets sold under repurchase agreements.

[136] *See* Minutes from FASB Board Meeting (Mar. 12, 2014), available at: *http://www.fasb.org/jsp/FASB/Document_C/DocumentPage&cid=1176163899372.* See also Accounting Standards Update (''ASU'') No. 2014–11, *Transfers and Servicing (Topic 860): Repurchase-to-Maturity Transactions, Repurchase Financings, and Disclosures.*

[137] Specifically, Regulation S–X requires the tabular disclosures if the aggregate carrying amount (or market value, if higher than the carrying amount) of the securities or other assets sold under repurchase agreements exceeds 10 percent of total assets. The amount of securities or other assets sold under repurchase agreements excludes securities and other assets for which unrealized changes in market value are reported in current income or have been obtained under reverse repurchase agreements.

[138] *See* Rule 4–08(m)(2)(i)(B)(1) of Regulation S–X.

[139] *See* ASC 860–30–50–1Aa.

[140] *See* letters from CAQ; Clearing House; Deloitte; E&Y; and KPMG.

[141] *See* Rule 4–08(m)(2)(i)(B)(1) of Regulation S–X.

[142] *See* letters from CAQ; Grant; and PwC.

[143] *See, e.g.* letters from As You Sow, Bellamy Woods LLC, Brighton Shores LLC, CSC LLC, Essential Information, Greenpeace, Howard's End LLC, Institute for Policy Studies—Global Economy Project, Interfaith Center on Corporate Responsibility, NF Trust, OpenTheGovernment, Public Citizen, Rolyan Fund, Sunlight Foundation and Zevin Asset Management, LLC (Oct. 31, 2016) (''As You Sow, et al.''); CalPERS; and CII.

[144] *See* letter from Zevin Asset Management, LLC (Nov. 2, 2016) (''Zevin'').

[145] *See* letter from CII.

[146] *See* letter from Elise J. Bean (Oct. 3, 2016) (''Bean'').

[147] *See* letter from Clearing House.

[148] *See* letters from As You Sow, et al. and Public Citizen.

[149] *See* Rule 4–08(n) of Regulation S–X and Note 2(b) to Rule 8–01 of Regulation S–X. Rule 4–08(n) applies to non-SRCs and Note 2(b) to Rule 8–01 applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP.

[150] *See* ASC 815–10–50.

defined under U.S. GAAP, and (2) derivative commodity instruments such as commodity futures, swaps, and options that are permitted to be settled in cash or with another financial instrument, to the extent such instruments are not within the definition of derivative financial instruments. For both types of instruments, Regulation S–X requires, where material, disclosure of the accounting policies; the criteria required to be met for each accounting method used; the accounting method used if those criteria are not met; the method used to account for terminations of derivatives designated as hedges or derivatives used to affect the terms, fair values, or cash flows of a designated item; the method used to account for derivatives when the designated item matures, is sold, is extinguished, or is terminated; and how the derivative instruments are reported in the financial statements.

U.S. GAAP requires disclosure of accounting principles and methods that materially affect the financial statements, including those involving a selection from existing acceptable alternatives, and important judgments about the appropriateness of the principles.[151] In the Proposing Release, the Commission stated that it believes these U.S. GAAP principles call for reasonably similar information as the corresponding requirements in Regulation S–X, as they require disclosure of the accounting method applied to each aspect of a material derivative transaction from inception to termination.

In addition, for derivative financial instruments, as defined under U.S. GAAP, U.S. GAAP requires disclosure of how and why the issuer uses derivative instruments, how the derivative instruments and related hedged items are accounted for, and how they affect the financial statements.[152] Although Regulation S–X is more detailed than U.S. GAAP, the specificity in Regulation S–X stemmed, in part, from the absence of a comprehensive accounting model for derivatives when the Commission adopted these disclosure requirements.[153] Since that time, the FASB has adopted an accounting model for derivative financial instruments, as defined under U.S. GAAP.[154] Because U.S. GAAP has a comprehensive accounting model for contracts that meet the definition of a derivative financial instrument, the Commission stated in the Proposing Release that it believes that the additional specific disclosure requirements in Rule 4–08(n) are no longer applicable.

Based on the foregoing, the Commission proposed to delete Rule 4–08(n) and Note 2(b) to Rule 8–01.

(2) Comments on Proposed Amendments

While several commenters[155] supported the proposed deletion of the Regulation S–X requirements related to derivative accounting policies, two commenters[156] expressed concern. One of these commenters,[157] while supportive of deleting the disclosure requirements, indicated that U.S. GAAP does not provide clear guidance on how to measure written options that do not meet the definition of a derivative financial instrument under U.S. GAAP.[158] For this reason, this commenter recommended referring this issue to the FASB for potential incorporation into U.S. GAAP. The other commenter stated that the Commission should increase instead of decrease disclosures related to derivatives.[159]

(3) Final Amendments

We are eliminating most of the requirements in Rule 4–08(n) as proposed. However, after additional consideration, we are not eliminating the requirement to disclose where in the statement of cash flows the effect of derivative financial instruments is reported.[160] U.S. GAAP does not have a similar disclosure requirement.[161] We also are referring the statement of cash flows disclosure requirement to the FASB for potential incorporation into U.S. GAAP. We continue to believe that the U.S. GAAP disclosure requirements and related principles[162] call for information that is reasonably similar to the information called for by the disclosure requirements in Regulation S–X and that some of the additional disclosure requirements in Rule 4–08(n) are no longer applicable. Finally, we are sharing the comment letters that request review of the disclosures for derivatives and accounting for written options with the FASB because these considerations are beyond the scope of this rulemaking.[163]

c. Research and Development Activities

(1) Proposed Amendments

Regulation S–K requires disclosures, if material, of the amount spent on research and development activities for all years presented.[164] The Commission proposed to delete this requirement because, although Regulation S–K uses terms that differ from U.S. GAAP,[165] U.S. GAAP requires reasonably similar disclosures.

First, Regulation S–K refers to the ''amount spent,'' while U.S. GAAP refers to ''costs charged to expense'' or ''costs incurred.'' The Commission release adopting this requirement used the term ''expense'' when discussing this requirement.[166]

Regulation S–K also uses the term ''company-sponsored,'' but U.S. GAAP

[151] *See* ASC 235–10–50–1 and ASC 235–10–50–3.

[152] *See* ASC 815–10–50.

[153] *See Disclosure of Accounting Policies for Derivative Financial Instruments and Derivative Commodity Instruments, and Disclosure of Quantitative and Qualitative Information about Market Risk Inherent in Derivative Financial Instruments, Other Financial Instruments and Derivative Commodity Instruments,* Release No. 33–7386, (Jan. 31, 1997) [62 FR 6044 (Feb. 10, 1997)]. In this adopting release, the Commission stated that in the absence of comprehensive accounting literature, registrants have developed accounting practices for options and complex derivatives by analogy to the limited amount of literature that does exist. The Commission also noted that those analogies are complicated because, under existing accounting literature, there are at least three distinctively different methods of accounting for derivatives (*e.g.* fair value accounting, deferral accounting, and accrual accounting). The Commission further observed that the underlying concepts and criteria used in determining the applicability of those accounting methods is not consistent.

[154] *See* SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities,* codified in ASC 815.

[155] *See* letters from CAQ; Deloitte; E&Y; Grant; and PwC.

[156] *See* letters from Bean and KPMG.

[157] *See* letter from KPMG.

[158] ASC 815–10–35–1 requires all derivative instruments to be measured subsequently at fair value and written options that do not qualify for equity classification have been measured at fair value in the financial statements. *See* ASC 815–10–S99–4. The commenter stated the disclosure requirement in Rule 4–08(n) has been applied by analogy to measure these options at fair value. Rule 4–08(n) is not measurement guidance.

[159] *See* letter from Bean.

[160] Because we are no longer eliminating all of 4–08(n), we are retaining Note 2(b) to Rule 8–01.

[161] ASC 815 and ASC 230.

[162] *See* ASC 235–10–50–1, ASC 235–10–50–3, and ASC 815–10–50.

[163] The FASB, in its role of establishing and maintaining U.S. GAAP, continuously monitors the financial reporting environment and objectively considers all stakeholder views on accounting and reporting issues in order to evaluate the effectiveness of U.S. GAAP in providing investors with decision useful information and to determine whether changes to U.S. GAAP are needed. The items raised by commenters here is an external source of data available for the FASB's consideration when evaluating potential improvements to U.S. GAAP.

[164] *See* Item 101(c)(1)(xi) of Regulation S–K for non-SRCs and Item 101(h)(4)(x) of Regulation S–K for SRCs. Item 101(c)(1)(xi) only requires this disclosure by non-SRCs if material.

[165] *See* ASC 730–10–50–1 and ASC 730–20–50–1.

[166] *See Adoption of Disclosure Regulation and Amendments of Disclosure Forms and Rules,* Release No. 33–5893 (Dec. 23, 1977) [42 FR 65554 (Dec. 30, 1977)] (''Regulation S–K Adopting Release'').

does not. However, the Regulation S–K Adopting Release specified that the amount of company-sponsored research and development expenses to be disclosed should be determined in accordance with U.S. GAAP, suggesting no difference in scope was intended.[167]

In addition, Regulation S–K refers to ''customer-sponsored'' research and development activities, while U.S. GAAP refers to ''research and development performed on behalf of others.'' Because U.S. GAAP refers to all other parties, which is broader than customers, the disclosures required by U.S. GAAP would encompass those required by Regulation S–K.

Further, Item 101(c)(1)(xi) only refers to customer-sponsored ''research activities'' rather than research *and* development activities. However, we do not believe this difference is substantive because Item 101(h)(4)(x) refers to ''research and development activities'' and it was intended to ''parallel'' Item 101(c)(1)(xi).[168]

Similarly, Item 5.C of Form 20–F requires foreign private issuers to describe their research and development policies, where significant, and disclose the amount spent on company-sponsored research and development activities. The Commission proposed to delete the requirement to disclose the amount spent, as foreign private issuers are already required to disclose the amount of research and development expenses in the notes to the financial statements.[169] In certain circumstances, IFRS requires that amounts spent on development be capitalized as an intangible asset, instead of expensed, and also disclosed.[170] While Commission disclosure requirements use terms different from IFRS, the Commission stated in the Proposing Release that it believes IFRS results in reasonably similar disclosures for the same reasons discussed above with regards to differences in terminology between Commission disclosure requirements and U.S. GAAP.

Form 1–A also requires Regulation A issuers to disclose, if material, the amount spent on research and development activities for all years presented.[171] As this requirement is based on the requirement in Regulation S–K, Regulation A issuers that report under either U.S. GAAP or IFRS provide substantially the same information in the notes to their financial statements, as described above.

Accordingly, the Commission proposed to delete Item 101(c)(1)(xi) of Regulation S–K and Item 101(h)(4)(x) of Regulation S–K, Item 5.C of Form 20–F, and Item 7(a)(1)(iii) of Form 1–A. The Proposing Release noted Disclosure Location—Prominence Considerations, because these disclosures are located in the business description section of the filing, while the corresponding U.S. GAAP and IFRS disclosures are in the notes to the financial statements.

(2) Comments on Proposed Amendments

Most commenters were supportive of the proposed amendments.[172] Additionally, a commenter recommended that the Commission consider feedback from preparers and users, including feedback provided in response to the S–K Concept Release, that issuers may be less willing to voluntarily supplement the required disclosures in the notes to the financial statements with forward-looking information because note disclosures are not subject to the safe harbor under the PSLRA. This commenter indicated some registrants do voluntarily provide qualitative disclosures about research and development activities and the loss of this information may be material to a user's understanding of the registrant's financial statements.[173] Another commenter recommended also rescinding the requirement to disclose a description of a foreign private issuer's research and development policies for the last three years in Item 5.C of Form 20–F or clarifying whether this disclosure requirement relates to accounting policies or research and development activities.[174]

One commenter did not support the deletion of Item 101(c)(1)(xi) and Item 101(h)(4)(x) of Regulation S–K, indicating that these disclosures, along with other disclosures required by Item 101, are necessary in assessing and understanding a company's ability to create long-term value for shareholders.[175]

(3) Final Amendments

We are adopting the amendments as proposed. We do not believe eliminating these requirements regarding amounts spent on research and development activities will affect the assessment and understanding of a company's ability to create long-term value for shareholders, as this information will remain in the notes to the financial statements. In addition, disclosure of trend information related to research and development activities and expenses, where material, is required by Item 303 of Regulation S–K,[176] and we expect registrants to continue to provide such disclosures as necessary. Further, the proposed amendments do not preclude registrants from continuing to provide voluntary disclosures as part of the description of their business or elsewhere outside the financial statements.

We are not eliminating the requirement to disclose a description of a foreign private issuer's research and development policies for the last three years, as one commenter suggested. This requirement was initially adopted as part of the description of business disclosure, and it is intended to cover research and development activity rather than an accounting policy.[177]

d. Warrants, Rights, and Convertible Instruments

(1) Proposed Amendments

Item 201(a)(2)(i) of Regulation S–K requires disclosure on Form S–1 or Form 10 of the amount of common equity subject to outstanding options, warrants, or convertible securities, when the class of common equity has no established United States public trading market. U.S. GAAP more broadly requires disclosure of the terms of significant contracts to issue additional shares, the number of shares authorized

[167] *Id.*

[168] *See Small Business Initiatives,* Release No. 33–6949, (Jul. 30, 1992) [57 FR 36442 (Aug. 13, 1992)].

[169] Paragraph 126 of IAS 38, *Intangible Assets,* requires foreign private issuers that report under IFRS to disclose the aggregate amount of research and development expenses in the notes to their financial statements. Foreign private issuers that report under U.S. GAAP or Another Comprehensive Body of Accounting Principles with a reconciliation to U.S. GAAP are also required to disclose the amount of research and development expenses in the notes to their financial statements.

[170] *See* paragraphs 57 and 118 of IAS 38, *Intangible Assets* for the criteria to be used when determining whether to capitalize development expenditures, including internal costs, and the related disclosures. The capitalized amounts are amortized and reflected as amortization expense on the income statement.

[171] Item 7(a)(1)(iii) of Form 1–A.

[172] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[173] *See* letter from KPMG.

[174] *See* letter from E&Y.

[175] *See* letter from CalSTRS.

[176] For example, Item 303(a)(3)(ii) of Regulation S–K requires a description of ''*any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.*''

[177] *See Adoption of Foreign Issuer Integrated Disclosure System,* Release No. 34–19258 (Nov. 19, 1982) [47 FR 54764 (Dec. 6, 1982)]; *Foreign Private Issuers,* Release No. 34–14128 (Nov. 2, 1977) [42 FR 58684 (Nov. 10, 1977)].

for certain equity awards,[178] and, in the calculation of diluted earnings per share, the weighted-average incremental shares that would be issued from the assumed exercise or conversion of options, warrants, and convertible securities.[179] As such, the Commission proposed to delete Item 201(a)(2)(i) of Regulation S–K.

The Proposing Release explained that the proposed amendments give rise to Disclosure Location—Prominence Considerations because Item 201(a)(2)(i) disclosures are located with related information about the potential dilution of equity for which there is no established United States public trading market, while the U.S. GAAP disclosures are in the notes to the financial statements.

(2) Comments on Proposed Amendments

Most commenters were supportive of the proposed amendments.[180] One commenter opposed the amendments, stating that these requirements should not be eliminated because U.S. GAAP does not explicitly require the same information and the disclosure requirements in Regulation S–K are more ''straightforward.'' [181]

(3) Final Amendments

We are eliminating Item 201(a)(2)(i) of Regulation S–K as proposed. We believe U.S. GAAP elicits reasonably similar information to that required by the disclosure requirement in Regulation S–K, and in some cases, would elicit information for a broader array of potentially dilutive arrangements. For example, disclosure of the existence of contingently issuable shares is not an explicit requirement in Item 201(a)(2)(i), though it is explicitly contemplated by the U.S. GAAP requirement.[182]

e. Equity Compensation Plans

(1) Proposed Amendments

Regulation S–K prescribes the form and content for the disclosure of existing equity compensation plans where equity securities are authorized for issuance.[183] This information is currently required in Part III of Form 10–K, Item 11 of Form S–1, Item 9 of Form 10, and Item 10 of Schedule 14A.[184] In 2004, the FASB issued SFAS No. 123 (revised 2004), *Share-Based Payment* (''SFAS No. 123R''), which resulted in disclosures that overlap with Item 201(d).[185]

Regulation S–K incrementally requires: (1) For options, warrants, or rights assumed in a business combination, disclosure of the number of securities to be issued upon exercise and the weighted-average exercise price,[186] and (2) disclosure of any formula for calculating the number of securities available for issuance under the plan.[187] Item 201(d) further provides instructions about the aggregation of equity compensation plan disclosures. Although these requirements are not explicitly contained in U.S. GAAP, the Commission stated in the Proposing Release that it believes the U.S. GAAP requirement to provide disclosures to enable investors to understand the nature and terms of equity compensation arrangements and the potential effects of those arrangements on shareholders [188] would result in reasonably similar disclosures.

Regulation S–K also incrementally requires disaggregation of information between equity compensation plans approved by security holders and those not approved by security holders. The Commission adopted these requirements in 2001 [189] before the major national securities exchanges required listed issuers to have, with limited exceptions, shareholder approved plans.[190] Because the exchanges [191] on which the majority of domestic issuers, representing substantially all domestic issuer market capitalization, are listed now have such requirements, the Commission stated in the Proposing Release that it believed disaggregation of the disclosures about the plans in this manner is no longer useful to investors.[192]

Based on the foregoing, the Commission proposed to delete Item 201(d) and the references to it in Part III of Form 10–K and Item 10(c) of Schedule 14A. These proposed amendments would not affect the disclosures related to new plans or modifications of existing plans subject to shareholder action.[193] Because disclosures required by Item 201(d) are located with related information about the issuer's common equity and related stockholder matters, while the corresponding disclosures are in the notes to the financial statements, the proposed amendments give rise to Disclosure Location—Prominence Considerations. In particular, as a result of the proposed amendments, Item 201(d) disclosures would no longer be provided in Schedule 14A [194] alongside information on equity compensation plans subject to security holder action. Instead, investors would obtain that information from the notes to the financial statements in the separate

[178] ASC 470–20–50, ASC 505–10–50–3, ASC 505–50–50–1, ASC 718–10–50–1, ASC 718–10–50–2, and ASC 815–40–50–5.

[179] ASC 260–10–50. U.S. GAAP also requires disclosure of amounts not included in the calculation of diluted earnings per share because exercise or conversion of the securities would have had an antidilutive effect in the period. In aggregate, these amounts may be similar to, but not the same as, those required by Item 201(a)(2)(i) of Regulation S–K, as U.S. GAAP determines the incremental shares as a weighted average based on the period outstanding during the year and assumes that cash received from the assumed exercise or conversion is used to repurchase outstanding shares.

[180] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[181] *See* letter from Bean.

[182] *See* ASC 260–10–50.

[183] *See* Item 201(d) of Regulation S–K.

[184] Item 1 of Schedule 14C [17 CFR 240.14c–101] also requires inclusion of the information that would have been provided in a Schedule 14A if proxies were being solicited even though consents are not being solicited by the information statement.

[185] *See* ASC 718–10–50–1 to 4. Additionally, ASC 505–50–50–1 requires similar disclosure when share based payments are made to non-employees.

[186] *See* Instruction 5 to Item 201(d).

[187] *See* Instruction 8 to Item 201(d).

[188] ASC 718–10–50–1a.

[189] *See Disclosure of Equity Compensation Plan Information,* Release No. 33–8048 (Dec. 21, 2001) [67 FR 232 (Jan. 2, 2002)].

[190] For example, the New York Stock Exchange (''NYSE'') listing standard does not require shareholder approval of employment inducement awards, certain grants, plans, and amendments in the context of mergers and acquisitions, and certain other specific types of plans. *See Self-Regulatory Organizations; New York Stock Exchange, Inc. and National Association of Securities Dealers, Inc.; Order Approving NYSE and Nasdaq Proposed Rule Changes and Nasdaq Amendment No. 1 and Notice of Filing and Order Granting Accelerated Approval to NYSE Amendments No. 1 and 2 and Nasdaq Amendments No. 2 and 3 Thereto Relating to Equity Compensation Plans,* Release No. 34–48108 (June 30, 2003) [68 FR 39995 (Jul. 3, 2003)]. *See also* New York Stock Exchange, Listed Company Manual § 303A.08; Nasdaq Listing Rule 5635(c) and IM–5635–1; *American Stock Exchange Rulemaking Re: Shareholder Approval of Stock Option Plans and Other Equity Compensation Arrangements,* Release No. 34–48610 (Oct. 9, 2003) [68 FR 59650 (Oct. 16, 2003)]; and NYSE MKT Company Guide § 711.

[191] These exchanges are the NYSE, NYSE MKT, and Nasdaq.

[192] One commenter on the Disclosure Effectiveness Initiative recommended that Item 201(d)(3), which requires the material features of non-shareholder approved equity compensation plans, be deleted, noting that such plans are either not material or covered by other disclosure requirements. *See* letter from Disclosure Effectiveness Working Group of the Federal Regulation of Securities Committee and the Law & Accounting Committee of the American Bar Association (''ABA Committee'') (Mar. 6, 2015), available at *https://www.sec.gov/comments/disclosure-effectiveness/disclosureeffectiveness.shtml.*

[193] *See* Items 10(a), 10(b), and the Instructions to 10(c) of Schedule 14A.

[194] The proposed amendment to delete the Item 201(d) requirements from Schedule 14A would result in such information being omitted from information statements filed on Schedule 14C disclosing adoption of an equity compensation plan when shareholder consents are not being solicited.

Form 10–K filing. With the proposed amendments, issuers may also be less willing to voluntarily supplement the required disclosures in the notes to the financial statements with forward-looking information because note disclosures are not subject to the safe harbor under the PSLRA.

(2) Comments on Proposed Amendments

Some commenters [195] supported the proposed amendments, but a number of commenters [196] opposed eliminating certain Item 201(d) disclosure requirements. Some commenters expressed concern that the proposed amendments would eliminate the requirement to disclose the number of shares available for future issuance,[197] which they stated is material to shareholders.[198] Other commenters [199] opposed deleting the requirement to disclose the formula for calculating the number of securities available for issuance under the equity compensation plan.[200] These commenters indicated that such disclosure is not likely to occur without further clarification of how the general disclosure principle in U.S. GAAP applies to the calculation, and recommended we refer this item to the FASB for potential incorporation into U.S. GAAP. Additionally, some commenters opposed the deletion of the disaggregation disclosure requirement.[201]

(3) Final Amendments

After further consideration, we are retaining the equity compensation plans disclosure requirements and are referring them to the FASB for potential incorporation into U.S. GAAP. We recognize the concerns expressed by commenters that U.S. GAAP does not explicitly require certain information, such as the formula for calculating the number of securities available for issuance under the plan. This information may be material to investors in making informed decisions about the scope of an issuer's equity compensation program and the potential dilutive effect, both economically and in voting power, of awards authorized for issuance under all equity compensation plans.

[195] *See* letters from E&Y; FedEx Corporation (Nov. 2, 2016) (''FedEx''); Grant; and KPMG.

[196] *See, e.g.* letters from AFL–CIO and AFR; CalSTRS; CalPERS; CAQ; and Public Citizen.

[197] *See* Instruction 5 of Item 201(d) of Regulation S–K.

[198] *See, e.g.* letter from AFL–CIO and AFR.

[199] *See* letters from CAQ; Deloitte; and PwC.

[200] *See* Instruction 8 of Item 201(d) of Regulation S–K.

[201] *See* letters from As You Sow, *et al.* and Public Citizen.

f. Ratio of Earnings to Fixed Charges

(1) Proposed Amendments

Regulation S–K requires issuers that register debt securities to disclose the historical and pro forma ratios of earnings to fixed charges.[202] Regulation S–K also requires issuers that register preference equity securities to disclose the historical and pro forma ratio of combined fixed charges and preference dividends to earnings (collectively, ''ratio of earnings to fixed charges'').[203] Regulation S–K further requires the filing of an exhibit setting forth the computation of any ratio of earnings to fixed charges.[204] Similarly, Instruction 7 to ''Instructions as to Exhibits'' of Form 20–F requires foreign private issuers to disclose how any ratio of earnings to fixed charges presented in the filing was calculated. U.S. GAAP and IFRS require disclosure of many of the components commonly used in this ratio (*e.g.,* income, interest expense, lease expense), as well as information from which other ratios that convey reasonably similar information about an issuer's ability to meet its financial obligations may be computed.

A variety of analytical tools are available today to investors that may accomplish a similar objective as the ratio of earnings to fixed charges. This ratio measures the issuer's ability to service fixed financing expenses—specifically, interest expense, including management's approximation of the portion of lease expense that represents interest expense, and preference dividend requirements—from earnings. Other ratios that accomplish similar objectives include other variations of the ratio of earnings to fixed charges,[205] the interest coverage ratio,[206] and the debt-service coverage ratio,[207] which can be calculated based on information readily available in the financial statements. Certain components commonly used in the ratio of earnings to fixed charges, such as the portion of lease expense that represents interest [208] and the amortization of capitalized interest, are not readily available elsewhere. Despite this, the requirement to disclose the ratio of earnings to fixed charges, as opposed to the various components (*e.g.,* income, interest expense, lease expense) of this ratio that investors may use as desired, may place undue emphasis on this particular measure.

Moreover, while debt agreements may contain fixed charge coverage covenants,[209] debt investors often negotiate contractual agreements with issuers to obtain financial information to meet their needs,[210] which may be more relevant and useful than a

[202] *See* Item 503(d) and Item 1010(a)(3) of Regulation M–A. These requirements only apply to non-SRCs. *See* Item 503(e) and Item 601(c) of Regulation S–K.

[203] *Id.*

[204] Item 601(b)(12).

[205] Other variations of the ratio of earnings to fixed charges include alternative earnings measures such as earnings before interest and taxes and alternative fixed charges measures such as total lease payments and one-third of lease payments (to approximate the interest component in lease payments).

[206] The interest coverage ratio is often calculated as earnings before interest and taxes divided by interest payments.

[207] The debt-service coverage ratio is often calculated as operating income divided by total debt service.

[208] In January 2016, the IASB issued IFRS 16, *Leases,* which is effective on January 1, 2019, with early application permitted in certain circumstances. Under IFRS 16, interest expense will be recognized for all leases with a term of more than 12 months, unless the underlying asset is of low value. In February 2016, the FASB issued ASU No. 2016–02, *Leases (Topic 842)* (''ASU No. 2016–02''), which is effective for fiscal years beginning after December 15, 2018, with early application permitted. Under ASU No. 2016–02, leases with a term of more than 12 months will be classified into one of two types, with one type requiring recognition of an interest expense component (a finance lease) and the other type requiring recognition of lease expense without separate recognition of interest expense (an operating lease). Like IFRS 16, interest expense will not be recognized on leases with a term less than 12 months. Interested parties may still need to estimate the portion of lease expense that is viewed to represent interest for operating leases in order to determine the components of the ratio of earnings to fixed charges, which will be facilitated by disclosure of the weighted-average discount rate for operating leases required by ASU No. 2016–02.

[209] *See* Gerald T. Nowak P.C., *Negotiating the High-Yield Indenture,* (Feb. 17, 2009), *available at http://www.pli.edu/emktg/toolbox/HighYield_Indenture13.pdf* (noting that a typical high-yield credit agreement might require the debtor to maintain a certain level of revenue or a certain ratio of earnings to fixed charges). *See* also Li, Ningzhoung, *Performance Measures in Earnings-Based Financial Covenants in Debt Contracts,* LONDON BUS. SCH. (2011) *available at http://www.olin.wustl.edu/docs/Faculty/Performance_measures_in_earnings_based_financial_covenants.pdf* (noting that fixed charge coverage covenants are common in loan documents).

[210] One commenter on the Disclosure Effectiveness Initiative stated: ''Many of [the financial metrics debt investors use to evaluate an issuer's financial position and liquidity] are reflected in the measures of performance or liquidity that are defined in the issuers' debt instruments. For investors in such instruments, a metric that is tied to a contractually defined covenant test is more useful than the SEC-mandated disclosure. Importantly, our experience is that market participants in unregistered debt offerings—initial purchasers as well as institutional investors—do not generally request or require that the SEC-prescribed ratio of earnings to fixed charges be included in the offering document; instead, issuers disclose one or more interest coverage ratios or similar financial metrics that are calculated with reference to the instruments governing the securities being offered.'' *See* letter from ABA Committee (Mar. 6, 2015), available at *https://www.sec.gov/comments/disclosure-effectiveness/disclosureeffectiveness-32.pdf.*

prescribed disclosure of a ratio of earnings to fixed charges. Companies are also required to discuss the material impacts of these covenants to the extent that they are reasonably likely to limit the company's ability to undertake additional financing or are reasonably likely to be breached.[211]

Based on these considerations, the Commission proposed to remove the requirement to disclose the ratio of earning to fixed charges by deleting Item 503(d) and Item 601(b)(12).[212] The Commission also proposed to delete Instruction 7 to ''Instructions as to Exhibits'' of Form 20–F.

(2) Comments on Proposed Amendments

Commenters were supportive of the proposed amendments.[213] One of these commenters indicated that, in its experience, the ratio of earnings to fixed charges is generally not used by investors or other users of financial statements, and debt covenant financial requirements may already be disclosed where material[214] and vary significantly from company to company.[215] Another commenter, while supportive of the proposed amendments, recommended that the Commission obtain feedback from investors about the continued utility of the pro forma ratio disclosure, as information on a pro forma basis may not be as readily available.[216]

(3) Final Amendments

We are adopting the amendments as proposed, including the elimination of the pro forma ratio. Although one commenter suggested that pro forma information may be less readily available, we note that information about the offering's effect on fixed charges, such as the interest rate, maturities, and amount of proceeds used to discharge indebtedness, is currently required by Item 504 of Regulation S–K.[217]

g. Other

(1) Proposed Amendments

The table below describes each of the remaining disclosure requirements that are overlapping with U.S. GAAP and the proposed amendments.[218]

Topic	Commission disclosure requirement(s)	Proposed amendments
REIT Disclosures—Undistributed Gains or Losses on the Sale of Properties.	Rule 3–15(a)(2) of Regulation S–X	Delete as U.S. GAAP[219] also sets forth presentation of components of stockholders' equity and the incremental requirement to separately present undistributed gain/loss on the sale of properties on a book basis is not useful to investors because of the unique tax status of REITs.[220]
Consolidation—Difference in Fiscal Periods.	Rule 3A–02(b)(1) of Regulation S–X	Delete as U.S. GAAP[221] requires similar presentations. The incremental requirements in Rule 3A–02(b)(1) (1) to disclose the subsidiary's fiscal year closing date and (2) an explanation of the necessity for using different closing dates are no longer useful to investors because U.S. GAAP's requirements to recognize by disclosure or otherwise the effect of intervening events that materially affect the financial position or results of operations eliminates the effect of differences in the fiscal periods of the issuer and its subsidiaries.
Consolidation—Changes in Fiscal Periods.	Final sentence of Rule 3A–03(b) of Regulation S–X.	Delete the final sentence of this requirement as U.S. GAAP[222] provides similar, but more specific, requirements, which limit potential changes, provide for more consistency in issuer financial statements and result in better financial reporting.
Distributable Earnings for Registered Investment Companies.	Rule 6–04.17 of Regulation S–X	Amend to require presentation of the total, rather than the components, of distributable earnings on the balance sheet. U.S. GAAP[223] requires similar presentation and the incremental requirement to separately present three components of distributable earnings on a book basis is not useful to investors because they do not provide insight into the tax implications of distributions.[224]
	Rule 6–09.7 of Regulation S–X	Delete the requirement for parenthetical disclosure of undistributed net investment income on the statement of changes in net assets on a book basis, as it does not provide insight into the tax implications of distributions.
Insurance Companies—Liability Assumptions.	Rule 7–03(a)(13)(b) of Regulation S–X	Delete as U.S. GAAP[225] does not limit its disclosure to certain assumptions, and therefore, it may elicit more disclosure.
Interim Financial Statements—Changes in Accounting Principles.	Rule 8–03(b)(5) and Rule 10–01(b)(6) of Regulation S–X.	Delete the requirement for disclosure of the date of any material accounting change, as U.S. GAAP[226] requires disclosure of the accounting change in the period of the change.

(2) Comments on Proposed Amendments

Commenters supported these proposed amendments.[227] In addition, commenters identified another overlapping requirement in Regulation

[211] *See* 2003 MD&A Release.

[212] The Commission additionally proposed conforming revisions to Item 503(e), Item 601(c), the Exhibit Table in Item 601, Item 1010(a)(3), Item 1010(b)(2), Item 1010(c)(4), Item 3 of Form S–1, Item 3 of Form S–3, Item 3 of Form S–4, Item 3 of Form S–11, Item 3 of Form F–1, Item 3 of Form F–3, and Item 3 of Form F–4.

[213] *See, e.g.* letters from CAQ; CGCIV; National Association of Real Estate Investments Trusts (Oct. 28, 2016) (''NAREIT''); and Shearman and USCC.

[214] For example, the 2003 MD&A release (*https://www.sec.gov/rules/interp/33-8350.htm*) states that if covenants limit, or are reasonably likely to limit, a company's ability to undertake financing to a material extent, the company is required to discuss the covenants in question and the consequences of the limitation to the company's financial condition and operating performance.

[215] *See* letter from FedEx.

[216] *See* letter from Deloitte.

[217] Item 504 of Regulation S–K requires disclosure of the principal purposes for which the net proceeds to the registrant from the securities to be offered are intended to be used and the approximate amount intended to be used for each such purpose. In addition, Instruction 4 of Item 504 of Regulation S–K requires disclosure of the interest rate and maturity of such indebtedness, if any material part of the proceeds is to be used to discharge indebtedness.

[218] These proposed amendments are discussed in further detail in Section III.C of the Proposing Release.

[219] *See, e.g.,* ASC 505–10–45.

[220] As described in the Proposing Release, REITs are not subject to entity-level taxation on the amounts distributed to their investors. Rather, their investors are liable for taxes on these distributions, depending on the character of the dividends (*i.e.,* ordinary income, capital gains, or return of capital) the REIT distributes to them. Because the amount of undistributed gains or losses required by Rule 3–15(a)(2) of Regulation S–X is not presented on a tax basis, this disclosure does not provide investors with insight into the tax implications of the REIT's distributions.

[221] *See* ASC 810–10–45–12.

[222] *See* ASC 810–10–45–13.

[223] *See* ASC 946–20–50–11.

[224] Similar to REITs, registered investment companies are generally structured such that they are not subject to entity-level taxation on the amounts distributed to their investors.

[225] *See* ASC 944–40–50.

[226] *See* ASC 250–10–50–1 and ASC 270–10–50–1g.

[227] *See, e.g.* letters from CAQ and NAREIT.

S–X for Registered Investment Companies.[228] The commenters noted that Rule 6–09.3 of Regulation S–X requires separate disclosure of distributions paid to shareholders from (a) Investment income—net; (b) realized gain from investment transactions—net; and (c) other sources, while U.S. GAAP requires distributions paid to be disclosed as a single line item.[229] These commenters recommended amending Regulation S–X to align it with the requirements in U.S. GAAP.

(3) Final Amendments

We are adopting all of the amendments described in the table above as proposed. We are also amending Rule 6–09.3 of Regulation S–X, as suggested by commenters and similar to the amendments to Rule 6.04–17, to require presentation of the total, rather than the components, of distributions to shareholders, except for tax return of capital distributions. U.S. GAAP requires similar presentation of information as the Regulation S–X requirements, and the incremental requirement to separately present certain components is not useful to investors because of the unique tax status of registered investment companies.

2. Other Overlapping Disclosure Requirements

The Proposing Release also identified overlapping Commission disclosure requirements. These disclosure requirements and the related proposed amendments are described in the table below.[230]

Topic	Commission disclosure requirement(s)	Proposed amendments
REIT Disclosures—Status as a REIT.	Rule 3–15(b) of Regulation S–X ...	Delete, as Regulation S–K[231] requires similar disclosures and the incremental requirement to disclose assumptions in making or not making federal income tax provisions is encompassed by the disclosures provided to comply with Regulation S–K.[232]
Dividends	Item 201(c)(1) of Regulation S–K	Delete requirement to disclose the frequency and amount of cash dividends declared, as amended Rule 3–04 of Regulation S–X[233] will require disclosure of the amount of dividends in interim periods, similar to Item 201(c)(1). In addition, the frequency of dividends will be evident from this disclosure.
Invitations for Competitive Bids	Item 601(b)(26) of Regulation S–K[234].	Delete, as this disclosure does not provide additional value to investors because those participating in the competitive bid would directly receive the invitation and all other investors would have access to the registration statement covering the securities offered at competitive bidding, as well as the results of the competitive bidding and the terms of reoffering.

Commenters supported the proposed amendments.[235] We are adopting all of the amendments described in the table above as proposed because investors will continue to receive similar information under other Commission disclosure requirements.

3. Overlapping Disclosure Requirements With Both U.S. GAAP and Other Commission Disclosure Requirements

The Proposing Release identified several Commission disclosure requirements that overlap with both U.S. GAAP and other Commission disclosure requirements.

a. Interim Financial Statements—Pro Forma Business Combination Information

(1) Proposed Amendments

Regulation S–X[236] and U.S. GAAP[237] both require supplemental pro forma information about business combinations in the notes to interim financial statements. These disclosure requirements differ in two ways: (1) Scope and (2) the line items required to be disclosed. Notwithstanding these differences, the Proposing Release noted that U.S. GAAP and Item 9.01 of Form 8–K[238] result in disclosures reasonably similar to the corresponding requirements in Regulation S–X.

Regulation S–X requires disclosure of pro forma information for ''significant'' business combinations for SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP and ''material'' business combinations for non-SRCs. U.S. GAAP, on the other hand, does not qualify the size of the business combinations to which pro forma information requirements apply. Accordingly, the requirements in U.S. GAAP apply to the same or a greater number of business combinations and, thus, subsume the scope of the corresponding requirements in Regulation S–X.

With respect to the line items required to be disclosed, Regulation S–X requires disclosure of pro forma revenue, net income, net income attributable to the issuer, and net income per share. Regulation S–X also requires SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP to disclose pro forma income from continuing operations. U.S. GAAP only requires disclosure of pro forma revenue and earnings. This difference resulted from changes to U.S. GAAP, in part to converge with IFRS, in 2007.[239]

As a result of these changes, issuers are required to disclose more pro forma information about business combinations in interim periods than in annual periods,[240] even though Regulation S–X generally imposes fewer obligations with regard to interim

[228] *See* letters from E&Y and Investment Company Institute (Nov. 2, 2016).

[229] *See* ASC 946–20–50–8.

[230] These proposed amendments are discussed in further detail in Section III.C of the Proposing Release.

[231] Items 101(a)(1), 503(c), and 303(a)(3)(ii) of Regulation S–K.

[232] For REITs, the primary assumption in making or not making federal income tax provisions is the issuer's continued REIT status and its consideration of the risks affecting its continued REIT status. Therefore, the Regulation S–K requirement to disclose significant risk factors and a description of known uncertainties that are reasonably expected to have a material effect on income elicit this information. In addition, issuers often repeat or expand on the Regulation S–X disclosures in their risk factor disclosures.

[233] In this release, we are adopting amendments to Rule 8–03 and Rule 10–01 of Regulation S–X to mandate that Rule 3–04 be applied to interim periods. *See* Section V.B.2 below.

[234] The Commission also proposed to delete its accompanying reference in the Exhibit Table within Item 601.

[235] *See, e.g.* letters from CAQ; KPMG; and PwC.

[236] *See* Rule 8–03(b)(4) and Rule 10–01(b)(4) of Regulation S–X. Rule 8–03(b)(4) specifically applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP, while 10–01(b)(4) applies to non-SRCs.

[237] *See* ASC 270–10–50–7, which refers to ASC 805–10–50–2h.3 for purposes of interim disclosures.

[238] 17 CFR 249.308.

[239] For additional discussion of this difference, *see* Section III.C.9 of the Proposing Release, *supra* note 1, at 51621.

[240] *See* ASC 805–10–50–2h.3.

financial statements.[241] Moreover, Rule 8–03(b)(4) requires SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP to present more line items than the corresponding requirement in Rule 10–01(b)(4) for non-SRCs, even though Commission disclosure requirements, as a general matter, provide certain accommodations for SRCs [242] and Regulation A issuers.

In proposing these amendments, the Commission noted that Item 9.01 of Form 8–K mitigates at least in part the absence of a U.S. GAAP requirement to present pro forma earnings per share, as it requires SRCs and non-SRCs to file pro forma financial information for significant acquisitions, including earnings per share, through the issuer's most recently filed balance sheet.[243] We note, however, this pro forma financial information would not cover the same periods as the pro forma information required under Rule 8–03(b)(4) and Rule 10–01(b)(4) for SRCs and non-SRCs, and Form 8–K does not apply to Regulation A issuers.[244]

Based on the foregoing, the Commission proposed to eliminate the requirements for pro forma financial information in interim filings for business combinations in Rule 8–03(b)(4) and Rule 10–01(b)(4).

(2) Comments on Proposed Amendments

Several commenters supported the proposal to eliminate pro forma business combination financial information in interim filings.[245] However, other commenters opposed eliminating these requirements, expressing concern over the level of disclosure about merger and acquisition activities.[246] One commenter stated that frequent financial reporting about mergers, such as pro forma results on an interim basis, results in the issuer more timely identifying and disclosing problems related to a merger.[247] Another commenter recommended the disclosure requirements be improved rather than deleted because they provide a window into merger and acquisition activities.[248]

(3) Final Amendments

We are deleting the requirement for pro forma financial information in interim filings for business combinations in Rule 8–03(b)(4) and Rule 10–01(b)(4) as proposed. We continue to believe that U.S. GAAP, and Item 9.01 of Form 8–K for SRCs and non-SRCs, result in reasonably similar disclosures as the corresponding requirements we are deleting. We also believe the elimination of these requirements will not result in less frequent financial reporting about mergers and their impact on issuers because U.S. GAAP will continue to require disclosure of such activities in interim periods as well as year-end.[249]

b. Interim Financial Statements—Dispositions by SRCs and Tier 2 Regulation A Issuers

(1) Proposed Amendments

For significant dispositions, Regulation S–X requires SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP to disclose in the notes to the financial statements pro forma information. The pro forma disclosure requirements for dispositions for these issuers are the same as described above for significant business combinations.[250]

There are two types of dispositions: (1) Those that meet the definition of discontinued operations and (2) all others (hereafter referred to as ''other dispositions''). U.S. GAAP requires that the effects of discontinued operations be isolated and separately presented on the income statement on a retrospective basis,[251] thereby obviating the need for pro forma information for discontinued operations in the notes to the financial statements.

For other dispositions, we believe the disclosures required by U.S. GAAP generally result in reasonably similar disclosures as the pro forma disclosures mandated by Rule 8–03(b)(4). Specifically, U.S. GAAP requires disclosure of pre-tax profit and pre-tax profit attributable to the parent for individually significant dispositions for all interim periods presented.[252] However, U.S. GAAP does not contain an equivalent to the requirement in Rule 8–03(b)(4) to disclose pro forma revenues as if the other disposal occurred at the beginning of the periods presented.

The Proposing Release noted that Item 9.01(b) of Form 8–K may help mitigate any loss of information about pro forma revenues, as it requires SRCs to file within four business days after a significant disposition, pro forma financial information pursuant to Rule 8–05 of Regulation S–X, including revenue, income from continuing operations, and income per share, through the most recently filed balance sheet date. This pro forma financial information would not cover the same periods as the separate results required under Rule 8–03(b)(4) and is not applicable to Regulation A issuers.[253]

In addition, Rule 8–03(b)(4) requires SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP to disclose more information about dispositions in interim periods than in annual periods,[254] even though Regulation S–X, as noted above, generally imposes fewer obligations with regard to interim financial statements. Moreover, Rule 8–03(b)(4) requires SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP to disclose more extensive information about other dispositions than is required of non-SRCs,[255] even though Commission disclosure requirements, as a general matter, provide certain scaled disclosure accommodations for SRCs.[256]

[241] For example, Article 8 and Article 10 of Regulation S–X permit the presentation of condensed financial statements, do not require audits of interim financial statements, allow issuers to assume that a user has read the preceding year's audited financial statements, permit omission of details of accounts that have not changed significantly since the audited balance sheet date, and permit omission of the disclosures required by Rule 4–08 of Regulation S–X.

[242] For example, SRCs are required to present two, rather than three, years of financial statements and are not required to present selected financial data in accordance with Item 301 of Regulation S–K [17 CFR 229.301].

[243] Rule 11–01(a) and Rule 11–02(b)(7) of Regulation S–X. [17 CFR 210.11–01(a)].

[244] For example, for a significant acquisition that occurs on September 1, 2015, the Form 8–K would contain pro forma financial information for the year ended December 31, 2014 and the six months ended June 30, 2015 and 2014. Under Rule 8–03(b)(4) and Rule 10–01(b)(4), however, the Form 10–Q for the nine months ended September 30, 2015 would be required to include pro forma disclosures for the nine months ended September 30, 2015 and 2014.

[245] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG, and PwC.

[246] *See* letters from As You Sow, et al. and Zevin.

[247] *See* letter from Public Citizen.

[248] *See* letter from Zevin.

[249] *See* ASC 270–10–50, which requires disclosure of unusual and infrequent items and references business combinations.

[250] *See* Rule 8–03(b)(4) of Regulation S–X, which requires pro forma revenue, income from continuing operations, net income, net income attributable to the issuer, and net income per share for all interim periods presented, as though the disposition occurred at the beginning of the periods.

[251] *See* ASC 205–20–45.

[252] *See* ASC 270–10–50–7, which refers to ASC 360–10–50–3A for purposes of interim disclosures.

[253] For example, for a significant disposal that occurs on August 3, 2017, the Form 8–K filed by August 7, 2017, would contain pro forma financial information for the year ended December 31, 2016 and the three months ended March 31, 2017 and 2016, as if the disposal had occurred on January 1, 2016. In contrast, Rule 8–03(b)(4) would require pro forma disclosures in the September 30, 2017 interim financial statements, filed on Form 10–Q by November 16, 2017, for the nine months ended September 30, 2017 and 2016, as if the disposal had occurred at the beginning of each period presented.

[254] *See* ASC 360–10–50–3A.

[255] *See* Rule 10–01(b)(5) of Regulation S–X.

[256] *See supra* note 234.

Accordingly, the Commission proposed to delete the pro forma disclosure requirements in Rule 8–03(b)(4).

(2) Comments on Proposed Amendments

Commenters [257] indicated that the requirement in Item 9.01 of Form 8–K [258] to provide pro forma financial information pursuant to Rule 8–05 does not sufficiently substitute for the pro forma disclosure requirement for significant dispositions in Rule 8–03(b)(4) for SRCs because Item 9.01 of Form 8–K only refers to significant acquisitions and does not reference dispositions. Several of these commenters were nevertheless supportive of the proposed deletion because, in their observation, a number of issuers provide pro forma information for significant dispositions under Item 9.01 of Form 8–K despite there not being an explicit requirement.[259] Some commenters recommended that the Commission amend Article 8 to encompass significant dispositions.[260]

(3) Final Amendments

After further consideration, we are retaining the pro forma disposition disclosure requirement in Rule 8–03(b)(4). We believe the views expressed by commenters about Item 9.01(b) of Form 8–K and its reference to the pro forma requirements for significant acquisitions in Article 8 of Regulation S–X [261] warrant additional analysis and consideration.

c. Segments

(1) Proposed Amendments

Item 101(b) of Regulation S–K requires disclosure of segment financial information, restatement of prior periods when reportable segments change, and discussion of interim segment performance that may not be indicative of current or future operations. U.S. GAAP [262] and Item 303(b) of Regulation S–K [263] require similar disclosures. Moreover, Item 101(b) explicitly permits issuers to cross-reference between the notes to the financial statements and the description of business to avoid duplicative disclosures about segments. The Commission, therefore, proposed to delete Item 101(b).

Regulation A issuers are similarly required to cross-reference to their segment disclosures under U.S. GAAP or IFRS.[264] The Commission, therefore, also proposed to delete Item 7(b) of Form 1–A.

Because the disclosure required by Item 101(b) of Regulation S–K and Item 7(b) of Form 1–A (or the cross-reference to the notes to the financial statements) are located in the business description section of the filing, while the corresponding U.S. GAAP disclosures are in the notes to the financial statements, the Commission noted in the Proposing Release that the proposed elimination gives rise to Disclosure Location—Prominence Considerations.

(2) Comments on Proposed Amendments

Most commenters supported the proposed amendments.[265] One of these commenters [266] observed that another disclosure requirement,[267] which requires segment disclosures for each year an audited financial statement is provided, also overlaps with U.S. GAAP.[268] One commenter opposed the proposed amendments, stating that the segment disclosures in Item 101(b) of Regulation S–K, along with other disclosures required by Item 101, are necessary in assessing and understanding a company's ability to create long-term value for shareholders.[269]

(3) Final Amendments

We are eliminating the requirements in Item 101(b) of Regulation S–K and Item 7(b) of Form 1–A as proposed. While this will remove the requirement to provide financial information about segments in the business description section, these disclosures will continue to be available in the notes to the financial statements. Accordingly, we do not believe eliminating the requirement will affect the assessment and understanding of a company's ability to create long-term value for shareholders. Additionally, we are eliminating Rule 3–03(e) of Regulation S–X, as suggested by a commenter, because it is also redundant with U.S. GAAP.[270] Further, U.S. GAAP requirements are broader than Rule 3–03(e) because U.S. GAAP requires segment disclosures for all periods for which a statement of income is provided, including unaudited interim periods, while Rule 3–03(e) requires the disclosure for each year for which an audited statement of income is provided.

d. Geographic Areas

(1) Proposed Amendments

Regulation S–K [271] requires disclosure of financial information by geographic area. U.S. GAAP requires similar disclosures.[272] Item 101(d)(2) explicitly permits issuers to cross-reference between the notes to the financial statements and the description of business to avoid duplicative disclosures about geographic areas. The Commission, therefore, proposed to delete Item 101(d)(1) and Item 101(d)(2).

Further, Item 101(d)(3) of Regulation S–K requires disclosures of any risks associated with an issuer's foreign operations and any segment's dependence on foreign operations. The Proposing Release stated that Item 101(d)(3) requires disclosures that appear to be largely encompassed by the disclosures that result from compliance with other parts of Regulation S–K. For example, Item 503(c) of Regulation S–K requires disclosure of significant risk factors.

In addition, Item 303(a) of Regulation S–K requires disclosure of trends and uncertainties by segment, if appropriate to an understanding of the issuer as a whole, which would include disclosure of a segment's dependence on foreign operations. The Commission, therefore, proposed to delete Item 101(d)(3).

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[257] *See* letters from BDO USA LLP (November 1, 2016) (''BDO''); CAQ; Deloitte; E&Y; and PwC.

[258] Item 9.01(b)(1) of Form 8–K states, ''For any transaction required to be described in answer to Item 2.01 of this form, furnish any pro forma financial information that would be required pursuant to Article 11 of Regulation S–X [17 CFR 210] or Rule 8–05 of Regulation S–X [17 CFR 210.8–05] for smaller reporting companies.''

[259] *See* letters from BDO; CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[260] *See* letters from BDO; CAQ; Deloitte; E&Y; and PwC.

[261] Rule 8–05 of Regulation S–X.

[262] *See* ASC 280–10–50–22, ASC 280–10–50–34, and ASC 280–10–50–35.

[263] Specifically, Instruction 4 of Item 303(b) of Regulation S–K, which addresses interim periods, requires that the registrant's discussion of material changes in results of operations shall identify any significant elements of the registrant's income or loss from continuing operations which do not arise from or are not necessarily representative of the registrant's ongoing business. The introductory paragraph to Item 303(b) also states that the interim discussion and analysis shall include a discussion of material changes in those items specifically listed in paragraph (a) of the Item. Since paragraph (a) indicates that, where in a registrant's judgment a discussion of segment information or of other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole, the requirement in Item 101(b)(2) of Regulation S–K is duplicative of Item 303 requirements.

[264] *See* Item 7(b) of Form 1–A.

[265] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[266] *See* letter from Deloitte.

[267] *See* Rule 3–03(e) of Regulation S–X.

[268] *See* ASC 280–10–50–20.

[269] *See* letter from CalSTRS.

[270] *See* ASC 280–10–50–20

[271] Items 101(d)(1) and 101(d)(2).

[272] *See* ASC 280–10–50–41.

(2) Comments on Proposed Amendments

Most commenters [273] were supportive of the proposed amendment, while a few commenters [274] opposed it. One commenter stated that the geographic area disclosures, along with other disclosures required by Item 101, are necessary in assessing and understanding a company's ability to create long-term value for shareholders.[275] Another commenter expressed concern that the Commission is proposing to reduce information about the geographic segments of a business when geographic factors are growing in importance (*i.e.,* foreign tax consideration).[276] This commenter further suggested that the Commission should simultaneously add explicit references to geographic factors in the required discussions of business risk and trends, if Items 101(d)(l)–(3) are eliminated.

(3) Final Amendments

We are eliminating the requirements in Item 101(d) as proposed. We believe that U.S. GAAP requires reasonably similar disclosures and note that Item 101(d)(2) explicitly permits issuers to cross-reference between the notes to the financial statements and the description of business to avoid duplicative disclosures about geographic areas. Further, we are amending, as proposed, Item 303(a) of Regulation S–K to add an explicit reference to ''geographic areas.'' [277] We believe this requirement, along with the disclosures required under Item 503(c) of Regulation S–K, will provide the disclosure necessary to understand the risks associated with geographic factors and to assess a company's ability to create long-term value for shareholders.

e. Seasonality

(1) Proposed Amendments

Regulation S–K [278] and U.S. GAAP [279] both require disclosures about seasonality in interim periods. Item 101(c)(1)(v) of Regulation S–K requires annual seasonality disclosure. Seasonality, by definition, relates to variations within annual periods, so the effects of seasonality are not evident in annual financial statements. The Proposing Release stated that interim seasonality disclosures required under U.S. GAAP seem more useful to investors than annual seasonality disclosures.

Item 101(c)(1)(v), unlike U.S. GAAP, incrementally requires seasonality disclosure at the segment level, to the extent material to an understanding of the business as a whole. Item 303(b) of Regulation S–K requires disclosure of results of operations, liquidity, and capital resources in interim periods at the segment level, when appropriate to an understanding of the business.[280] Accordingly, the Proposing Release stated that Item 303(b), in conjunction with U.S. GAAP, would seem to result in reasonably similar disclosures as Item 101(c)(1)(v) about the effects of seasonality on an issuer's financial statements at the segment level, if material and appropriate to an understanding of the business. The Commission therefore proposed to delete Item 101(c)(1)(iv). Because the disclosures required by Item 101(c)(1)(v) are located in the business description section, while the corresponding disclosures required by Item 303(b) and U.S. GAAP are in MD&A and the notes to the financial statements, the proposed amendment gives rise to Disclosure Location—Prominence Considerations.

The Commission also proposed to delete Instruction 5 to Item 303(b) of Regulation S–K because it requires disclosures that convey reasonably similar information to the disclosures that result from compliance with U.S. GAAP.[281] The proposed deletion of Instruction 5 to Item 303(b) gives rise to Disclosure Location—Prominence Considerations because U.S. GAAP requires seasonality disclosures in the financial statements, whereas Instruction 5 requires disclosure in MD&A.

(2) Comments on Proposed Amendments

Most commenters supported the proposed amendments.[282] Some of these commenters also provided their views on the Disclosure Location Considerations.[283] For example, one commenter, who supported both proposed amendments, indicated that U.S. GAAP requires disclosure about seasonality when the interim financial statements reflect material seasonal variations, but it does not require disclosure when an issuer expects interim financial results to become seasonal or an issuer expects the seasonal financial results to change significantly in the future.[284] Another commenter recommended that the Commission consider feedback from preparers and users about the potential for registrants to reduce any voluntary information about seasonality that may currently be provided that is subject to the safe harbor provisions of the PSLRA.[285]

One commenter opposed the proposed amendments indicating that these disclosures, along with other disclosures required by Item 101, are necessary in assessing and understanding a company's ability to create long-term value for shareholders.[286]

(3) Final Amendments

We are adopting as proposed the elimination of Instruction 5 to Item 303(b). We continue to believe that U.S. GAAP in combination with the remainder of Item 303 requires disclosures in interim reports that convey reasonably similar information to the disclosures required by Instruction 5 to Item 303(b). We also believe that, even without this instruction, the requirements in Item 303 elicit disclosure of forward-looking information in interim reports to the extent that the effects of seasonality may become material.[287] However, we are retaining the seasonality disclosure requirements in annual reports in Item 101(c)(1)(v), due to a concern about potential loss of information in the fourth quarter about the extent to which the business of an issuer or its segment(s) is or may be seasonal because U.S. GAAP may not elicit this disclosure.[288]

f. Other

The table below describes each of the remaining disclosure requirements that are overlapping with both U.S. GAAP and other Commission disclosure requirements. The related proposed amendments to delete those overlapping

[273] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[274] *See* letters from Bean; and CalSTRS.

[275] *See* letter from CalSTRS.

[276] *See* letter from Bean.

[277] *See* discussion in Section III.C.3 below.

[278] Instruction 5 to Item 303(b) of Regulation S–K requires a discussion of any seasonal aspects of an issuer's business where the effect is material.

[279] *See* ASC 270–10–45–11.

[280] Specifically, Item 303(b) requires discussion of material changes in the items listed in Item 303(a). Item 303(a) requires discussion at the reportable segment level when appropriate to an understanding of the business.

[281] *See* ASC 270–10–45–11. *See* also Item 101(c)(1)(v) of Regulation S–K.

[282] *See* letters from CAQ; CGCIV; Deloitte; E&Y; Grant; KPMG; PwC; and USCC.

[283] *See* letters from CAQ and KPMG.

[284] *See* letter from CAQ.

[285] *See* letter from KPMG.

[286] *See* letter from CalSTRS.

[287] *See* 2003 MD&A Release.

[288] ASC 270–10–45–11 states that entities should consider supplementing interim reports with information for 12-month periods ended at the interim date to avoid the possibility that interim results with material seasonal variations may be taken as fairly indicative of the estimated results for a full fiscal year.

Commission disclosure requirements are also discussed below.[289]

Topic	Commission requirement	Proposed amendments
Insurance Companies—Reinsurance Transactions.	Rule 7–03(a)(13)(c) of Regulation S–X.	Delete, as this provision requires disclosures that are encompassed by the disclosures that result from compliance with U.S. GAAP[290] and Regulation S–K.[291]
Interim Financial Statements—Material Events Subsequent to the End of the Most Recent Fiscal Year.	Rule 8–03(b)(2) and Rule 10–01(a)(5) of Regulation S–X.	Delete the requirements to disclose material events subsequent to the end of the most recent fiscal year, as they require disclosures that are encompassed by the disclosures that result from compliance with U.S. GAAP[292] and Regulation S–K,[293] in combination.

Commenters generally supported the proposed amendments,[294] and no commenter specifically opposed the amendments. Accordingly, we are adopting all of the amendments described in the table above as proposed.

C. Overlapping Requirements—Proposed Integrations

In the proposing release, the Commission discussed disclosure requirements that overlap with, but require information incremental to, other Commission disclosure requirements. In these cases, the Commission proposed to integrate the overlapping Commission disclosure requirements.

1. Foreign Currency Restrictions

a. Proposed Amendments

If consolidation of foreign subsidiaries is deemed appropriate notwithstanding the presence of foreign currency exchange restrictions, Rule 3A–02(d) of Regulation S–X requires disclosure of the effect of foreign subsidiaries' currency exchange restrictions upon the consolidated financial position and operating results of the issuer and its subsidiaries. To streamline Commission disclosure requirements, the Commission proposed to relocate this requirement to Rule 3–20(b) of Regulation S–X, which addresses other currency considerations.

Rule 3–20(b), however, applies only to foreign private issuers, whereas Rule 3A–02(d) applies to all issuers. To prevent any loss of disclosure from the relocation of Rule 3A–02(d) to Rule 3–20(b), the Commission proposed to delete the reference to foreign private issuers in the title of Rule 3–20,[295] which would broaden the scope of Rule 3–20(b) and Rule 3–20(e) to all issuers.[296] Rule 3–20(b) also sets forth requirements for foreign private issuers if their reporting currency is not the U.S. dollar. Despite the proposed expansion of the scope of Rule 3–20(b) discussed above, the Commission stated in the Proposing Release that it did not intend to expand the instances in which a reporting currency other than the U.S. dollar would be permitted. The Commission therefore proposed amendments to Rule 3–20(a) to specify that domestic issuers and foreign issuers who do not meet the foreign private issuer definition[297] must present their financial statements in U.S. dollars.

b. Comments on Proposed Amendments

Commenters were generally supportive of the proposed amendments except for the proposed amendment to Rule 3–20(a).[298] Some commenters recommended that the Commission consider providing all registrants the same flexibility in selecting their reporting currency as foreign private issuers or allowing domestic issuers to report using the currency of the country in which they have substantially all of their operations.[299] Additionally, one of these commenters recommended further revisions to reorganize Rule 3–20 of Regulation S–X and to move the disclosure requirements for currency exchange restrictions from the financial statement footnotes to Item 303 of Regulation S–K.[300]

c. Final Amendments

We are adopting the amendments to delete the reference to foreign private issuers in the title of Rule 3–20 and relocate the requirements of Rule 3A–02(d) to Rule 3–20(b) as proposed. We are also adopting the amendment to require a non-foreign private issuer to present its financial statements in U.S. dollars. This amendment is not intended to change current disclosure practices. Domestic issuers and foreign issuers that do not meet the foreign private issuer definition may continue to request to present financial statements in a currency other than U.S. dollars in appropriate circumstances.[301]

In addition, while we acknowledge commenters' recommendation that we consider providing all registrants the flexibility to select their reporting currency; we are not adopting that suggestion at this time. We believe more information is needed to determine whether any unintended consequences could result, and thus believe such a change is beyond the scope of this rulemaking.

In a technical change for clarification, we also are replacing the word ''selected'', in the phrase ''*currency selected for reporting purposes,*'' with ''used'' in Rule 3–20(d) because non-foreign private issuers are not permitted to ''select'' their reporting currency.

2. Restrictions on Dividends and Related Items

Commission requirements mandate disclosure about restrictions on the

[289] These proposed amendments are discussed in further detail in Section III.C. of the Proposing Release.

[290] *See* ASC 944–20–50–3 and ASC 944–20–50–4.

[291] *See* Item 303(a)(3)(i) of Regulation S–K.

[292] *See* ASC 270–10–50–1 and 7.

[293] *See* Item 303(b) of Regulation S–K (or Item 9 of Form 1–A and Item 1 of Form 1–SA for Regulation A issuers).

[294] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[295] Foreign private issuers would continue to apply Rule 3–20 pursuant to General Instruction B(d) of Form 20–F.

[296] The remaining paragraphs in Rule 3–20 specify the rule's scope, so amending the title to Rule 3–20 would have no effect on the application of these paragraphs.

[297] *See supra* note 19.

[298] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[299] *See* letters from CAQ; E&Y; PwC; and Sullivan & Cromwell LLP (Aug. 2, 2017).

[300] *See* letter from E&Y. We considered the recommendation to reorganize Rule 3–20 of Regulation S–X and move certain disclosure requirements to Item 303 of Regulation S–K but are not adopting the recommended amendments as they could have implications that go beyond the scope of this rulemaking and would merit further consideration.

[301] The staff has not objected to domestic issuers and foreign issuers who do not meet the foreign private issuer definition from using a different reporting currency in situations where the issuer had few or no assets and operations in the U.S., substantially all the operations were conducted in a single functional currency other than the U.S. dollar, and the reporting currency selected was the same as the functional currency.

payment of dividends and related items in a number of locations. The table below describes each of the disclosure requirements related to this mandate, the proposed amendment, and reason for it.[302]

Issuer type	Commission disclosure requirement	Proposed amendments
Domestic Issuers.	Item 201(c)(1) of Regulation S–K requires disclosure of restrictions (including restrictions on the ability of issuer's subsidiaries to transfer funds to it in the form of cash dividends, loans or advances) that currently or are likely to materially limit the issuer's ability to pay dividends on its common equity.[303]	Consolidate these disclosure requirements into a single requirement in revised Rule 4–08(e)(3).[304]
	Rule 4–08(d)(2) of Regulation S–X requires disclosure of any restriction upon retained earnings that arises from the fact that upon involuntary liquidation the aggregate preferences of the preferred shares exceed the par or stated value of such shares.	
	Rule 4–08(e) of Regulation S–X requires disclosure related to the most significant restrictions of the issuer's payment of dividends. Rule 4–08(e)(3) requires, where restricted net assets, as defined by the rule, exceed 25 percent of consolidated net assets, a description of: (1) The restrictions on the ability of subsidiaries to transfer funds to the issuer, and (2) the amount of restricted net assets.	Revise to require the dividend restrictions and related disclosures in subparagraphs (i) and (ii) when material, rather than when restricted net assets exceed the 25 percent threshold.[305]
	Rule 5–04, Rule 7–05, and Rule 9–06 of Regulation S–X refer to the definition of restricted net assets in Rule 4–08(e)(3) in determining when condensed financial information of the issuer ("parent only financial information") is required to be disclosed.[306]	Move definition of restricted net assets in Rule 4–08(e)(3) to Rule 1–02[307] and make corresponding changes to the cross reference in Rules 5–04, 7–04, and 9–06.
Foreign Private Issuers.	Item 10.F of Form 20–F requires disclosure of any dividend restrictions.	Delete both requirements to disclose dividend restrictions because: (1) Foreign private issuers are already required to disclose dividend restrictions in the notes to the financial statements[308] and (2) Item 5.B.1(b) of Form 20–F requires disclosure of restrictions on a subsidiary's ability to transfer funds to the parent in the form of dividends, loans, or advances.[309]
	Instruction to Item 14.B of Form 20–F requires disclosure of any limitations on the payment of dividends.	

Commenters generally supported the proposed amendments, [310] and no commenter specifically opposed the amendments. Accordingly, we are adopting all of the amendments described in the table above as proposed. The amendments simplify our disclosure requirements by integrating overlapping Commission disclosure requirements into existing disclosure requirements where the incremental information is reasonably similar.

3. Geographic Areas

Item 101(d)(4) of Regulation S–K requires, when interim financial statements are presented, a discussion of the facts that indicate the three-year financial data for geographic performance may not be indicative of current or future operations. This requirement is similar to requirements in Instruction 3 to Item 303(a) and Instruction 4 to Item 303(b) to identify elements of income which are not necessarily indicative of the issuer's ongoing business, except that there is no explicit reference to ''geographic areas'' in either requirement. To streamline the requirements in Regulation S–K, the Commission proposed to revise Item 303 to add an explicit reference to ''geographic areas'' and delete Item 101(d)(4).

Commenters were generally supportive of the proposed amendments.[311] Some commenters recommended clarification of the proposed revision to Item 303, noting that it is not clear whether an issuer must discuss the geographic information as part of the segment discussion or has a choice to discuss its operations on a segment or geographical basis.[312]

We are adopting the amendment substantially as proposed. As suggested by commenters, we are clarifying that geographic areas are an example of a subdivision of a business that is required to be discussed when management believes such discussion would be appropriate to an understanding of the business and that discussion of geographic areas is not required in all circumstances.

D. Overlapping Requirements—FASB Referrals

In the proposing release, the Commission discussed Commission disclosure requirements that overlap with, but require information

[302] These proposed amendments are discussed in further detail in Section III.D.2 of the Proposing Release.

[303] In lieu of disclosure, Item 201(c)(1) permits a cross-reference to this information in the disclosures required by Item 303 of Regulation S–K and Regulation S–X.

[304] This amendment gives rise to Bright Line Disclosure Threshold Considerations. *See also* Section III.B.2 of the Proposing Release, *supra* note 1, at 51616.

[305] This amendment gives rise to Bright Line Disclosure Threshold Considerations and Disclosure Location—Financial Statement Considerations discussed in Section I.E above (*See also* Section III.B.2 of the Proposing Release, *supra* note 1, at 51616).

[306] We did not propose and are not changing the requirements in Rules 5–04, 7–05, and 9–06 for parent only financial information.

[307] The definitions of terms used in Regulation S–X are located in Rule 1–02 of Regulation S–X.

[308] Foreign private issuers that report under U.S. GAAP or Another Comprehensive Body of Accounting Principles with a reconciliation to U.S. GAAP must comply with Rule 4–08(e). Foreign private issuers that report under IFRS must comply with paragraph 79(a)(v) of IAS 1, *Presentation of Financial Statements,* which requires disclosure of restrictions on the distribution of dividends and the repayment of capital for each class of share capital.

[309] Although this requirement is similar to Rule 4–08(e), which creates some duplication for foreign private issuers that report under U.S. GAAP or Another Comprehensive Body of Accounting Principles with a reconciliation to U.S. GAAP, the Commission did not propose its deletion because IFRS does not contain an equivalent requirement for foreign private issuers that report under IFRS.

[310] *See, e.g.* letters from CAQ; Deloitte; E&Y; and PwC.

[311] *See, e.g.* letter from CAQ; Deloitte; and PwC.

[312] *See* letters from CAQ; E&Y; and PwC.

incremental to, U.S. GAAP and solicited comments to determine whether to retain, modify, eliminate, or refer them to the FASB for potential incorporation into U.S. GAAP. For the reasons discussed below, we have determined to refer the incremental Commission disclosure requirements described in this section to the FASB for its consideration of whether to incorporate such disclosure requirements into U.S. GAAP as part of its normal standard-setting process. The discussion in this section, as well as Sections I.C., II.B., and III.B., constitute our referral to the FASB.

Any incorporation of these incremental Commission disclosure requirements into U.S. GAAP could potentially affect all entities that prepare financial statements under U.S. GAAP, including those outside the scope of our regulatory authority. Additionally, the disclosure requirements described below in Section III.D.3 and certain Topics in Section III.D.5 [313] currently allow for scaled disclosure by SRCs and issuers relying on Regulation A or Regulation Crowdfunding. Depending on how these disclosures are incorporated, if at all, into U.S. GAAP, U.S. GAAP may not permit these issuers to scale such disclosures.

By April 4, 2020, we request that the FASB complete its process to determine whether the referred disclosure items will be added to its agenda of projects for potential standard-setting. In the meantime, we are retaining the disclosure requirements discussed in this section. Any future consideration of amendments to these disclosure requirements will take into account the outcome of the standard-setting activities undertaken by the FASB, if any, in response to the referrals we are making.

1. Discount on Shares

Regulation S–X [314] and U.S. GAAP [315] both set forth requirements about the presentation of items in the equity section of the financial statements. However, Regulation S–X incrementally requires discounts on shares to be presented separately as a deduction from the applicable accounts. Discounts on shares may arise, for example, from stock issuance costs, which are recognized as a reduction in equity.[316] In the Proposing Release, the Commission solicited comments to determine whether to retain, modify, eliminate, or refer this disclosure requirement to the FASB for potential incorporation into U.S. GAAP.

Some commenters recommended that the Commission eliminate the disclosure requirement in Regulation S–X, for the following reasons: (1) Stock issuance costs recorded within equity do not amortize, and therefore, the commenters did not see the ongoing relevance of the disclosure; (2) in the period of issuance, such costs are already required to be presented separately in the financing section of the statement of cash flows; and (3) other discounts to par or stated value are likely captured by other disclosure requirements.[317] Other commenters recommended that the Commission refer the incremental disclosure requirement to the FASB for potential incorporation into U.S. GAAP.[318]

There are various types of transactions that could result in discount on shares. Commenters supporting elimination of the Regulation S–X requirement indicated that U.S. GAAP overlaps with Rule 4–07 with respect to stock issuance costs but did not state whether U.S. GAAP overlaps with respect to other transactions that result in discount on shares. Based on these considerations, we are retaining the disclosure requirements in Rule 4–07 and are referring them to the FASB for potential incorporation into U.S. GAAP.

2. Income Tax Disclosures [319]

Regulation S–X [320] and U.S. GAAP [321] both require disclosures about income taxes in the notes to the financial statements.[322] However, Rule 4–08(h) includes certain incremental requirements, some of which give rise to Bright Line Disclosure Threshold Considerations.

Specifically, although U.S. GAAP and Regulation S–X both require disclosure of the components of income tax expense, Rule 4–08(h) incrementally: (1) Requires disclosure of the amount of domestic and foreign pre-tax income and income tax expense, (2) requires disaggregation of the foreign component of pre-tax income and income tax expense with the domestic component if it exceeds five percent of the respective total, and (3) defines ''foreign'' for purposes of this disclosure.

In addition, although U.S. GAAP and Regulation S–X both require a reconciliation of the domestic federal statutory tax rate to the effective tax rate, Rule 4–08(h) incrementally: (1) Requires disaggregation of reconciling items if they individually exceed five percent of the amount computed by multiplying pre-tax income by the applicable statutory income tax rate, (2) clarifies the statutory tax rate to use in the income tax rate reconciliation for foreign issuers, and (3) requires, when the statutory tax rate used differs from the U.S. federal corporate income tax rate, disclosure of the basis for using that rate.

In the Proposing Release, the Commission solicited comments to determine whether to retain, modify, eliminate, or refer these disclosure requirements to the FASB for potential incorporation into U.S. GAAP.

Several commenters recommended elimination of the Commission disclosure requirements, if the FASB adopts its proposed income tax standard.[323] Some of these commenters further indicated that, if the proposed income tax standard is not adopted, the Commission should consider comments received by the FASB to determine whether further amendment should be made to Rule 4–08(h).[324] Some commenters recommended retaining both requirements under Rule 4–08(h) and U.S. GAAP, as they believe investors need more detailed disclosure of corporate income tax liabilities.[325] Only one commenter recommended that the Commission refer this issue to the FASB for potential incorporation into U.S.GAAP.[326]

Additionally, a number of commenters recommended that the Commission require disclosure of certain information, such as profit or loss before taxes and effective tax rate,

[313] Applicable Topics in Section III.D.5. are Interim Financial Statements—Computation of Earnings Per Share, Interim Financial Statements—Retroactive Prior Period Adjustments, Interim Financial Statements—Common Control Transactions, and Oil and Gas Producing Activities.

[314] *See* Rule 4–07 of Regulation S–X. Pursuant to Rule 4–02 of Regulation S–X [17 CFR 210.4–02], this separate presentation is only required if material.

[315] *See* ASC 505–10–45.

[316] *See* SAB Topic 5:A, *Expenses of Offering.*

[317] *See* letters from CAQ; Deloitte; and PwC.

[318] *See* letters from E&Y; Grant; Institute of Management Accountants (Oct. 28, 2016) (''IMA''); and KPMG.

[319] *See* related discussion in Sections II.B.2 and IV.B.1. *See also* Sections II.B.4 and IV.B.2 of the Proposing Release, *supra* note 1, at 51613 and *supra* note 1 at 51635, respectively.

[320] *See* Rule 4–08(h) of Regulation S–X.

[321] *See* ASC 740–10–50.

[322] The FASB has an income tax disclosure project underway regarding income tax disclosures. *See http://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176164227426.*

[323] *See, e.g.* letters from BDO; CAQ; E&Y; Grant; and KPMG. The proposed Accounting Standards Update, *Income Taxes (Topic 740): Disclosure Framework—Changes to the Disclosure Requirements for Income Taxes* was issued on July 26, 2016. For a status of the project *see, https://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdateExpandPage&cid=1176170683850#.*

[324] *See* letters from CAQ; E&Y; KPMG; and PwC.

[325] *See* letters from AFL–CIO and AFR; and Rutkowski.

[326] *See* letter from IMA.

on a country-by-country basis.[327] Some of these commenters indicated that this transparency would help investors assess the risks that could arise from operating in multiple jurisdictions [328] as well as the likelihood of repatriation of foreign earnings.[329] Some of the commenters who recommended the country-by-country disclosure also recommended requiring the disclosure of the aggregate amount corporations would owe in U.S. taxes should they repatriate their offshore earnings.[330] In contrast, one commenter indicated that further disaggregating foreign amounts by foreign jurisdiction would not provide useful information as such disaggregation would neither reflect exposure to future foreign tax nor shed light on future potential repatriation.[331] This commenter further recommended that the current five percent thresholds for the effective rate reconciliation be revisited, as they can result in an unnecessarily large number of line items when pre-tax income is relatively small.

After considering the comments, we are retaining the income tax disclosure requirements in Rule 4–08(h). While we acknowledge the suggestions made by commenters related to additional income tax disclosures, these are beyond the scope of this rulemaking. There also have been significant changes to the tax law that may affect the accounting and disclosure requirements for income taxes.[332] We are referring these disclosure requirements to the FASB for potential incorporation into U.S. GAAP. The FASB is currently reviewing its disclosure requirements for income taxes and discussing the financial reporting effects of recent changes in tax law.[333]

3. Major Customers

Regulation S–K [334] and U.S. GAAP [335] both require disclosures about major customers. However, Regulation S–K is more expansive in its requirements and differs from U.S. GAAP in two ways: (1) The threshold for disclosure and (2) the requirement to disclose a customer's name in certain instances. We note that because disclosures required by Regulation S–K, unlike those required by U.S. GAAP, may be provided outside of the audited financial statements, these differences give rise to Disclosure Location—Financial Disclosure Considerations. These differences also give rise to Bright Line Disclosure Threshold Considerations.

First, Item 101(c)(1)(vii) of Regulation S–K requires disclosure if loss of a customer, or a few customers, would have a material adverse effect on a segment. This threshold differs from U.S. GAAP in that it is qualitative and focuses on the impact on a segment. In contrast, U.S. GAAP requires disclosure of each customer that comprises 10 percent or more of total revenue. Although the requirements for SRCs in Item 101(h)(4)(vi) are more similar to U.S. GAAP in that they do not prescribe a segment focus, they also differ from U.S. GAAP in that they do not set forth a 10 percent bright line test for disclosure.

Second, Item 101(c)(1)(vii) requires disclosure of the name of any customer that represents 10 percent or more of the issuer's revenues and whose loss would have a material adverse effect on the issuer.[336] In 1999, the Commission considered deleting this requirement to conform to U.S. GAAP. However, the Commission determined to retain this requirement, as it continued to believe that the identity of major customers is material information to investors and that the disclosure allows a reader to better assess risks associated with a particular customer, as well as material concentrations of revenues related to that customer.[337]

Because U.S. GAAP historically has scaled disclosure requirements only by public business entities versus other entities, and not by issuer status, incorporation of these requirements into U.S. GAAP could result in the application to SRCs of the disclosure threshold and the requirement to name a customer in certain instances.

Several commenters supported the Commission eliminating this disclosure requirement because it is substantially similar to the corresponding U.S. GAAP requirements, which they believe sufficiently highlight customer concentrations.[338] A few commenters further suggested that the disclosure of major customers could be harmful because of the competitively sensitive nature of this information.[339] The remaining commenters supported referring the requirement to the FASB for potential incorporation into U.S. GAAP.[340] One of these commenters also recommended the FASB consider whether the disclosure objective in U.S. GAAP should be clarified.[341] Another commenter recommended a principles-based approach rather than a bright line disclosure threshold for the requirement to disclose customer names, as this threshold may not be material to some registrants.[342] One commenter recommended retaining the requirement, asserting that the identity of major customers is material information to investors and it allows a reader to better assess risks associated with a particular customer, as well as material concentrations of revenues related to that customer.[343]

We are retaining this disclosure requirement and are referring it to the FASB for potential incorporation into U.S. GAAP. We believe the objective of the U.S. GAAP disclosure requirement is similar to the Commission disclosure requirement; however, U.S. GAAP does not require disclosure of a major customer's name.

4. Legal Proceedings

U.S. GAAP requires disclosure of certain loss contingencies.[344] 17 CFR 229.103 (''Item 103'' of Regulation S–K) requires disclosure of certain legal proceedings, which are one type of loss contingency. Item 103 does not require disclosure of certain matters that do not exceed 10 percent of the issuer's consolidated current assets, while U.S. GAAP provides a more general materiality threshold.[345] In practice, to comply with Regulation S–K, issuers commonly repeat some or all of the disclosures provided in the notes to the financial statements under U.S. GAAP

[327] *See, e.g.* letters from AFL–CIO and AFR; Americans for Tax Fairness (Nov. 2, 2016) (''ATF''); American Sustainable Business Council, Citizens for Tax Justice, FACT Coalition, Fair Share, Global Financial Integrity and Main Street Alliance (July 21, 2016); Main Street Alliance (Oct. 25, 2016); and Oxfam America (Nov. 2, 2016).

[328] *See, e.g.* letter from Jeffery L. Hoopes (Oct. 3, 2016).

[329] *See, e.g.* letter from Bean.

[330] *See, e.g.* letters from ATF and Citizens for Tax Justice (Oct. 3, 2016).

[331] *See* letter from IMA.

[332] *See* Tax Cuts and Jobs Act Public Law 115–97, 131 Stat. 2054 (2017)

[333] *See* FASB's Technical Agenda and Notice of Open Meetings on their website related to its Disclosure Framework project, which includes disclosures of income taxes. *http://fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=1176163077030*

[334] *See* Item101(c)(1)(vii) and Item 101(h)(4)(vi) of Regulation S–K. Item 101(c)(1)(vii) applies to non-SRCs and Item 101(h)(4)(vi) applies to SRCs.

[335] *See* ASC 280–10–50–42.

[336] Item 101(h)(4)(vi) of Regulation S–K does not require disclosure of the name of major customers.

[337] *See Segment Reporting,* Release No. 33–7620, (Jan. 5, 1999) [64 FR 1728 (Jan. 12, 1999)].

[338] *See* letters from CAQ; E&Y; EEI and AGA; KPMG; and PwC.

[339] *See* letters from E&Y and EEI and AGA.

[340] *See* letters from Davis; Deloitte; Grant; and IMA.

[341] *See* letter from Deloitte.

[342] *See* letter from Davis.

[343] *See* letter from Bean.

[344] *See* ASC 450.

[345] *See also* Section III.E.15 of the Proposing Release, *supra* note 1, at 51616.

or include a cross-reference to those disclosures.

As further described in Section III.E.15 of the Proposing Release, although Item 103 and U.S. GAAP have overlapping requirements, they differ in certain respects. Incorporation of Item 103 requirements into U.S. GAAP would have implications for investors, issuers, and other stakeholders. In the Proposing Release, the Commission described in detail (a) the differences between Item 103 and U.S. GAAP; (b) the potential consequences of incorporating the Item 103 requirements into U.S. GAAP; and (c) other considerations related to Item 103. The Commission solicited comment about whether to retain, modify, eliminate, or refer the disclosure requirements to the FASB.

Many commenters opposed the integration of Item 103 and U.S. GAAP.[346] A number of commenters [347] stated that the objectives [348] of Item 103 and U.S. GAAP differ, and some of these commenters [349] indicated that a better articulation of the objectives may be warranted. Many commenters [350] also indicated that, if the Commission chooses to move forward with the integration, the American Bar Association policy statement regarding lawyers' responses to auditors' requests for information and Public Company Accounting Oversight Board (''PCAOB'') auditing standards should be revisited as they both incorporate the U.S. GAAP disclosure requirements.[351] On a similar note, some commenters [352] indicated that integration would also expand audit and interim review requirements, as well as XBRL tagging requirements, which would be burdensome and costly to issuers. These commenters further expressed concern that the integration could lead to increased disclosure of immaterial items and may eliminate the safe-harbor protections currently afforded to forward-looking statements related to legal proceedings under Regulation S–K.

Some commenters recommended the deletion of Item 103 altogether or at minimum some of the disclosure requirements contained therein.[353] For example, one of these commenters stated that U.S. GAAP, together with Items 303 and 503(c) of Regulation S–K, elicits the appropriate level of disclosure of material legal proceedings to inform investment and voting decisions of a reasonable investor.[354] Another commenter recommended the deletion of the requirement to disclose proceedings known to be contemplated but which are not probable of being asserted because this does not provide useful information to investors.[355]

The commenters [356] who supported the integration of Item 103 into U.S. GAAP noted the repetition that is currently present in many filings.[357] However, one of these commenters recommended the Commission consider undertaking outreach with preparers, users, and other regulators and develop disclosure objectives for the incremental disclosures.[358] Other commenters also recommended that the Commission conduct more analysis and outreach in this area, particularly with the accounting and legal professions.[359]

Some commenters indicated that the existing disclosure requirements in both Item 103 and U.S. GAAP do not provide sufficient information for investors to understand the nature, potential magnitude, and timing of any loss contingencies relating to legal proceedings, and recommended specific changes to the requirements.[360] Some of their recommendations include greater use of bright line disclosure thresholds and preserving Item 103's disclosure requirements for low-probability but high magnitude liabilities.[361]

Additionally, several commenters [362] expressed concerns with the bright line disclosure threshold for certain matters imposed by the existing requirements in Item 103, stating that some of the disclosures based on the threshold may not be material.

In response to the concerns expressed by commenters, we are retaining the disclosure requirements in Item 103 without amendment. In addition, we are not referring these disclosure requirements to the FASB for potential incorporation into U.S. GAAP at this time. In light of the various views expressed by commenters, we believe further consideration is warranted with respect to the implications of potential changes to these requirements.

5. Other

The table below describes the remaining overlapping requirements discussed in the proposing release as well as the incremental differences between these requirements.[363]

Topic	Commission disclosure requirement	Description of requirement
REIT—Tax Status of Distributions.	Rule 3–15(c) of Regulation S–X.	Both Regulation S–X and U.S. GAAP [364] require disclosure of an issuer's tax status. Regulation S–X requires additional footnote disclosures, including distributions per unit, for example as ordinary income, capital gain, or return of capital.
Consolidation	Rule 3A–03(b) of Regulation S–X.	Regulation S–X and U.S. GAAP [365] both set forth disclosure requirements about consolidation matters. Regulation S–X incrementally requires disclosure of material changes in the entities included in or excluded from the consolidated financial statements.

[346] *See, e.g.* letters from CAQ; CGCIV; Davis; FedEx; Shearman; and USCC.

[347] *See, e.g.* letters from CAQ; and NAREIT.

[348] Item 103 is intended to provide a description of material pending legal proceedings, while U.S. GAAP is designed to provide information consistent with the accounting model for loss contingencies.

[349] *See, e.g.* letters from CAQ and Davis.

[350] *See, e.g.* letters from CAQ; Davis; and Shearman.

[351] *See* AS 2505C: Exhibit II—*American Bar Association Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information* available at *https://pcaobus.org/Standards/Auditing/Pages/AS2505.aspx*.

[352] *See* letters from CGCIV; Davis; FedEx; NAREIT; Shearman; and USCC.

[353] *See* letters from Davis; EEI and AGA; and Grant.

[354] *See* letter from Davis.

[355] *See* letter from EEI and AGA.

[356] *See* letters from Grant; and IMA.

[357] While it did not support the integration of all requirements, the letter from EEI and AGA recommended that the following disclosures be integrated: (1) Proceedings involving capital expenditure or deferred charges; and (2) material bankruptcy, receivership, or similar proceedings.

[358] *See* letter from Grant.

[359] *See* letters from CGCIV; and USCC.

[360] *See* letters from AFL–CIO and AFR; CII; and Rutkowski.

[361] The letter from EEI and AGA recommended that low probability but high magnitude proceedings disclosures should follow the requirements under U.S. GAAP concerning the likelihood of loss. The commenter indicated that providing this information is not helpful to investors, if the likelihood of loss is remote, and having a separate rule that requires disclosure of potential losses beyond those that are considered ''reasonably possible'' would create additional burdens for issuers and auditors.

[362] *See* letters from CGCIV; Clearing House; Davis; EEI and AGA; NAREIT; Shearman; and USCC.

[363] These proposed amendments are discussed in further detail in Section III.E. of the Proposing Release.

Topic	Commission disclosure requirement	Description of requirement
Assets Subject to Lien	Rule 4–08(b) of Regulation S–X.	Regulation S–X and U.S. GAAP [366] both require disclosure of assets subject to lien and the obligation collateralized for the most recent audited balance sheet being filed. U.S. GAAP disclosure requirements only apply to certain financial assets (*e.g.*, repurchase agreements or securities lending transactions), whereas Regulation S–X applies to all assets.
Obligations—Defaults Not Cured.	Rule 4–08(c) of Regulation S–X.	Regulation S–X and U.S. GAAP [367] both require disclosure of information related to covenant violations. Regulation S–X requires disclosure of the facts and amounts related to defaults, while U.S. GAAP sets forth classification requirements for obligations for which there has been a covenant violation, with limited disclosure requirements.
Obligations—Waived Defaults.	Rule 4–08(c) of Regulation S–X.	Regulation S–X and U.S. GAAP [368] both require disclosure of information related to waived defaults. Regulation S–X requires disclosure of the amount of the obligation and the period of the waiver, while U.S. GAAP sets forth requirements for when to present debt subject to a covenant violation as a current liability.
Obligations—Changes in Obligations.	Rule 4–08(f) of Regulation S–X.	Regulation S–X and U.S. GAAP [369] both require disclosure of issuances of debt subsequent to the balance sheet date. However, Regulation S–X incrementally requires disclosure of significant changes in the authorized amounts of debt subsequent to the latest balance sheet date.
Obligations—Amounts and Terms of Financing Arrangements.	Rule 5–02.19(b), Rule 5–02.22(b), Rule 6–04.13(b), Rule 7–03.16(b), Rule 7–03.16(c), Rule 9–03.13(a), and Rule 9–03.16 of Regulation S–X.	Regulation S–X and U.S. GAAP [370] both require disclosures of an issuer's financing arrangements. Regulation S–X incrementally requires disclosure of specific information related to the financing arrangement.
Preferred Shares	Rule 4–08(d)(1) of Regulation S–X.	Regulation S–X and U.S. GAAP [371] both require disclosure about preferred share preferences in involuntary liquidation. However, Regulation S–X requires disclosure in more circumstances than U.S. GAAP.
Related Parties	Rule 4–08(k)(1) of Regulation S–X.	Regulation S–X and U.S. GAAP [372] both require the amount of related party transactions to be disclosed in the financial statements. Regulation S–X incrementally requires that these amounts be presented on the face of the financial statements, if material.
Repurchase and Reverse Purchase Agreements.	Rule 4–08(m) of Regulation S–X.	Regulation S–X and U.S. GAAP [373] both set forth presentation and disclosure requirements for repurchase and reverse repurchase agreements in the financial statements. However, Regulation S–X provides additional requirements.[374]
Interim Financial Statements—Computation of Earnings Per Share.	Rule 10–01(b)(2) of Regulation S–X, and Item 601(b)(11) of Regulation S–K.	Commission disclosure requirements and U.S. GAAP [375] both require disclosure in the notes to the financial statements of the computation of earnings per share. However, U.S. GAAP does not specifically require disclosure of the computation in interim financial statements.
Interim Financial Statements—Retroactive Prior Period Adjustments.	Rule 8–03(b)(5) and Rule 10–01(b)(7) of Regulation S–X.	Regulation S–X and U.S. GAAP [376] both require certain disclosures of the effects of changes in accounting principles, correction of an error, and changes in reporting entities. However, Regulation S–X incrementally requires disclosures in the interim period of change, and for non-SRCs, incrementally requires disclosure of the effect on retained earnings.
Interim Financial Statements—Common Control Transactions.	Rule 10–01(b)(3) of Regulation S–X.	Regulation S–X and U.S. GAAP [377] both set forth accounting and disclosure requirements for combinations of entities under common control. However, Regulation S–X incrementally requires non-SRCs to disclose the separate results of the combined entities for periods prior to the combination.
Products and Services	Item 101(c)(1)(i) of Regulation S–K.	Regulation S–K and U.S. GAAP [378] both require disclosure of the amount of revenue from products and services. Regulation S–K only requires this disclosure if a certain threshold is met, while U.S. GAAP includes a practicability exception.
Oil and Gas Producing Activities.	Item 302(b) of Regulation S–X.	Regulation S–K and U.S. GAAP [379] both require issuers engaged in oil and gas producing activities to disclose information about those activities in the notes to the financial statements. Regulation S–K incrementally requires that the U.S. GAAP disclosures must be provided for each period presented.

Some commenters recommended that the Commission eliminate some of these disclosure requirements because the required disclosures are available

[364] *See* ASC 740–10–50–16.

[365] *See* ASC 810–10–50.

[366] *See* ASC 860–30–50–1A and ASC 860–30–50–7.

[367] *See* ASC 470–10–45–1 and ASC 470–10–45–11. *See* also ASC 470–10–50–2, which requires disclosure of the circumstances surrounding a covenant violation in certain situations, but not the amount of the obligation.

[368] *See* ASC 470–10–45–1 and ASC 470–10–45–11.

[369] *See* ASC 855–10–50–2 and ASC 855–10–55–2a.

[370] *See* ASC 470–10–50.

[371] *See* ASC 505–10–50–4.

[372] *See* ASC 850–10–50–1.

[373] *See* ASC 860–30–45–2 and ASC 860–30–50.

[374] Rule 4–08(m) of Regulation S–X requires the following incremental disclosures when a specified bright line threshold is met: (1) The liabilities associated with repurchase agreements that are separately presented on the balance sheet to include accrued interest payable, (2) disclosure of the interest rates associated with certain repurchase liabilities, (3) information about counterparties and agreements with them, where there is a concentration of counterparties, (4) separate presentation on the balance sheet of the carrying amount of reverse repurchase agreements, and (5) disclosure of the nature of any provisions to ensure that the market value of the underlying assets remains sufficient to protect the issuer in the event of counterparty default.

[375] *See* ASC 260–10–50–1.

[376] *See* ASC 250–10–50–1 and 250–10–50–6 to 8.

[377] *See* ASC 805–50–45–1 to 5.

[378] *See* ASC 280–10–50–40.

[379] *See* ASC 932–235–50.

elsewhere.[380] For example, one commenter recommended the deletion of the requirement related to tax status of distributions per unit [381] because this information is available to shareholders in Internal Revenue Service (IRS) Form 1099.[382] Some commenters recommended eliminating the consolidation disclosure requirements in Rule 3A–03(b) because they overlap with U.S. GAAP [383] disclosure requirements.[384] One commenter recommended deletion of the repurchase and reverse repurchase agreement disclosure requirements because they provide reasonably similar information as the corresponding U.S. GAAP requirements.[385] This commenter recommended that the only repurchase and reverse repurchase agreement disclosure requirement that the Commission should refer to the FASB for potential incorporation into U.S. GAAP is the requirement to disclose the repurchase liability and the interest rate(s) thereon.[386] Another commenter recommended eliminating certain interim financial statement information due to overlapping U.S. GAAP disclosure requirements.[387] Some commenters also suggested eliminating the products and services disclosure requirement [388] because U.S. GAAP [389] requires substantially similar disclosures.[390] These commenters observed that while U.S. GAAP provides an impracticability exception, that exception is used infrequently and, when it is relied upon, the issuer will have the same practicability issue with providing the products and services disclosures under Regulation S–K. A few commenters observed that U.S. GAAP oil and gas producing disclosures are generally interpreted to apply to each period presented.[391] For this reason, one commenter recommended deletion of Item 302(b) of Regulation S–K.[392]

Most commenters, however, including some who recommended eliminating certain disclosure requirements, supported the Commission retaining most or all of these disclosure requirements and referring them to the FASB for potential incorporation into U.S. GAAP.[393] One commenter specifically requested the Commission retain the disclosure requirements for repurchase and reverse repurchase agreements as they are complex financial instruments that can impact the financing and liquidity of financial institutions and other businesses.[394]

Commenters had the following additional recommendations for both the Commission and the FASB as it relates to the potential incorporation of the Commission's disclosure requirements into U.S. GAAP:

- Revisit the bright line disclosure thresholds in the requirements (*e.g.,* the 10% threshold in Rule 4–08(m)) and whether U.S. GAAP should require similar bright line disclosure thresholds; [395]
- Clarify the concept of ''authorization of debt'' in Rule 4–08(f); [396]
- Coordinate to provide enhanced disclosures for significant accounting policies that provide a more comprehensive discussion of critical accounting estimates, including more robust information about underlying assumptions that are highly judgmental, as well as their propensity to change; [397]
- Consider the timing of the disclosure requirements related to combinations of entities under common control because these disclosures could be useful to investors on both an interim and annual basis and ensure the disclosure objectives and requirements are clear; [398] and
- Work together to further reduce redundancies between Commission disclosure requirements and U.S. GAAP, such as the oil and gas disclosures in 17 CFR 229.1200 (''Item 1200'' of Regulation S–K) and those in U.S. GAAP [399] industry standards.[400]

We are retaining these requirements and referring all of the disclosure requirements described in the table above to the FASB for potential incorporation into U.S. GAAP.

IV. Outdated Requirements

A. Background

The Commission proposed to amend certain requirements that have become outdated as a result of the passage of time or changes in the regulatory, business, or technological environments. These amendments were intended to simplify issuer compliance efforts. Further, to reduce any loss of information or increased burdens for investors, the Commission also proposed to require additional disclosure of information that is expected to be readily available to issuers.

B. Disclosure Requirements Outdated Due to Passage of Time

In the Proposing Release, the Commission noted that some of its disclosure requirements have become obsolete due to passage of time. The table below describes each outdated requirement and what the Commission proposed to eliminate.[401]

Topic	Commission disclosure requirement(s)	Proposed amendment(s)
Stale Transition Dates.	Rule 4–01(a)(3) and Note 6 to Rule 8–01 of Regulation S–X; Forms S–3, F–1, F–3, F–4, and 20–F; and Exchange Act Rule 13a–10(g)(3), 15d–2, and 15d–10(g)(3).	Delete references to transition dates given the passage of these transition dates.

[380] *See, e.g.* letters from CAQ; Deloitte; E&Y; KPMG; and PwC.

[381] Rule 3–15(c).

[382] *See* letter from NAREIT. The other Rule 3–15 amendments described in Section III.B rely on this disclosure requirement that is incremental to U.S. GAAP.

[383] *See* ASC 805; 810–10–50; and ASC 205–10–45.

[384] *See* letters from CAQ; E&Y; Grant; and PwC.

[385] *See* letter from KPMG.

[386] *See* discussion in Section III.B.1.a below. *See also* Section III.C.3 of the Proposing Release, *supra* note 1, at 51618.

[387] *See* E&Y letter. This commenter recommended that we delete Rule 10–01(b)(2) of Regulation S–X and Item 601(b) of Regulation S–K because these overlap with ASC 260–10–50–1. In addition, the commenter recommended we delete all requirements related to changes in reporting entities in Rule 10–01(b)(7) and Rule 8–03(b)(5) and ask that the FASB reconsider the disclosure requirements in ASC 250–10–50–6.

[388] Item 101(c)(1)(i) of Regulation S–K.

[389] *See* ASC 280

[390] *See* letters from CAQ; EEI and AGA; E&Y; Grant; KPMG; and PwC.

[391] *See* letters from CAQ; E&Y; and PwC.

[392] *See* letter from E&Y.

[393] *See* letters from CAQ; Deloitte; E&Y; IMA; KPMG; and PwC.

[394] *See* letter from Bean.

[395] *See* letters from Clearing House and EEI and AGA.

[396] *See* letters from CAQ and Grant.

[397] *See* letters from CGCIV and FedEx.

[398] *See* letters from CAQ; E&Y; and PwC.

[399] ASC 932

[400] *See* letters from CAQ; Deloitte; E&Y; and PwC.

[401] These proposed amendments are discussed in further detail in Section IV.B of the Proposing Release.

Topic	Commission disclosure requirement(s)	Proposed amendment(s)
Income Tax Disclosures.	Rule 4–08(h)(1)(ii), the parenthetical at the end of Rule 4–08(h)(1), part of the introductory sentence of Rule 4–08(h)(2), and all of Rule 4–08(h)(3) of Regulation S–X.	Delete the instructions to the rule that relate to adoption of ASC 740—*Income Taxes* because all issuers are now required to apply it.

Commenters supported the proposed amendments to delete the requirements above, which have become outdated.[402] We are adopting both of the amendments described in the table above as proposed.

C. Disclosure Requirements Outdated due to Changes in the Regulatory, Business, or Technological Environment

In the Proposing Release, the Commission staff noted that some of its disclosure requirements have become obsolete as the regulatory, business, or technological environments have changed over time. For example, some of the Commission's disclosure requirements are no longer relevant, or some information required to be disclosed is no longer readily available or can be derived from alternative sources. Below we discuss these outdated requirements and the related proposed amendments.

1. Market Price Disclosure

a. Proposed Amendments

Item 201(a)(1) of Regulation S–K requires issuers to disclose the following:

- The principal U.S. market(s) where its common equity is traded. Foreign issuers must also disclose the principal established foreign public trading market, if applicable. Where applicable, issuers must disclose that there is no established public trading market for their common equity.[403]
- If the principal U.S. market is an exchange, the high and low sale prices for their common equity for each quarter within the two most recent fiscal years and subsequent interim period.[404]
- If the principal U.S. market is not an exchange, the high and low bid quotations for the same periods as above. Where applicable, issuers must identify the source of the quotations and include appropriate qualifying language.[405]
- Foreign issuers that identify a principal established foreign trading market for common equity are also required to provide market price disclosure comparable to that of a domestic issuer. If the primary U.S. market for the foreign issuer trades using American Depositary Receipts (''ADRs''), then foreign issuers must disclose prices based on the ADRs.[406]
- When Item 201(a)(1) disclosure is included in a Securities Act registration statement or an Exchange Act proxy or information statement, the price for their common equity as of the latest practicable date.[407]

Today, the daily market prices of most publicly traded common equity securities, including those quoted on an automated quotation system, are readily available free on numerous websites, including the exchanges' or quotation systems' websites.[408] On these websites, investors can view daily closing prices, up to the previous day, and intra-day quotes, which would be more up-to-date than the prices required by Item 201(a)(1)(v) of Regulation S–K. Additionally, many of these websites allow users to download the daily historical data over customized time horizons. These features result in more robust information than the disclosure required by Item 201(a)(1) of Regulation S–K.

As a result, the Commission proposed the following amendments to Item 201(a)(1) of Regulation S–K:

- Issuers with one or more classes of common equity would be required to disclose the principal U.S. market(s) where each class is traded and the trading symbol(s) used by the market(s) for each class of common equity. Foreign issuers also would be required to identify the principal established foreign public trading market, if any, and the trading symbol(s), for each class of their common equity.
- Issuers with common equity that is not traded on an exchange would be required to indicate, as applicable, that any over-the-counter quotations in such trading systems reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions.
- Issuers with no class of common equity traded in an established public trading market would be required to state that fact and disclose the range of high and low bid information, if applicable, for each quarter over the last two fiscal years and any subsequent interim period.[409] Also, such issuers would be required to disclose the source and explain the nature of such quotations.

As proposed to be amended, Item 201(a)(1) would eliminate the detailed disclosure requirement of sale or bid prices for most issuers whose common equity is traded in an established public trading market and replace it with disclosure of the trading symbol.[410] The proposed amendments would also align Item 201(a)(1) with Item 501(b)(4) of Regulation S–K.[411]

[402] *See* letters from CAQ; Deloitte; E&Y; Grant; PwC; and R.G. Associates.

[403] Item 201(a)(1)(i) of Regulation S–K

[404] Item 201(a)(1)(ii) of Regulation S–K.

[405] Item 201(a)(1)(iii) of Regulation S–K. This provision requires qualification where the over-the-counter quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions. Reference to quotations must be qualified by appropriate explanation where there is an absence of an established public trading market.

[406] Item 201(a)(1)(iv) of Regulation S–K.

[407] Item 201(a)(1)(v) of Regulation S–K. The Commission has required this or similar pricing disclosure since the 1960s. *See Guides for Preparation and Filing of Registration Statements,* Release No. 33–4936 (Dec. 9, 1968) [33 FR 18617 (Dec. 17, 1968)].

[408] *See, e.g., www.finance.yahoo.com; www.google.com/finance; www.bloomberg.com; www.nyse.com; www.nasdaq.com; www.londonstockexchange.com;* deutsche-boerse.com; *www.otcbb.com;* and *www.otcmarkets.com.*

[409] Item 201(a)(1)(i) currently notes that the existence of limited or sporadic quotations should not, by itself, be deemed to constitute an established public trading market.

[410] Form N–2, which is used for registration of closed-end management investment companies, includes disclosure requirements relating to sales prices and bid information that are similar to those in Item 201(a)(1) of Regulation S–K. Item 1, Instruction 1 and Item 8.5(b) of Form N–2. In addition to these requirements, Form N–2 requires disclosure of information relating to net asset value and discount or premium to net asset value. Item 8.5(b), Instructions 4 and 5 and Item 8.5(c) through (e) of Form N–2. Disclosure of sales prices and bid information is needed in registration statements on Form N–2 so that the required premium/discount disclosure can be fully understood. Accordingly, the Commission did not propose to change the requirements in Form N–2 relating to sales prices and bid information.

[411] 17 CFR 229.501(b)(4). Item 501(b)(4) of Regulation S–K requires prospectus cover page disclosure of the trading symbol(s) and market(s) for securities being offered and registered on a Securities Act registration statement. The proposed amendments to Item 201(a)(1) are also consistent with those proposed to Item 501(b)(4) and the cover pages of Forms 10–K, 20–F, 40–F, 10–Q, and 8–K in a separate rulemaking. *See FAST Act Modernization and Simplification of Regulation*

Continued

Foreign private issuers that file Form 20–F are subject to disclosure requirements similar to those included in Item 201(a)(1) of Regulation S–K. Item 9.A.4 of Form 20–F requires the following price history of the stock to be offered or listed for both the U.S. market and the principal trading market outside the United States, as applicable:

- The annual high and low market prices for the last five full financial years;
- Quarterly high and low market prices for the last two full financial years and any subsequent period; and
- Monthly high and low market prices for the last six months.

For preemptive share issuances, the issuer must disclose the market prices for the first trading day in the most recent six months, the last trading day before the announcement of the offering, and for the latest practicable date. If an issuer's securities are ''not regularly traded in an organized market,'' the issuer must discuss any lack of liquidity.

The Commission also proposed to amend Item 9.A.4 of Form 20–F to be consistent with the proposals related to Item 201(a)(1) of Regulation S–K. Specifically, the Commission proposed to amend Item 9.A.4 to require disclosure of the U.S. and principal market(s) where the issuer's common equity trades and the trading symbol(s) assigned to the issuer's common equity that is traded in the U.S. market and principal market. For issuers whose common equity is not traded in any established public trading market, disclosure of that fact would still be required.

b. Comments on Proposed Amendments

Commenters generally supported the proposed amendments.[412] In the Proposing Release the Commission asked if investors and issuers understood the term ''established public trading market'' and whether further guidance is needed to determine what constitutes ''limited or sporadic quotations.'' [413] One commenter recommended that the Commission clarify and define these terms without suggesting specific changes.[414] Another commenter recommended that the Commission require disclosure of trading symbol(s) for primary markets where all issued ''instruments'' are traded, and define clear standards for the ticker notation so that all filers use the same notation.[415] This commenter also recommended disclosure of the security identifier (CUSIP) in addition to the trading symbol and the ADR ratio,[416] as applicable.

c. Final Amendments

To help investors locate listed securities and current trading prices, we are adopting the amendment to Item 201(a)(1) of Regulation S–K and Item 9.A.4 of Form 20–F substantially as proposed, with minor modifications. First, we are removing the term ''established'' from ''principal established foreign public trading market'' in Item 201(a)(1) to be consistent with the scope of disclosure required for domestic issuers in the U.S. market and for foreign private issuers in Item 9.A.4. Second, we are retaining the clarification currently in Item 9.A.4 that ''principal market'' means ''outside the host market'' as this language was inadvertently proposed for elimination. Finally, we are adding the term ''principal'' in front of ''host market'' in the amended first sentence of Item 9.A.4. to be consistent with Item 201, which requires disclosure of ''principal United States market(s).'' [417]

In addition, while we acknowledge the commenter's recommendations that we also require disclosure of trading symbol(s) for all issued ''instruments,'' as well as CUSIP and ADR ratio when applicable, we are not adopting that suggestion as it is beyond the scope of this rulemaking.

2. Other

The table below describes each of the remaining disclosure requirements that have become obsolete as the regulatory, business, or technological environments changed over time, and the related proposed amendments.[418]

Topic	Commission disclosure requirement(s)	Proposed amendments
Available Information—Public Reference Room.	Item 101(e)(2) and Item 101(h)(5)(iii) of Regulation S–K; Forms S–1, S–3, S–4, S–11, F–1, F–3, and F–4; Item 1118(b) of Regulation AB; and Forms SF–1, SF–3, N–1A, N–2, N–3, N–5, N–6, and N–8B–2.	Delete the requirements to identify the Public Reference Room and disclose its physical address and phone number. The Commission's Public Reference Room is rarely used by the public to obtain or review issuer filings, as paper filings are now only permitted (and sometimes required) in very limited circumstances.[419] Also delete the instruction in certain N Forms on how to send a written request by mail to the SEC's Public Reference Room to obtain certain hard copy information.
	Item 101(e)(2) of Regulation S–K; and Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, 20–F, SF–1, SF–3, and N–4.	Retain the requirement to disclose the Commission's Internet address and a statement that electronic SEC filings are available there. However, delete the qualifier ''if you are an electronic filer'' because all but a limited number of issuers are now required to file electronically.[420] Also expand this requirement to Forms 20–F and F–1 in order to align the requirements for foreign private issuers with domestic issuers.
Available Information—Issuer Internet Address.	Items 101(e) and 101(h)(5) of Regulation S–K; and Forms S–3, S–4, F–1, F–3, F–4, 20–F, SF–1, and SF–3.	Require all issuers to disclose their Internet addresses (or, in the case of asset-backed issuers, the address of the specified transaction party), if they have one. Many non-accelerated filers already disclose their Internet addresses[421] and the Commission has provided guidance about the liability framework for certain types of disclosures on company websites. Further, we believe that such a requirement would help ensure that investors are aware of an additional resource for information about issuers.

S–K, Release No. 33–10425 (Oct. 10, 2017) [82 FR 50988 (Nov. 2, 2017)].

[412] *See* letters from E&Y; EEI and AGA; FedEx; KPMG; R.G. Associates; and XBRL US, Inc. (Oct. 3, 2016) (''XBRL'').

[413] *See* Section IV.B.4 of the Proposing Release, *supra* note 1, at 51638.

[414] *See* letter from E&Y.

[415] *See* letter from XBRL.

[416] ADR ratio is the number of foreign shares represented by one ADR.

[417] ''Host country,'' as defined in General Instruction F. of Form 20–F, means the United States and its territories, as the term is used in Form 20–F.

[418] These proposed amendments are discussed in further detail in Section IV.B of the Proposing Release.

Topic	Commission disclosure requirement(s)	Proposed amendments
Exchange Rate data	Item 3.A.3 of Form 20–F	Delete the requirement for foreign private issuers to provide exchange rate data when financial statements are prepared in a currency other than the U.S. dollar. Exchange rate information is readily available free on a number of websites.[422]
Foreign Private Issuer Initial Public Offering—Age of Financial Statements.	Instruction 2 to Item 8.A.4 of Form 20–F.	Remove the reference to a waiver and clarify the facts and circumstances when foreign private issuers may comply with the aging requirement to include audited financial statements in an initial public offering that are not older than 15 months compared to the 12 months aging requirement.

Commenters supported the proposed amendments and agreed with the reasons provided in the Proposing Release.[423] We are adopting all of the amendments described in the table above as proposed, which will remove obsolete disclosure requirements and reduce issuers' compliance burdens.

V. Superseded Requirements

A. Background

As accounting, auditing, and disclosure requirements have changed over time, inconsistencies have arisen between the newer requirements and existing Commission disclosure requirements. The Commission proposed amendments to update Commission disclosure requirements to reflect more recently updated U.S. GAAP requirements or more recently updated Commission disclosure requirements.

B. Disclosure Requirements Superseded by U.S. GAAP

The Commission staff has observed in its filing reviews that, in practice, issuers are able to successfully navigate inconsistencies between newer accounting and disclosure requirements and existing Commission disclosure requirements by complying with the requirement that was updated more recently. This is particularly the case with respect to changes in U.S. GAAP requirements, as the Commission has designated the FASB as the private-sector accounting standard setter.[424] However, the Commission sought to simplify compliance efforts by proposing changes to several disclosure requirements that the Commission believed were superseded by U.S. GAAP.[425]

1. Gains or Loss on Sale of Properties by REITS

Regulation S–X requires REITs to present separately all gains and losses on the sale of properties outside of continuing operations in the income statement.[426] U.S. GAAP, however, restricts that presentation to gains and losses on disposals that meet the definition of discontinued operations.[427] As a result, the Commission proposed to eliminate Rule 3–15(a)(1) of Regulation S–X.

Commenters were supportive of the proposed amendment.[428] We are adopting the elimination of Rule 3–15(a)(1) of Regulation S–X as proposed. We believe this amendment will simplify compliance for issuers by eliminating the disclosure requirement in Rule 3–15(a)(1) of Regulation S–X that conflicts with the requirement in U.S. GAAP.

2. Consolidation

a. Proposed Amendments

The Commission provided guidance on the presentation of consolidated and combined financial statements when it first issued Regulation S–X in 1940.[429] Since that time, certain U.S. GAAP consolidation requirements have changed significantly, creating inconsistencies between Regulation S–X and U.S. GAAP.[430] For instance, Article 3A of Regulation S–X, *Consolidated and Combined Financial Statements,* includes several inconsistencies with U.S. GAAP related to difference in fiscal periods, the Bank Holding Company Act of 1956 (''BHC Act''), and intercompany transactions. The table below describes each requirement related to consolidation that the Commission proposed to eliminate and the reason for its proposed elimination.[431]

Topic	Commission disclosure requirement(s)	Proposed amendments
Consolidation—Difference in Fiscal Periods.	Rule 3A–02(b)[432] and Rule 3A–02(b)(2)[433] of Regulation S–X.	Delete the requirements because U.S. GAAP[434] requires consolidation despite different fiscal periods and the fiscal periods of combined entities must differ by less than three months.
Consolidation—Bank Holding Company Act of 1956.	Rule 3A–02(c) of Regulation S–X[435].	Delete the requirement because U.S. GAAP[436] does not provide an exception to consolidation for subsidiaries of issuers subject to the BHC Act in relation to a divestiture.

[419] *See* Rules 14 [17 CFR 232.14], 101 [17 CFR 232.101], and 102 [17 CFR 232.102] of Regulation S–T.

[420] *See* Rules 100 [17 CFR 232.100] and 101 [17 CFR 232.101] of Regulation S–T.

[421] Existing rules only require the disclosure by accelerated and large accelerated filers.

[422] *See* note [451].

[423] *See* letters from E&Y; KPMG; and R.G. Associates.

[424] *See* Section I.C.I of the Proposing Release, *supra* note 1, at 51611.

[425] Some of the proposed amendments to eliminate superseded Commission disclosure requirements apply both to issuers that report under U.S. GAAP and IFRS. We do not expect the amendments to conform these requirements to U.S. GAAP to cause confusion for issuers that report under IFRS because U.S. GAAP and IFRS are substantially converged for these topics.

[426] Rule 3–15(a)(1) of Regulation S–X.

[427] ASC 205–20–45–1B.

[428] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; NAREIT; PwC; and R.G. Associates.

[429] *See Adoption of Regulation S–X,* (March 6, 1940) [5 FR 954 (Mar. 6, 1940)].

[430] For example, Accounting Research Bulletin (''ARB'') No. 51, *Consolidated Financial Statements* (''ARB No. 51''), was issued in 1959. Since then, the FASB has issued additional guidance, including but not limited to SFAS No. 94, *Consolidation of All Majority-Owned Subsidiaries—an amendment of ARB No. 51, with related amendments of APB Opinion No. 18 and ARB No. 43, Chapter 12;* FASB Interpretation No. 46, *Consolidation of Variable Interest Entities—an interpretation of ARB No. 51*; FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities—an interpretation of ARB No. 51*; SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)*; and ASU No. 2015–02, *Consolidation (Topic 810): Amendments to the Consolidation Analysis.*

[431] These proposed amendments are discussed in further detail in Section V.B.4. of the Proposing Release.

Topic	Commission disclosure requirement(s)	Proposed amendments
Consolidation—Intercompany Transactions Generally.	Rule 3A–04 of Regulation S–X[437]	Delete the requirement because U.S. GAAP[438] requires the elimination of intercompany transactions from consolidated financial statements.
Consolidation—Intercompany Transactions in Separate Financial Statements.	Rule 4–08(k)(2) of Regulation S–X[439].	Delete the requirement to disclose, in separate financial statements of a subset of a consolidated group,[440] the intercompany transactions which are eliminated or not eliminated, because U.S. GAAP[441] prohibits elimination of these transactions in the separate financial statements.
Dividends Per Share in Interim Financial Statements.	Rule 8–03(a)(2) and Rule 10–01(b)(2) of Regulation S–X[442].	Delete the requirements to present dividends per share on the face of the income statement for interim periods because U.S. GAAP[443] (1) prohibits this disclosure on the face of the financial statements and (2) instead permits it in the notes to the financial statements.
	Rule 3–04 of Regulation S–X[444] ..	Extend the annual disclosure requirement of changes in stockholders' equity and the amount of dividends per share for each class of shares to interim periods[445]

b. Comments on Proposed Amendments

Commenters were generally supportive of the proposed amendments.[446] Some commenters asked for clarification on whether the amendment to extend the changes in stockholders' equity and non-controlling interests disclosure requirement to interim periods would be presented only for the year-to-date period, or for quarterly period(s) as well.[447] One commenter supported the proposed elimination of Rule 8–03(a)(2) and Rule 10–01(b)(2) in Regulation S–X, but questioned whether the extension of the disclosure requirement in Rule 3–04 of Regulation S–X to interim periods was necessary or efficient.[448] As an alternative, the commenter recommended amending Regulation S–X to move the dividend per share disclosure requirements from the face of the financial statements to the notes to the financial statements, which would eliminate the conflict with U.S. GAAP.

One commenter observed the need to update Rule 6–03(c)(1)(i) of Regulation S–X, which also has been superseded by U.S. GAAP.[449] The commenter noted the Commission disclosure requirement permits the consolidation of the financial statements of registered investment companies and business development companies only with the financial statements of subsidiaries which are investment companies, whereas U.S. GAAP also permits consolidation when an investment company holds a controlling financial interest in an operating entity that provides services to the investment company.[450]

c. Final Amendments

We are adopting the amendments as proposed with one minor change. As suggested by commenters, the final amendments clarify that Rule 3–04 of Regulation S–X requires both the year-to-date information and subtotals for each interim period.

The extension of the disclosure requirement in Rule 3–04 of Regulation S–X may create some additional burden for issuers, including Regulation A issuers, because it will require disclosure of dividends per share for each class of shares, rather than only for common stock, and disclosure of changes in stockholders' equity in

[432] Regulation S–X prohibits the consolidation of an entity if its fiscal period differs substantially, for example by more than 93 days, from that of the issuer.

[433] Regulation S–X permits the combination of entities under common control even if their fiscal periods differ by more than 93 days, but requires the recasting of the latest fiscal year to within 93 days and disclosure of amounts excluded or included more than once as a result of the recasting.

[434] ASC 810–10–15–11.

[435] Regulation S–X prohibits consolidation of subsidiaries of issuers subject to the BHC Act when a divestiture has been made or it is substantially likely that the divestiture will be necessary in order to comply with provisions of the BHC Act.

[436] ASC 810–10–15–10a. *See also* paragraph C2.a of SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (August 2001), which eliminated the pre-existing exception from consolidation for subsidiaries under temporary control under ARB No. 51.

[437] If an issuer does not eliminate intercompany transactions from its financial statements, Regulation S–X requires it to explain why and how the transactions are treated.

[438] *See* ASC 323–10–35–5a and ASC 810–10–45–1.

[439] When separate financial statements of a subset of a consolidated group, such as a parent, subsidiaries, or investees, are presented, Regulation S–X contemplates the elimination of some transactions between the subset of the consolidated group presented in the separate financial statements and other entities in the consolidated group.

[440] A subset of a consolidated group that may present separate financial statements includes financial statements of the registrant, certain investees, or subsidiaries.

[441] ASC 810–10–45–1.

[442] Regulation S–X requires, for interim periods, the presentation of dividends per share on the face of the income statement. Rule 8–03(a)(2) specifically applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP, while Rule 10–01(b)(2) applies to non-SRCs.

[443] *See* ASC 260–10–45–5.

[444] Rule 3–04 of Regulation S–X allows annual disclosures of changes in stockholders' equity, including dividends per share amounts, to be provided in a note to the financial statements or in a separate financial statement.

[445] The option to present dividend per share disclosures in a separate financial statement does not comply with U.S. GAAP, which prohibits this per share presentation on the face of financial statements. However, the Commission saw benefits in continuing to provide (and extending to interim periods) an option to present dividends per share on the face of the statement of stockholders' equity, if an issuer elects to present changes in stockholders' equity in a separate financial statement, irrespective of the prohibition under U.S. GAAP. The Commission believed that the presentation of dividends per share alongside disclosure of changes in stockholders' equity facilitates investor understanding of stockholders' equity, as dividends are distributed from stockholders' equity. In addition, the proposed amendments address the more significant issue in Regulation S–X associated with the requirement to present interim dividends per share on the income statement, which is unrelated to dividends, a component of stockholders' equity.

For Regulation A issuers, the Commission proposed amendments directly to Forms 1–A and 1–SA to require interim disclosures of changes in stockholders' equity and dividends per share amounts to address the inconsistency described above with U.S. GAAP, rather than to refer to Rule 3–04. The proposed amendments to Form 1–A would apply to all Regulation A issuers and the proposed amendments to Form 1–SA would apply to all Regulation A issuers in a Tier 2 offering, even though Rule 8–03(a)(2) only applies to Regulation A issuers in a Tier 2 offering that report under U.S. GAAP. However, the Commission did not expect any increased burdens for Regulation A issuers in a Tier 2 offering that report under IFRS, as such issuers are already required to present a condensed statement of changes in equity and dividend amounts either in the aggregate or per share, pursuant to paragraphs 8 and 16A(f), respectively, of IAS 34, *Interim Financial Reporting*. The Commission expected the burdens for Regulation A issuers in a Tier 1 offering that report under U.S. GAAP on Form 1–A to be minimal, as the required information already would be available from the preparation of the interim financial statements.

[446] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[447] *See* letters from CAQ and PwC.

[448] *See* letter from E&Y.

[449] *See* letter from E&Y.

[450] ASC 946–810–45.

interim periods.[451] However, as noted in the Proposing Release, we expect this burden will be minimal, as the required information is already available from the preparation of other aspects of the interim financial information such as the balance sheet and earnings per share.[452] The amended rule will require companies to provide information on the dividends issued and the relationship the dividends have to stockholders' equity in one place, which may help investors understand some of the strategic decisions made by management, such as dividend payout versus share buyback.

In response to a commenter's suggestion, we are deleting the requirements for consolidation by investment companies in Regulation S–X [453] because it conflicts with U.S. GAAP. The U.S. GAAP requirement is broader and additionally requires consolidated financial statements when a reporting entity has a controlling financial interest in another entity.

3. Development Stage Companies

U.S. GAAP previously required presentation of cumulative financial information from inception and related disclosures for development stage companies.[454] Regulation S–X requires the U.S. GAAP disclosures for development stage companies in interim periods.[455] In June 2014, the FASB eliminated the U.S. GAAP disclosure requirements for development stage companies.[456] Accordingly, the Commission proposed to eliminate the superseded U.S. GAAP disclosure requirement for development stage companies in Rule 8–03(b)(6) and Rule 10–01(a)(7).

Commenters supported our proposal to eliminate these requirements.[457] Some of these commenters also recommended deleting the definition of development stage company in in Rule 1–02(h) of Regulation S–X.[458]

We are adopting the amendments as proposed. We are not deleting the definition of development stage company in Rule 1–02(h) of Regulation S–X as it is used in other Commission requirements (*e.g.,* Rule 251(b)(3) of Regulation A and Rule 419(a)(2)(i) of Regulation C). As a result, we believe the definition in Rule 1–02(h) of Regulation S–X continues to be useful when applying these other Commission requirements.

4. Insurance Companies

a. Proposed Amendments

17 CFR 210.7–02(b) (''Rule 7–02(b)'' of Regulation S–X) permits mutual life insurance companies and their wholly-owned stock insurance company subsidiaries to prepare financial statements in accordance with statutory accounting requirements. In the proposing release, the Commission proposed to eliminate this rule, as the Commission did not believe that issuers under the Securities Act or the Exchange Act currently rely on Rule 7–02(b) of Regulation S–X as a basis to report under statutory accounting requirements.[459]

The Commission also proposed two other amendments related to Insurance Companies and Regulation S–X. The first amendment relates to the separate presentation on the balance sheet of an asset called ''reinsurance recoverable on paid losses.'' [460] The Commission proposed to delete the reference to ''paid losses'' in this line item because U.S. GAAP was revised in 1992 to allow reinsurance recoverable receivables on paid and unpaid losses to be presented together.[461] The second amendment relates to the definition of ''Separate Account Assets'' that are presented separately as a summary total on the balance sheet.[462] U.S. GAAP defines differently separate account assets that are required to be reported as a summary total.[463] Thus, the Commission proposed to replace the reference to variable annuities, pension funds, and similar activities in Rule 7–03(a)(11) with a reference to U.S. GAAP.

b. Comments on Proposed Amendments

Many commenters supported all three proposals.[464] However, some commenters opposed the elimination of the ability of mutual life insurance companies to utilize statutory accounting principles for registration of insurance products under the Securities Act.[465] These commenters stated that the preparation of U.S. GAAP financial statements would impose significant financial and administrative burdens on mutual life insurers. These commenters indicated that if the amendments to Rule 7–02(b) were adopted, a mutual insurance company issuing a general account insurance product would have to comply with the requirement to provide U.S. GAAP financial statements in Form S–1 or S–3, and as a result, mutual life insurance companies that do not already prepare U.S. GAAP financial statements may limit their offerings of general account insurance products. One commenter suggested that the Commission should expand Rule 7–02(b) to allow its application to all insurance companies that do not otherwise prepare U.S. GAAP financial statements.[466] Other commenters advised that elimination of the rule should involve a full analysis of the

[451] ASC 505–10–50–2 requires disclosure of changes in the separate accounts comprising stockholders' equity (*e.g.,* common stock, additional paid-in capital, retained earnings) during at least the most recent annual fiscal period and any subsequent interim period presented. The proposed amendments would require disclosure of changes in stockholders' equity for each period presented, which would include comparative periods.

[452] Some registrants already include the disclosure required by Rule 3–04 in the Form 10–Q. U.S. GAAP also requires disclosure of significant changes in financial position, like stockholders' equity, in interim reporting. ASC 270–10–50.

[453] Rule 6–03(c)(1)(i) of Regulation S–X.

[454] FASB ASC Topic 915, *Development Stage Entities.*

[455] *See* Rule 8–03(b)(6) and Rule 10–01(a)(7) of Regulations S–X. Rule 8–03(b)(6) specifically applies to SRCs and Regulation A issuers in a Tier 2 offering that report under U.S. GAAP, while Rule 10–01(a)(7) applies to non-SRCs.

[456] ASU No. 2014–10, *Development Stage Entities (Topic 915): Elimination of Certain Financial Reporting Requirements, Including an Amendment to Variable Interest Entities guidance in Topic 810, Consolidation.* After public comment, the FASB determined that the disclosure provided ''information that had limited relevance.''

[457] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[458] *See* letters from CAQ; Deloitte; Grant; and PwC. The definition of development stage entities under U.S. GAAP was the same as development stage companies under Regulation S–X.

[459] Some insurance companies sponsoring variable annuity contracts for registration on Forms N–3 and N–4 under the Investment Company Act and the Securities Act and some insurance companies offering variable life insurance contracts for registration on Form N–6 under the Investment Company Act and Securities Act prepare financial statements under statutory accounting requirements. These companies are permitted to do so in certain circumstances by the applicable form requirements. Specifically, each of these forms requires financial statements of the insurance company and states that if the insurance company would not have to prepare financial statements in accordance with U.S. GAAP except for use in the registration statement being filed or other specified registration statements used for variable insurance contracts, then its financial statements may be prepared in accordance with statutory accounting requirements. *See* Form N–3, Item 28(b), Instruction 1; Form N–4, Item 23(b), Instruction 1; and Form N–6, Item 24(b), Instruction 1. The proposed elimination of Rule 7–02(b) would not change these forms.

[460] *See* Rule 7–03(a)(6) of Regulation S–X.

[461] In 1992 the FASB issued SFAS No. 113, which established that reinsurance receivables on unpaid losses are also assets and may be presented together or separately with other reinsurance receivables. *See* paragraphs 74 to 76 in SFAS No. 113 and paragraph 76 was codified in ASC 944–20–50–5.

[462] *See* Rule 7–03(a)(11) of Regulation S–X.

[463] *See* ASC 944–80–25–1 to 5.

[464] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[465] *See* letters from American Council of Life Insurers (Oct. 21, 2016) (''ACLI''); Committee of Annuity Insurers (Oct. 11, 2016); and Northwestern Mutual Life Insurance Company (Nov. 1, 2016) (''Northwestern Mutual'').

[466] *See* letter from Committee of Annuity Insurers.

potential costs and benefits.[467] These commenters also outlined the relevance of financial statements prepared under statutory accounting principles for general account insurance products.

c. Final Amendments

After further consideration and in light of the concerns expressed by commenters, we are not adopting the proposed amendment to eliminate Rule 7–02(b). We are adopting the amendments to Rule 7–03(a)(6) and 7–03(a)(11) as proposed to simplify compliance for issuers by removing the elements of those rules that conflict with U.S. GAAP.

5. Extraordinary Items

a. Proposed Amendments

Various Commission disclosure requirements and forms refer to extraordinary items. In January 2015, the FASB eliminated extraordinary items from U.S. GAAP.[468] To update Commission disclosure requirements, the Commission proposed to delete references to extraordinary items in our rules and forms.[469] The Commission proposed to delete the requirement in Item 302(a)(1) of Regulation S–K to disclose ''income (loss) before extraordinary items and cumulative effect of a change in accounting'' in supplemental quarterly financial information, and in its place, require disclosure of ''Income (loss).'' The Commission also proposed amendments to the investment company registration forms (Form N–1A, Form N–3, Form N–4, and Form N–6) to replace the outdated reference to the U.S. GAAP definition of extraordinary items with a definition of extraordinary expenses.[470] The Proposing Release indicated that the proposed amendments were not intended to change the content required to be presented in these forms.[471]

b. Comments on Proposed Amendments

While commenters[472] generally supported the proposed amendments, some commenters[473] recommended requiring disclosure of ''income (loss) from continuing operations'' and ''net income (loss)'' where the existing rule previously required ''income (loss) before extraordinary items and cumulative effect of a change in accounting principle.'' This recommendation was based on a view that: (1) It was unclear what income statement line ''income (loss)'' referred to; and (2) the alternative formulation would highlight the effects of discontinued operations. Additionally, these commenters recommended that the Commission reconsider the per share financial metrics required to be disclosed in interim periods, such as the disclosure requirement in Item 302(a)(1) of Regulation S–K,[474] and make the metrics consistent with measures that are presented on the face of the interim income statements. One commenter expressly supported the proposed amendments to retain the historical U.S. GAAP definition of ''extraordinary expenses'' in certain investment company registration forms.[475]

c. Final Amendments

We are adopting the amendments as proposed, eliminating all references to extraordinary items and adding a definition of extraordinary expenses within certain N-Forms. We are also making several revisions recommended by commenters related to Item 302(a)(1). Specifically, we are replacing the proposed reference to ''income (loss)'' with ''income (loss) from continuing operations'' and the reference to ''per share data based upon such income'' with ''per share data based upon income (loss) from continuing operations''[476] and ''per share data based upon net income (loss).'' These additional changes should help to simplify the resulting disclosure and reduce any confusion for issuers.

6. Other

The table below describes each of the remaining disclosure requirements that are superseded by U.S. GAAP and the related proposed amendments.[477]

Topic	Commission disclosure requirement(s)	Proposed amendments
Statement of Cash Flows	Rule 3–02 of Regulation S–X	Amend to replace the reference to ''changes in financial position'' in the title with ''cash flows'' because similar amendments to various rules and forms were made in 1992.[478]
Consolidation—Interim Financial Statements—Pro Forma Business Combination Information.	Rule 8–03(b)(4) and Rule 10–01(b)(4) of Regulation S–X	Delete reference to when a business combination should be assumed to have occurred in pro forma financial information because U.S. GAAP[479] requires reflection of the business combination at the beginning of the preceding fiscal year.

[467] *See* letters from ACLI and Northwestern Mutual.

[468] *See* ASU No. 2015–01, *Income Statement—Extraordinary and Unusual Items (Subtopic 225–20): Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items.* Previously, ASC 225–20–45–2 defined ''extraordinary items'' as an event or transaction that is unusual in nature and infrequent in occurrence, and ASC 225–20–45–3 required separate presentation of the effect of the extraordinary item on the income statement.

[469] The proposed amendments apply to the following rules: Rule 1–02(w)(3), Rule 1–02(bb)(1)(ii), Rule 3–01(c)(2), Rule 3–01(c)(3), Rule 3–15(a)(1), Rule 3A–02(b)(2), Rule 5–03(b), Rule 7–04, Rule 8–03(a)(2), Rule 8–04(b)(3), Rule 9–04, Rule 10–01(b)(4), Rule 11–02(b)(7), and Instruction 1 to Rule 11–02; Item 10(b)(2), Item 302(a)(1), and Item 302(a)(3) of Regulation S–K; Securities Act Rule 405, Exchange Act Rule 3a51–1(a)(2)(i)(A)(3); Exchange Act Rule 12b–2; Exchange Act Rule 13a–10(b); and Exchange Act 15d–10(b). The proposed amendments also apply to Form X–17A–5.

Rule 3a51–1 of the Exchange Act contains a net income measure that is used in evaluating whether certain equity securities are penny stocks, which currently excludes ''extraordinary and non-recurring items'' from the net income calculation. As a result of the proposed amendment, the reference to ''extraordinary items'' would be deleted, but the exclusion of non-recurring items from net income would remain. The deletion of the ''extraordinary items'' reference from net income calculations under Rule 3a51–1 is not intended to affect the application of the rule, as we believe that non-recurring items encompass items that would have been ''extraordinary items'' previously. Thus, the calculation of net income for purposes of Rule 3a51–1 should not change.

[470] The proposed definition is consistent with the historical U.S. GAAP definition of ''extraordinary items.''

[471] While the FASB has eliminated the concept of extraordinary items from U.S. GAAP for general purpose financial reporting, the concept of extraordinary expenses is still relevant for investment companies, particularly in disclosure of expense ratios in registration statements. Certain investment company registration forms eliminate extraordinary expenses from expense ratios in the fee table in order to disclose to investors the ongoing level of expense that can be expected. The proposed amendment did not seek to change the requirement that extraordinary expenses be excluded in the fee table and included in footnote disclosure reflecting extraordinary expenses if they would have a material effect. *See* Section V.B.11 of the Proposing Release.

[472] *See* letters from CAQ: Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[473] *See* letters from CAQ, E&Y, and PwC.

[474] Item 302(a)(1) of Regulation S–K requires per share data based upon the income (loss) before extraordinary items and cumulative effect of a change in accounting.

[475] *See* letter from ICI.

[476] *See* ASC 260–10–45–2.

[477] These proposed amendments are discussed in further detail in Section V.B. of the Proposing Release.

[478] *See Amendments to Rules and Forms,* Release No. 33–6958A, (Oct. 1, 1992) [57 FR 45287 (Oct. 1, 1992)].

[479] *See* ASC 270–10–50–7, which refers to ASC 805–10–50–2h.3 for purposes of interim disclosures.

Topic	Commission disclosure requirement(s)	Proposed amendments
Bank Holding Companies—Net Presentation.	Rule 9–03.3 of Regulation S–X	Delete requirement for federal funds sold and securities purchased under resale agreements or similar arrangements to be presented on the balance sheet gross of federal funds purchased and securities sold under agreements to repurchase because U.S. GAAP[480] permits net presentation under certain conditions.
Bank Holding Companies—Goodwill.	Rule 9–03.10(1) and Rule 9–04.14(c) of Regulation S–X.	Delete the parenthetical reference to net of amortization in Rule 9–03.10(1) and delete the reference to goodwill amortization in Rule 9–04.14(c) because U.S. GAAP[481] prohibits amortization of goodwill.
Discontinued Operations	Instruction 1 to Rule 11–02(b) of Regulation S–X; and Item 302(a)(3) of Regulation S–K.	Replace the reference to ''segments'' with ''discontinued operations'' because the definition of ''discontinued operations'' under U.S. GAAP[482] has changed and no longer incorporates the term ''segment.''
Pooling-of-Interests	Rule 11–02(c)(2)(ii) of Regulation S–X; Rule 405 of Regulation C; Item 4A(b)(1)(iii) of Form F–1; Instruction 1 to paragraphs (e) and (f) of Item 3 of Form F–4; Item 10(c)(3) of Form F–4; Introduction to Item 12 of Form F–4; and Item 12(b)(2)(iv) of Form F–4.	Delete references to ''pooling-of-interests'' and replace them with references to ''combinations of entities under common control'' because similar amendments were made in 2009.[483]
Statement of Comprehensive Income.	Rule 1–02, Rule 3–02, Rule 3–03, Rule 3–04, Rule 3–05, Rule 3–12, Rule 3–14, Rule 3–17, Rule 4–08, Rule 4–10, Rule 5–02, Rule 5–03, Rule 5–04, Rule 6–07, Rule 6A–04, Rule 6A–05, Rule 7–03, Rule 7–04, Rule 7–05, Rule 8–02, Rule 8–03, Rule 8–05, Rule 8–06, Rule 9–03, Rule 9–04, Rule 9–05, Rule 9–06, Rule 10–01, Rule 11–02, Rule 11–03, Rule 12–16, Rule 12–17, Rule 12–18, Rule 12–28, and Rule 12–29 of Regulation S–X; Item 10, Item 302, and Item 303 of Regulation S–K; Item 1010 of Regulation M–A; Securities Act Rule 158; Exchange Act Rule 15c3–1g, 17a–5, 17a–12, 17g–3, and 17h–1T; Forms 1–A , 1–K, 1–SA, 20–F, 11–K, and X–17A–5.[484]	Replace (or, in some cases, supplement) the existing references to ''income statement'' and variations thereof with ''statement of comprehensive income'' because the FASB has replaced the income statement with the statement of comprehensive income.[485] Also amend to clarify the two presentation options for the statement by defining the term ''statement of comprehensive income'' in Regulation S–X.
	Rule 5–03, Rule 7–04, and Rule 9–04 of Regulation S–X.[486]	Amend to add line items to present comprehensive income and related items in the statement of comprehensive income.
	Rule 5–02.30(a) and Rule 7–03(a)(23)(a) of Regulation S–X; and Form X–17–A–5.	Amend to include accumulated other comprehensive income in its list of balance sheet line items. Also delete the reference in Rule 7–03(a)(23)(a) to unrealized appreciation or depreciation of equity securities, as it is a component of accumulated other comprehensive income required to be presented separately under U.S. GAAP.
Cumulative Effect of Changes in Accounting Principles.	Rule 1–02, Rule 3–01, Rule 3–15, Rule 5–03, Rule 7–04, Rule 8–03, Rule 8–04, Rule 9–04, Rule 10–01, Rule 11–02, and Instruction 1 to Rule 11–02 of Regulation S–X; Item 302 of Regulation S–K; Securities Act Rule 405; Exchange Act Rule 12b–2, Rule 13a–10(b), and Rule 15d–10(b); and Form X–17A–5.	Delete references to cumulative effect of a change in accounting principle because the FASB has eliminated the requirement to report cumulative effect of a change in accounting principle in the income statement.[487]

Commenters supported the proposed amendments.[488] We are adopting all of the amendments described in the table above as proposed.

C. Disclosure Requirements Superseded by Other Commission Requirements

Commission disclosure requirements have also changed over time, which has resulted in inconsistencies within our disclosure requirements. The Proposing Release identified disclosure requirements that have been superseded by other Commission disclosure requirements.

1. Auditing Standards

a. Proposed Amendments

Section 103(a) of the Sarbanes-Oxley Act authorized the PCAOB to establish auditing and related professional practice standards used by registered public accounting firms when conducting audits of issuers.[489] Prior to the creation of the PCAOB, public accounting firms conducted audits of issuers pursuant to Generally Accepted Auditing Standards (''GAAS'')[490] and many Commission rules continue to refer to those standards. In addition, Section 10A of the Exchange Act also refers to GAAS in its requirements for

[480] *See* ASC 210–20–45. Where amounts are presented net, ASC 210–20–50–3(a) requires disclosure in the notes to the financial statements of the gross amounts.

[481] *See* SFAS No. 142, *Goodwill and Other Intangible Assets.*

[482] *See* ASC 205.

[483] *See Technical Amendment to Rules, Forms, Schedules, and Codification of Financial Reporting Policies,* Release No. 33–9026, (Apr. 15, 2009) [74 FR 18612 (April 23, 2009)].

[484] *See* Rule 1–02, Rule 3–02, Rule 3–03, Rule 3–04, Rule 3–05, Rule 3–12, Rule 3–14, Rule 3–17, Rule 4–08, Rule 4–10, Rule 5–02, Rule 5–04, Rule 6–07, Rule 6A–04, Rule 6A–05, Rule 7–03, Rule 7–05, Rule 8–02, Rule 8–03, Rule 8–05, Rule 8–06, Rule 9–03, Rule 9–05, Rule 9–06, Rule 10–01, Rule 11–02, Rule 11–03, Rule 12–16, Rule 12–17, Rule 12–18, Rule 12–28, and Rule 12–29 of Regulation S–X; Item 10, Item 302, and Item 303 of Regulation S–K; Item 1010 of Regulation M–A; Securities Act Rule 158; Exchange Act Rule 15c3–1g; Exchange Act Rule 17a–5; Exchange Act Rule 17a–12; Exchange Act Rule 17g–3; Exchange Act Rule 17h–1T; Form 1–A; Form 1–K; Form 1–SA; Form 20–F; Form 11–K; and Form X–17A–5.

[485] *See* ASU No. 2011–05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income.* The statement of comprehensive income may be presented as either: (1) A single statement of comprehensive income or (2) two separate but consecutive statements, composed of the income statement and a separate statement, which begins with net income and separately presents the components of other comprehensive income, a total of other comprehensive income, and a total of comprehensive income.

Items of other comprehensive income include, for example: foreign currency translation adjustments, certain unrealized holding gains and losses, and gains or losses associated with pension or other postretirement benefits (that are not recognized immediately as a component of net periodic benefit cost). *See* ASC 220–10–45–10A for additional items.

[486] *See* Rule 5–03, Rule 7–04, and Rule 9–04.

[487] *See* SFAS No. 154, *Accounting Changes and Error Corrections.* This is now reflected in ASC 250, *Accounting Changes and Error Corrections.*

[488] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[489] Public Law 107–204, 116 Stat. 745 (2002). Pursuant to Section 2(a)(7) of the Sarbanes-Oxley Act, an issuer is defined as an issuer with securities registered under Section 12 of the Exchange Act or required to file reports under Section 15(d) of the Exchange Act. 15 U.S.C. 7201(a)(7).

[490] These standards are currently promulgated by the American Institute of Certified Public Accountants.

audits. The standards of the PCAOB are different from GAAS.

In 2004, the Commission published interpretive guidance explaining that references to GAAS in Commission rules and staff guidance, as they relate to issuers, should be understood to mean the standards of the PCAOB plus any applicable rules of the Commission.[491] Further, the Commission stated its intent to codify this interpretation in the future.[492] The table below describes each of the disclosure requirements that the Commission proposed to amend as part of the codification.[493]

Commission disclosure requirement(s)	Proposed amendments
Rule 1–02(d) of Regulation S–X	Amend to refer to ''the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'')'' as it relates to the audit of issuers and to note that, for different types of non-issuers, the Commission requires PCAOB auditing standards or GAAS or permits the use of either.
Rule 436(d)(4) of Regulation C and General Instruction G(f)(1) of Form 20–F.	Amend to replace the references to GAAS with ''the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'')''. Replace the term ''examination'' with ''audit conducted.''
Instruction 2 to Item 8.A.2 of Form 20–F.	Amend to state that financial statements of entities other than the issuer must be audited in accordance with ''the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'').''
Rule 2–01(f)(7)(ii)(B) of Regulation S–X.	Amend to make language consistent with current auditing standards.
Rules 2–02(b)(1), 8–03, and 10–01 of Regulation S–X.	Amend to refer to ''applicable professional standards'' instead of GAAS.
Rules 10A–1(b)(3) and 13b2–2(b)(2) of the Exchange Act.	Amend to replace the references to GAAS with ''the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'').''
Instruction E(c)(3) of Form 20–F	Amend to replace the reference to U.S. standards for auditor independence with ''qualified and independent in accordance with Article 2 of Regulation S–X.''

b. Comments on Proposed Amendments

Commenters generally supported these proposed amendments.[494] Some commenters[495] also recommended that the Commission clarify when a review of interim financial information in accordance with PCAOB standards is not required under Rules 10–01 or 8–03 of Regulation S–X. Further, one of these commenters requested that we adopt a rule that explains which professional standards apply to every circumstance where financial statements are filed with the Commission.[496]

c. Final Amendments

We are adopting all of the amendments described in the table above as proposed. We are also eliminating the reference to U.S. standards for auditor independence from Instruction 2 to Item 8.A.2 of Form 20–F to be consistent with the amendments to Instruction E(c)(3) of Form 20–F. We believe the reference to ''applicable professional standards'' in Rules 10–01 and 8–03 does not create significant confusion and therefore we are not adopting any amendments to clarify the application of these rules as suggested by commenters. Further, we are not adopting a rule that explains which professional standards apply to every circumstance where financial statements are filed with the Commission because that is beyond the scope of this rulemaking.

2. Other

The table below describes each of the remaining superseded disclosure requirements that the Commission proposed to amend.[497]

Topic	Commission disclosure requirement(s)	Proposed amendments
Published Report Regarding Matters Submitted to Vote of Security Holders.	Item 601(b)(22) of Regulation S–K (including accompanying inclusion in the Exhibit Table within Item 601); Item 5 of Form 10–D.	Delete requirement in light of changes made in 2009 to disclose shareholder voting results in Forms 10–K and 10–Q and Item 5.07 of Form 8–K.[498]
Selected Financial Data for Foreign Private Issuers that Report under IFRS.	General Instruction G(c) and Instruction 2 to Item 3.A of Form 20–F.	Amend (1) General Instruction G(c) to delete the requirement to present selected financial data in accordance with U.S. GAAP, and (2) Instruction 2 to Item 3.A to explicitly state that selected financial data is required only for the periods for which the issuer has prepared financial statements in accordance with IFRS because of inconsistencies in the Form 20–F created by 2005[499] and 2007[500] amendments related to foreign private issuers that report under IFRS.
Canadian Regulation A Issuers	Forms 1–A and 1–SA	Amend references to Regulation S–X in Forms 1–A and 1–SA to apply only to Regulation A issuers that report under U.S. GAAP as Regulation A permits Canadian issuers to report under IFRS.

[491] *See Commission Guidance Regarding the Public Company Accounting Oversight Board's Auditing and Related Professional Practice Standard No. 1,* Release No. 34–49708 (May 14, 2004) [69 FR 29064 (May 20, 2004)]. Subsequently, Section 982 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') amended the Sarbanes-Oxley Act to establish the PCAOB's authority to oversee the independent public accountants that audit registered brokers and dealers. *See* Public Law 111–203, 124 Stat. 1376 (2010).

[492] *Id.*

[493] These proposed amendments are discussed in further detail in Section V.B.1. of the Proposing Release.

[494] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[495] *See* letters from CAQ; and KPMG.

[496] *See* letter from KPMG.

[497] These proposed amendments are discussed in further detail in Section V.B. of the Proposing Release.

Commenters supported the proposed amendments,[501] and no commenter specifically opposed the amendment. Accordingly, we are adopting all of the amendments described in the table above as proposed.

D. Non-Existent or Incorrect References and Typographical Errors

Various Commission disclosure requirements contain incorrect references or references to rules that no longer exist. The table below describes each of the disclosure requirements that contain these references and the related proposed amendments.[502]

Commission disclosure requirement(s)	Proposed amendments
Rule 5–02 of Regulation S–X, *Balance sheets*.	Delete reference to Rule 4–05 of Regulation S–X, which no longer exists.
Rule 5–02.22(a) of Regulation S–X, *Bonds, mortgages and other long-term debt, including capitalized leases*.	Delete reference to Rule 4–06 of Regulation S–X, which no longer exists.
Rule 7–04.9 of Regulation S–X, *Income tax expense*.	Replace reference to Rule 4–08(g) of Regulation S–X that relates to investments accounted for under the equity method of accounting with Rule 4–08(h) that addresses income tax expense.
Rule 9–03.7(e)(3) of Regulation S–X, *Loans*.	Delete reference to Rule 4–08(L)(3) of Regulation S–X, which no longer exists.
Item 512(a)(4) of Regulation S–K, *Undertakings*.	Replace reference to Rule 3–19 of Regulation S–X, which no longer exists, with Item 8.A of Form 20–F, similar to changes made in 1999.[503]
Instruction J(1)(e) to Form 10–K	Clarify that General Instruction J(1)(e) is reserved because it is currently blank.
Instruction J(1)(f) to Form 10–K	Conform description in Instruction J(1)(f) to the title of Item 5 of Form 10–K: Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.
Paragraph (c)(1)(i) of Part F/S of Form 1–A.	Delete reference to "interim" financial statements because this paragraph addresses the age of both interim and annual financial statements.
Forms F–1, F–3, F–4, F–6, F–7, F–8, F–10, F–80, 20–F, and 40–F.	Replace references to the Commission's telephone numbers and offices with the correct references.

Commenters supported the amendments to correct these references and errors,[504] and no commenter specifically opposed the amendments. Accordingly, we are adopting all of the amendments described in the table above as proposed.

Subsequent to the Proposing Release, we identified additional incorrect references or references to rules that no longer exist that also need to be updated, as well as typographical errors. We are amending our rules to address these incorrect references and errors in this release. We describe those amendments in the table below.

Commission disclosure requirement(s)	Technical amendments
Rule 1–02(w) of Regulation S–X, *Significant Subsidiary*	Replace the term "submitted" with "substituted" which was inadvertently changed in a prior technical amendment.[505]
Rule 9–03(12)(a) of Regulation S–X, *Deposits*	Replace reference to Rule 0–05, which does not exist, with reference to Rule 9–05 of Regulation S–X, which provides disclosure requirements concerning foreign activities.
Rules 12–21 to 24 of Regulation S–X, *For Face-Amount Certificate Investment Companies*.	Replace superseded references to Rule 6–21 of Regulation S–X with correct references to Rule 6–03 and superseded reference to Rule 6–21(f) with Rule 6–03(d).[506]
Rules 12–22 to 24 and 12–27 of Regulation S–X, *For Face-Amount Certificate Investment Companies*.	Replace superseded references to Rule 6–22 of Regulation S–X with correct references to Rule 6–06.[507]
Footnote 6 of Rule 12–22 of Regulation S–X, *For Face-Amount Certificate Investment Companies*.	Replace superseded references to Rule 6–23(a) of Regulation S–X with correct references to Rule 6–07(1).[508]
Item 508(e) of Regulation S–K	Replace reference to National Association of Securities Dealers with successor entity, the Financial Industry Regulatory Authority ("FINRA"). In addition, replace reference to Rules of Fair Practice with FINRA rules.[509]
General Instruction I.C.2 and I.D.1.(c)(iv) of Form S–3	Replace outdated reference to the title of General Instruction B.2 of Form S–3.
Instruction 3 of the Instructions to the Signatures of Form S–3	Remove Instruction 3 which relates to a superseded transaction requirement.[510]
Item 17(c)(2)(v) and (vi) of Form 20–F[511]	Replace reference to the definition of a "significant subsidiary" in Rule 1–02(v) of Regulation S–X with correct reference to Rule 1–02(w).[512]
Rule 405, *Definition of Terms, Significant Subsidiary*	Revise the definition of "significant subsidiary" to correct for inadvertent omissions of changes to the definition and conform to the updated definition in Rule 1–02(w) of Regulation S–X.[513]

[498] *See Proxy Disclosure Enhancements,* Release No. 33–9089, (Dec. 16, 2009) [74 FR 68334 (Dec. 23, 2009)]. In addition, the Form 8–K containing the voting results must be filed within four business days after the meeting at which the votes took place.

[499] *See First-Time Application of International Financial Reporting Standards,* Release No. 33–8567 (Apr. 12, 2005) [70 FR 20674 (Apr. 20, 2005)].

[500] *See Acceptance From Foreign Private Issuers of Financial Statements Prepared in Accordance With International Financial Reporting Standards Without Reconciliation to U.S. GAAP,* Release No. 33–8879, (Dec. 21, 2007) [73 FR 986 (Jan. 4, 2008)] and Instruction 2 to Item 3.A of Form 20–F.

[501] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

[502] These proposed amendments are discussed in further detail in Section V.B.16. of the Proposing Release.

[503] *See International Disclosure Standards,* Release No. 33–7745 (Sept. 28, 1999) [64 FR 53900 (Oct. 5, 1999)].

[504] *See* letters from CAQ; Deloitte; E&Y; Grant; KPMG; PwC; and R.G. Associates.

Commission disclosure requirement(s)	Technical amendments
Rule 12b–2, *Definitions, Significant Subsidiary*	Revise the definition of ''significant subsidiary'' to correct for inadvertent omissions of changes to the definition and conform to the updated definition in Rule 1–02(w) of Regulation S–X.[514]
Rule 12g–3, *Registration of securities of successor issuers under section 12(b) or 12(g)* of the Securities Exchange Act of 1934 and Rule 3–04 of Regulation S–X.	Revise Rules 3–04, 12g–3(a)(2), 12g–3(b)(2), and 12g–3(c)(2) for punctuation errors.
Rule 3–04, Rule 4–08(m)(2)(ii), Rule 5–03(b)(1), Rule 7–03(13)(a)(2), Rule 6–09(4)(b), Rule 9–03(10)(3), Rule 9–03(10)(4)(a), Rule 10–01(b)(7), and Rule 12–24 of Regulation S–X.	Correct typographical errors.
Item 406(d) and Item 601(b)(14) of Regulation S–K	Replace superseded references to Item 10 of Form 8–K with correct references to Item 5.05 of Form 8–K.[515]
Form 10, Subpart C of Forms, Securities Exchange Act of 1934	Remove outdated reference to Form 10–SB in Form 10 heading.

VI. Other Matters

If any of the provisions of these rules, or the application of these provisions to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

VII. Economic Analysis

We are adopting amendments to certain of our disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment. These amendments are the result of the staff's ongoing evaluation of our disclosure requirements [516] and also are part of our efforts to implement Title LXXII, Section 72002(2) of the FAST Act.

We are sensitive to the costs and benefits of the amendments. In this section, we examine the current baseline, which consists of both the regulatory framework of disclosure requirements in existence today and the current use of such disclosure by investors and other users, and discuss the potential benefits and costs of the amendments, relative to this baseline, and their potential effects on efficiency, competition, and capital formation.[517]

The Proposing Release requested comment on all aspects of the economic effects of the proposed amendments, including the costs and benefits and possible alternatives to the proposed amendments. The Commission also solicited comment in the Proposing Release on whether the proposed amendments, if adopted, would promote efficiency, competition, or capital formation, or have an impact or burden on competition. We received a number of comments addressing the potential economic impacts of the proposed amendments, which we discuss below.

A. Baseline and Affected Parties

Our baseline includes the current disclosure requirements in Regulation S–K, Regulation S–X, and other Commission rules and forms promulgated under the Securities Act, the Exchange Act, and the Investment Company Act. The parties affected by the amendments include investors and other users, auditors, and issuers. Additionally, entities other than issuers may be affected (*e.g.,* significant acquirees for which financial statements are required under Rule 3–05 of Regulation S–X, significant equity method investees for which financial statements are required under Rule 3–09

[505] *See Technical Amendments to Rules, Forms, Schedules, and Codification of Financial Reporting Policies,* Release No. 33–9026 (Apr. 15, 2009) [74 FR 18612 (Apr. 23, 2009)].

[506] In 1982, the Commission replaced all prior Article 6 provisions, including the ones referenced here, with revised Rules 6–01 through 6–10 of Regulation S–X. However, the Commission did not also update the references to Article 6 rules in Article 12 of Regulation S–X. See *Financial Statement Requirements for Registered Investment Companies,* Release 33–6442 (Dec. 21, 1982) [47 FR 56835 (Dec. 21, 1982] (''1982 Investment Company Release'').

Reference to Rule 6–21(f) of Regulation S–X is made in Footnote 4 of both Rule 12–21 and Rule 12–22, and Footnote 5 of Rule 12–24. Reference to Rule 6–21 of Regulation S–X is made in Footnote 9 of Rule 12–23.

[507] *See* 1982 Investment Company Release.

[508] *See* 1982 Investment Company Release.

[509] The Commission approved the creation of Financial Industry Regulatory Authority (''FINRA'') through the consolidation of the member firm regulatory functions of the NASD and NYSE Regulation, Inc., a wholly-owned subsidiary of New York Stock Exchange LLC in 2007.

See Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change to Amend the By-Laws of NASD to Implement Governance and Related Changes to Accommodate the Consolidation of the Member Firm Regulatory Functions of NASD and NYSE Regulation, Inc., Release No. 34–56145 (Jul. 26, 2007) [72 FR 42169 (Aug. 1, 2007]; File No. SR–NASD–2007–023 (July 26, 2007).

[510] Instruction 3 of Form S–3 refers to eligibility based on the assignment of a securities rating pursuant to Transaction Requirement B.5. of Form S–3. The Transaction Requirements of Form S–3 no longer relate to securities ratings. *See* Asset-Backed Securities Disclosure and Registration, Release No. 33–9638 (Sept. 4, 2014) [79 FR 57184 (Sept. 24, 2014)].

[511] Items 17(c)(2)(v) and (vi) include requirements for financial statements on a basis of accounting other than U.S. GAAP that are furnished pursuant to Rule 3–05 or 3–09 of Regulation S–X.

[512] Rule 1–02(v) defines the term ''share,'' while Rule 1–02(w) defines ''significant subsidiary.''

[513] The definition of ''significant subsidiary'' in Rule 1–02(w) of Regulation S–X, Securities Act Rule 405 and Exchange Act Rule 12b–2 are generally intended to be conformed to each other. *See, e.g., Technical Amendments to Rules and Forms,* Release No. 33–6584 (Jun. 6, 1985) [50 FR 25214 (Jun. 18, 1985)]. Two releases inadvertently changed the definitions of ''significant subsidiary'' in some, but not all of these three rules, resulting in a lack of conformity. *See Acceptance from Foreign Private Issuers of Financial Statements Prepared in Accordance with International Financial Reporting Standards Without Reconciliation to U.S. GAAP,* Release No. 33–8879 (Dec. 21, 2007) [73 FR 986 (Jan. 4, 2008)], and *Technical Amendments to Rules, Forms, Schedules, and Codification of Financial Reporting Policies,* Release No. 33–9026 (Apr. 15, 2009) [77 FR 18612 (Apr. 23, 2009)]. Computational Note 3 to the definition of ''significant subsidiary'' is only in Rule 1–02(w) of Regulation S–X. *See Financial Statements and Regulation S–X; Technical Amendments to Rules and Forms,* Release No. 33–6612 (Nov. 21, 1985) [50 FR 49529 (Dec. 3, 1985)]. Computational Note 3 relates solely to issues applicable to Regulation S–X and the use of Rule 1–02(w) therein and is not relevant to the uses of the definition in Rule 405 and Rule 12b–2. We are therefore not including Computational Note 3 in Rule 405 and Rule 12b–2.

[514] *See supra* note 513.

[515] *See Additional Form 8–K Disclosure Requirements and Acceleration of Filing Date,* Release No. 33–8400 (Mar. 16, 2004) [69 FR 15594 (Mar. 25, 2004)].

[516] *See supra* note 12.

[517] Section 2(b) of the Securities Act [15 U.S.C. 77b(b)], Section 3(f) of the Exchange Act [17 U.S.C. 78c(f)], and Section 2(c) of the Investment Company Act [15 U.S.C. 80a–2(c), and 15 U.S.C. 80b–2(c)] require the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. Further, Section 23(a)(2) of the Exchange Act [17 U.S.C. 78w(a)(2)] requires the Commission, when making rules under the Exchange Act, to consider the impact that the rules would have on competition, and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the Exchange Act.

of Regulation S–X, broker-dealers, and NRSROs).

The amendments affect both domestic issuers and foreign private issuers.[518] We estimate that approximately 7,570 issuers that file on domestic forms [519] and 745 foreign private issuers that file on F-forms will be affected by the amendments. Among the issuers that file on domestic forms, 25.6% are large accelerated filers, 18.6% are accelerated filers, 19.3% are non-accelerated filers, and 36.2% are SRCs. About 23.7% of issuers that file on domestic forms are EGCs.[520] Among the foreign private issuers that file on F-forms, 40.4% are large accelerated filers, 22.6% are accelerated filers, and 37.0% are non-accelerated filers.[521] About 19.8% of foreign private issuers that file on Forms 20–F and 40–F are EGCs. With respect to foreign private issuer accounting standards, approximately 38.5% of foreign private issuers report under U.S. GAAP, 60.5% report under IFRS, and approximately 1% report under Another Comprehensive Body of Accounting Principles with a reconciliation to U.S. GAAP.

Certain amendments also affect requirements applicable to:

- Fewer than 600 asset-backed issuing entities.[522]
- Issuers that rely on Regulation A exemptions.[523]
- Approximately 4,100 investment companies, including approximately 100 business development companies, and the portion of the approximately 12,600 investment advisers to which Regulation S–X and Regulation S–K apply.[524]
- Up to approximately 3,883 registered broker-dealers.[525]
- 10 NRSROs.

This release also considers certain Commission disclosure requirements that overlap with, but require information incremental to, U.S. GAAP and refers some of these incremental requirements to the FASB for potential incorporation into U.S. GAAP. While a referral alone has no effect on issuers, any changes to U.S. GAAP that may result from such a referral would potentially affect all entities that report under U.S. GAAP, including SRCs and issuers relying on Regulation A or Regulation Crowdfunding, as well as entities that are outside the scope of our regulatory authority.

B. Anticipated Benefits and Costs

In this section, we discuss the anticipated economic benefits and costs of the amendments in each category of redundant, duplicative, overlapping, outdated, and superseded disclosure requirements.

1. Redundant or Duplicative Requirements

We are eliminating certain Commission disclosure requirements that require substantially the same disclosures as U.S. GAAP, IFRS, or other Commission disclosure requirements. In response to commenters' suggestions, we are retaining some of the disclosure requirements that we proposed to modify or eliminate on the basis that they required redundant or duplicative disclosure and referring one of these disclosure requirements to the FASB for potential incorporation into U.S. GAAP.

Elimination of Commission disclosure requirements that are redundant or duplicative with U.S. GAAP, IFRS, or other Commission disclosure requirements simplifies issuer compliance efforts by reducing the number of rules to consider. To the extent that the redundant or duplicative requirements result in substantially the same disclosures, elimination of these requirements also potentially benefits investors and other users. Academic research suggests that duplication is associated with less efficient price discovery [526] and that individuals invest more in firms with more concise financial disclosures.[527] Thus, to the extent that the amendments alleviate duplication and do not affect the completeness of financial disclosures,[528] they could result in improved price discovery, enhance the allocative efficiency of the market, and facilitate capital formation.

The potential adverse effects of the amendments on investors and other users are likely to be limited as these parties would continue to receive substantially the same information from issuers. However, potential costs to investors may arise if U.S. GAAP were to change in such a way that information previously required by Commission disclosure requirements is no longer provided under U.S. GAAP. The potential for such changes may be mitigated by the FASB's transparent, public standard-setting process and the Commission's oversight of the FASB and the ability of the Commission to require such information through

[518] The number of domestic and foreign private issuers affected by the proposals is estimated as the number of unique companies, identified by Central Index Key (CIK), that filed Forms 10–K, Form 10–Q, Form 20–F, and Form 40–F or an amendment thereto with the Commission during calendar year 2017. The estimates for the percentages of SRCs, accelerated filers, large accelerated filers, and non-accelerated filers are based on information from Form 10–K, Form 20–F, and Form 40–F. The estimates for the percentages of foreign private issuers' basis of accounting used to prepare the financial statements are calculated from the information in Forms 20–F and 40–F. These estimates do not include issuers that filed only initial registration statements during calendar year 2017, which will also be affected by the amendments.

[519] This number includes fewer than 25 foreign issuers that file on domestic forms, approximately 100 business development companies, and a portion of the approximately 12,000 investment advisers.

[520] Staff determined whether a registrant claimed EGC status by parsing several types of filings (*e.g.,* Forms S–1, S–1/A, 10–K, 10–Q, 8–K, 20–F/40–F, and 6–K) filed by that registrant, with supplemental data drawn from Ives Group Audit Analytics.

[521] Approximately 15.9% of foreign private issuers that file on F-forms are Canadian issuers that file on Form 40–F under the multijurisdictional disclosure system. Form 40–F does not require disclosure of large accelerated, accelerated, or non-accelerated filer status. Accordingly, these amounts exclude foreign private issuers that file on Form 40–F.

[522] The number of asset-backed issuers is based on the number of unique companies with the SIC code of 6189 that filed Forms 10–K during calendar year 2017.

[523] Between June 19, 2015 and December 31, 2017, approximately 182 Regulation A offerings have been qualified. Among these qualified offerings, 57 offerings are Tier I and 125 offerings are Tier II. Over the same time period, approximately 262 Regulation A offering statements have been filed. Among these filed offerings, 94 offerings are Tier I and 168 offerings are Tier II. Withdrawals and post-qualification amendments are excluded. There are annual and semi-annual reporting requirements for Tier II offerings.

[524] The number of registered investment companies, excluding business development companies, is estimated from the number of registered active investment companies in EDGAR as of the end of December 2017. The number of business development companies is based on the number of unique companies that filed Forms 10–K and Forms 10–Q whose reporting periods end in the last quarter of 2017, adjusted by the number of active business development companies that did not submit such filings and late filers. The number of investment advisers is based on data from Investment Adviser Registration Depository (IARD).

[525] The amendments to Exchange Act Rules 17a–5, 17a–12, and 17h–1T, and Part III of Form X–17A–5 collectively affect approximately 3,883 broker-dealers who must file periodic reports with the Commission. The amendments to Part II of Form X–17A–5 affect up to approximately 467 broker-dealers, based on the number of broker-dealers who filed Part II as of December 31, 2017. The amendments to Part IIA of Form X–17A–5 affect approximately 3,413 broker-dealers, based on the number of broker-dealers who filed Part IIA as of December 31, 2017. The amendments to Part IIB of Form X–17A–5 affect approximately three broker-dealers, based on the number of broker-dealers who filed Part IIB as of March 31, 2018.

[526] *See* A. Cazier and R. Pfeiffer, *Say Again? Assessing Redundancy in 10–K Disclosures,* Journal of Financial Reporting, 2(1), 2017 at 107–131.

[527] *See* A. Lawrence, *Individual Investors and Financial Disclosure,* Journal of Accounting and Economics 56, 2013 at 13–147.

[528] Recent academic research has suggested that more complete financial disclosures benefit investors and firms. *See, e.g.,* C. Leuz and P. Wysocki, T*he Economics of Disclosure and Financial Reporting Regulation: Evidence and Suggestions for Future Research.* Journal of Accounting Research 54.2, 2016 at 525–622.

rulemaking.[529] In addition, issuers remain liable for their disclosures, including the omission of any information required to make the disclosures not misleading.

2. Overlapping Requirements

The Proposing Release identified Commission disclosure requirements that are related to, but not the same as, U.S. GAAP, IFRS, or other Commission disclosure requirements. For certain of these overlapping requirements, we are: (a) Deleting the overlapping Commission disclosure requirements or (b) integrating them with other related Commission disclosure requirements. For certain other overlapping requirements, we are retaining the requirements and referring them to the FASB for potential incorporation into U.S. GAAP. We discuss below the economic effects of the amendments in this category and provide examples of requirements affected by the amendments.

First, some changes may give rise to Disclosure Location Considerations. Where we proposed to relocate existing disclosure from outside the financial statements to within the financial statements, a number of commenters expressed reservations about the relocation because it would create additional audit requirements for issuers.[530] Issuers may incur additional costs to comply with these audit and/or interim review and ICFR requirements, to the extent the relocation results in additional information included in the financial statements. A few commenters stated that investors would benefit from the annual audit and interim review of the disclosure.[531] Investors and other users may consider the information more reliable because of the audit and/or interim review requirements.[532]

The relocation of existing disclosures may affect the extent of information that investors receive. Since the PSLRA does not provide a safe harbor for forward-looking information located within the financial statements, issuers may be less likely to voluntarily supplement those disclosures with forward-looking information in the financial statements as compared with disclosures made outside the audited financial statements. A number of commenters expressed concern regarding liability issues for preparers that would arise from the loss of safe harbor provisions.[533] However, issuers retain the option of providing forward-looking information outside the financial statements and may be required to disclose the information in certain circumstances.[534]

The relocation of existing disclosures from outside the financial statements to within the financial statements will also subject the disclosures to XBRL tagging requirements. Commenters expressed concern about XBRL tagging requirements because of additional administrative burdens and potential costs on issuers to comply with these requirements.[535] A few commenters believed that XBRL tagging requirements would be of benefit to investors.[536] Investors and other users may benefit from more readily-available information in structured formats because of the increased use of electronic data analysis and search tools. In general, we believe the costs of applying XBRL data tagging to additional information likely would be relatively low, as issuers already have implemented software enabled processes and controls to structure previously mandated disclosures.[537]

Furthermore, the relocation of existing disclosures, for example, from outside the financial statements to within the financial statements or from the face of the financial statements to the notes to the financial statements, may also affect the prominence of the disclosures. Some academic research provides indirect evidence that users may treat information differently depending on the location of the disclosure. For instance, research shows a weaker relation between equity prices and disclosed items in the notes to the financial statements versus recognized items on the face of the financial statements.[538] Additionally, experimental research on laboratory participants shows that positioning pro-forma (non-GAAP) earnings earlier than U.S. GAAP earnings in an earnings announcement influences a nonprofessional investor's judgment.[539] Other research on the effect of disclosure location shows recognized and disclosed items are treated equivalently by investors.[540]

[529] *See* discussion in Section I.D.

[530] *See e.g.,* letters from CGCIV; EEI and AGA; and USCC.

[531] *See* letters from CII and Ohio CPAs.

[532] In contrast, there are a few amendments that relocate disclosure from inside the financial statements to outside the financial statements. In this case, the potential economic effects would be opposite to the effects discussed above, reducing costs for issuers, but potentially decreasing benefits to users of the information to the extent that the information is considered less reliable.

[533] *See e.g.,* letters from CAQ; CalPERS; Crowe; Davis; E&Y; FEI; PwC; and R&G Associates.

[534] *See* Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Release No. 33–8350 (Dec. 19, 2003) [68 FR 75056]. For example, Item 303 of Regulation S–K requires disclosure of other information when an issuer believes it to be necessary to an understanding of its financial condition, changes in financial condition, and results of operations.

[535] *See e.g.,* letters from CGCIV; EEI and AGA; and USCC.

[536] *See* letters from CII and Ohio CPAs.

[537] According to a recently released AICPA and XBRL US survey, the total cost of XBRL preparation among small companies in 2017 averaged $5,476 per year. See Research shows XBRL filing costs are lower than expected, AICPA, *https://www.aicpa.org/InterestAreas/FRC/AccountingFinancialReporting/XBRL/DownloadableDocuments/XBRL%20Costs%20for%20Small%20Companies.pdf.* The incremental costs of tagging additional information under the amendments would be much lower and depend on the mix of incremental disclosures (*e.g.,* narrative and numeric). The tagging cost associated with narrative disclosures would be minimal since these disclosures are tagged at the block text level and registrants already block tag other narrative disclosures in their filings. Numeric disclosures would need to be individually tagged, and therefore, any incremental costs would be directly associated with the volume of incremental numeric disclosures.

[538] *See, e.g.,* R. M. Harper Jr., W. G. Mister, and J. R. Strawser, *The Impact of New Pension Disclosure Rules on Perceptions of Debt,* Journal of Accounting Research 25, 1987 at 327 (showing that financial statement users do not treat pension information included in a note to the financial statements as they would a balance sheet liability); C. Viger, R. Belzile, and A. A. Anandarajan, *Disclosure versus Recognition of Stock Option Compensation: Effect on the Credit Decisions of Loan Officers,* Behavioral Research in Accounting 20, 2008 at 93–113 (showing that loan officers are more affected by the same earnings recognized in the income statement than disclosed in the notes to the financial statements); M. Müller, E.J. Riedl, and T. Sellhorn, *Recognition versus Disclosure of Fair Values,* The Accounting Review 90, 2015 at 2411–2447 (showing a lower association between equity prices and disclosed investment property fair values relative to recognized investment property fair values and finding that reduced information processing costs and higher readability mitigates the discount applied to disclosed fair values); D. Aboody, *Recognition versus Disclosure in the Oil and Gas Industry,* Journal of Accounting Research 34, 1996, at 21–32 (using the disclosure requirements for oil and gas companies, which requires the firm-specific effect of a macroeconomic event to be recognized in the financial statements for firms adopting the full cost method, but only requires disclosure in the notes to the financial statements for firms following the successful efforts method, to show that the effect of note disclosure on price differs from the effect of recognition on price); and H. Espahbodi, P. Espahbodi, Z. Rezaee, and H. Tehranian, *Stock Price Reaction and Value Relevance of Recognition versus Disclosure: The Case of Stock-Based Compensation,* Journal of Accounting and Economics 33 (3), 2002 at 343–373 (examining the equity price reaction to the announcements related to accounting for stock-based compensation to assess the value relevance of recognition on the face of the financial statements versus disclosure in the notes to the financial statements and concluding that recognition and disclosure are not substitutes).

[539] *See, e.g.* W. B. Elliot, *Are Investors Influenced by Pro Forma Emphasis and Reconciliations in Earnings Announcements?* The Accounting Review 81 (1), 2006 at 113–133.

[540] P. Y. Davis-Friday, L. B. Folami, C. S. Liu, and H. F. Mittelstaedt, *The Value Relevance of Financial Statement Recognition vs. Disclosure: Evidence from SFAS No. 106,* The Accounting Review. 74 (4), 1999 at 403–423 (testing whether market agents treat disclosed and recognized amounts equivalently by examining firms' obligations for postretirement benefits other than

Commenters that provided feedback on relocation prominence considerations indicated that physical location of the disclosure is less relevant in today's environment, given the use of electronic data analysis and search tools.[541]

Second, besides the Disclosure Location Considerations discussed above, some deletions may change the mix of information available to investors. An example of this is the revision to require dividend restriction and related disclosures when material, rather than using the bright line of when restricted net assets exceed a 25 percent threshold.[542] Bright line thresholds set forth explicit quantitative criteria for disclosure and may result in more or less detail than a materiality standard. Several commenters were supportive of a more principles-based disclosure framework.[543] These commenters stated that materiality is a better disclosure standard because certain of the existing thresholds result in disclosure that in their view is immaterial to investors and costly to provide. Other commenters opposed the amendment, indicating that removing bright line thresholds may result in the elimination of disclosure relevant to investors or diminish comparability.[544]

The economic effect of replacing a bright line threshold with a disclosure standard based on materiality depends on the preferences of investors and other users. The bright line threshold may be easier to apply and could enhance the comparability and verifiability of information; however, a materiality standard may permit more tailored information to be presented and potentially avoid certain distortions that can arise from the use of a bright line threshold.

a. Deletion of Commission Disclosure Requirements

We are eliminating certain Commission disclosure requirements that we have determined: (1) Require disclosures that convey reasonably similar information to or are encompassed by the disclosures that result from compliance with the overlapping U.S. GAAP, IFRS, or Commission disclosure requirements or (2) require disclosures incremental to the overlapping U.S. GAAP or Commission disclosure requirements and are no longer useful to investors.

The effects of the deletion of these overlapping disclosure requirements depend on the level of overlap between the requirements. For investors, eliminating overlapping requirements may reduce search costs and lead to more efficient information processing. This, in turn, may lead to better informed investment decisions and an increase in allocative efficiency. However, to the extent eliminating a requirement results in a loss of information incremental to the overlapping requirement, it could negatively impact investors that use the incremental information. For issuers, eliminating overlapping requirements may reduce the costs of preparation of the disclosure by reducing the need to reconcile similar requirements. Requirements that are clearer and less repetitive may additionally make the disclosure easier to prepare and result in disclosure that is more responsive and easier to understand.

The examples below illustrate the potential effects of the elimination of Commission disclosure requirements on issuers, investors, and other users.

An example of an overlapping disclosure requirement that we are deleting because it results in only incremental disclosure is Item 101(d)(3) of Regulation S–K, which requires risk disclosures outside the financial statements relating to geographic areas. These disclosures are largely encompassed by the disclosures that result from compliance with other parts of Regulation S–K. More specifically, Item 101(d)(3) requires disclosure of ''any'' risks associated with an issuer's foreign operations. Item 503(c) of Regulation S–K similarly requires disclosure of ''significant'' risk factors. Item 101(d)(3) also requires disclosures of a segment's dependence on foreign operations, which is similar to the requirement in Item 303(a) of Regulation S–K, requiring disclosure of trends and uncertainties by segment, if appropriate to an understanding of the issuer as a whole. We are also amending Item 303(a) to add an explicit reference to ''geographic areas'' to reduce the likelihood of loss of information due to the deletion of Item 101(d)(3).

Since Item 101(d)(3) is more expansive than the similar requirements in other parts of Regulation S–K, the economic effects of the deletion would depend on the nature of the incremental information required by Item 101(d)(3). Research shows that international corporate diversification may affect issuers' stock market performance[545] and valuation.[546] Therefore, some investors may want incremental information on foreign operations that is not covered by the amended Item 303(a) or the requirements of Item 503(c) to disclose ''significant'' risk factors. Deletion of Item 101(d)(3) may adversely affect this group of investors. However, if the requirements in Item 101(d)(3), such as the requirement to disclose ''any'' risk associated with foreign operations, tend to yield immaterial disclosures, deletion of Item 101(d)(3) will benefit investors by eliminating immaterial information, reducing search costs, and facilitating more efficient information processing.[547] More efficient information processing could in turn result in improved price discovery and enhance the allocative efficiency of the capital markets. In addition, to the extent an issuer spends less time preparing its disclosures, investors will benefit from lower preparation costs although savings could be modest, if any.[548]

Another example of an overlapping disclosure requirement that involves incremental information is Item 303(b) of Regulation S–K. Instruction 5 to Item 303(b) requires seasonality disclosures outside of the financial statements in interim periods. U.S. GAAP similarly requires seasonality disclosures, but this disclosure is required in the notes to the

pensions before and after formal recognition). This research focuses on a sample of 229 firms that elected disclosure of the postretirement benefit liability in the year(s) prior to adoption of SFAS 106. The authors find that both post-retirement benefit liabilities disclosed prior to adoption of SFAS No. 106, *Employers' Accounting for Postretirement Benefits Other than Pensions,* and those recognized subsequent to adoption significantly contribute to explaining stock prices, thus suggesting that market agents treat disclosed and recognized amounts equivalently.

[541] *See, e.g.* letters from CAQ; Deloitte; and EY.

[542] Rule 4–08(e)(3) of Regulation S–X.

[543] *See, e.g.* letters from CAQ; CGCIV; Clearing House; Davis; FEI; and USCC.

[544] *See, e.g.* letters from CalPERS; Public Citizen; and R.G. Associates.

[545] *See* T. Agmon and D. R. Lessard, *Investor Recognition of Corporate International Diversification,* Journal of Finance 32(4), 1977 at 1049–1055 (arguing that multinational firms have an advantage relative to single-country firms because of their ability to overcome the barriers to portfolio capital flows). The empirical results of the study support the notion that U.S. investors are attentive to international composition of the activities of U.S.-based corporations.

[546] *See* V. Errunza and L. Senbet, *International Corporate Diversification, Market Valuation and Size-Adjusted Evidence,* Journal of Finance 34, 1984 at 727 − 745 (developing a model where international corporate intermediation through direct foreign investment can undo barriers to international capital flows faced by individual investors and lead to a positive valuation effect associated with the degree of international involvement). *See also* R. Morck and B. Yeung, *Why Investors Value Multinationality,* Journal of Business, 64 (2), 1991 at 165 − 187 (supporting the notion that multinational corporations have intangible assets that can be used internationally.)

[547] *See* D. Hirshleifer and S. Teoh, *Limited Attention, Information Disclosure, and Financial Reporting,* Journal of Accounting and Economics 36, 2003 at 337 − 386 (showing that with partially attentive investors, means of presenting information may have an impact on stock price reactions, mis-valuation, long-run abnormal returns, and corporate decisions.)

[548] *See* Section VIII.B.

interim financial statements.[549] Eliminating the specific seasonality disclosure requirements in Item 303(b) may result in the removal of this information from MD&A. Investors and other users will only have this disclosure available in the notes to the financial statements, unless issuers provide it in both locations either because the issuer views the seasonality disclosure as appropriate or necessary to an understanding of its business or financial condition under Item 303(a) or the issuer provides it voluntarily. In addition, investors may receive less supplemental forward-looking information about seasonality because the PSLRA safe harbor is not available for such information when it is disclosed in the notes to the financial statements. To the extent that the seasonality disclosures in MD&A and in the financial statements are redundant, eliminating the requirements in Item 303(b) would reduce search costs and facilitate more efficient information processing. In addition, to the extent an issuer spends less time preparing its disclosures, investors will benefit from lower preparation costs although savings could be modest, if any.[550]

In addition to the economic effects of changing disclosure location and bright line disclosure thresholds, potential costs to investors may arise if U.S. GAAP were to change in such a way that information previously required by Commission disclosure requirements is no longer provided under U.S. GAAP. As noted above, the potential for such changes may be mitigated by the FASB's transparent, public standard-setting process and the Commission's oversight of the FASB.

b. Integration of Commission Disclosure Requirements

We are amending and integrating certain Commission disclosure requirements that overlap with, but require information incremental to, other Commission disclosure requirements. In addition to the economic effects of changing disclosure location and bright line disclosure thresholds, integration of overlapping Commission disclosure requirements simplifies issuer compliance efforts by reducing the number of rules to consider and the extent of disclosures that need to be provided. Integration of these requirements should also facilitate more efficient information processing by investors.

One example to illustrate the potential effects of the integration of Commission disclosure requirements is Item 101(d)(4) of Regulation S–K. Item 101(d)(4) requires, when interim financial statements are presented, a discussion of the facts that indicate that the three-year financial data for geographic performance may not be indicative of current or future operations. This requirement is similar to requirements in Instruction 3 to Item 303(a) of Regulation S–K and Instruction 4 to Item 303(b) of Regulation S–K to identify elements of income which are not necessarily indicative of the issuer's ongoing business, except that there is no explicit reference to ''geographic areas'' in the Item 303 instructions. To integrate the requirements into one location in Regulation S–K, we are eliminating Item 101(d)(4) and amending Item 303(a) to explicitly refer to ''geographic areas'' and clarify that the geographic discussion is required when management believes such discussion would be appropriate to an understanding of the business. A number of commenters supported the proposed amendment.[551] As noted above, integration of these requirements should facilitate more efficient information processing by investors. However, some investors may be adversely affected if they prefer geographic performance information to be presented with other business description disclosures.

c. FASB Referral of Commission Disclosure Requirements

We are referring certain Commission disclosure requirements that overlap with, but require information incremental to, U.S. GAAP requirements to the FASB for potential incorporation into U.S. GAAP. While the referral alone has no direct impact on investors and issuers, any future FASB standard-setting activities, as well as any Commission rulemaking that may result from such a referral, could potentially affect investors, issuers, auditors, other users of financial statements, as well as other entities that report under U.S. GAAP. Any potential effects of standard-setting activities arising out of these referrals could be considered and taken into account by the Commission, and could be addressed through Commission rulemaking. Additionally, the potential effects may be mitigated by the FASB's transparent, public standard-setting process and the Commission's oversight of the FASB.

3. Outdated Requirements

We are eliminating certain outdated Commission disclosure requirements that have become obsolete as a result of the passage of time or changes in the regulatory, business, or technological environment. Elimination of outdated disclosure requirements should simplify issuer compliance efforts by reducing the number of rules to consider and the extent of disclosures that need to be provided. In some cases, the amendments require additional disclosure of information to avoid any loss of information or decrease the burden for investors to retrieve such information from other sources. Such information is expected to be readily available at minimal to no cost to issuers.

The effect of these amendments on investors depends on the use of the information. If investors do not use the deleted information to make investment and voting decisions, these amendments may have little to no effect on investors, or the amendments may have a positive effect on investors since elimination of such disclosures may reduce search costs and facilitate more efficient information processing. This, in turn, could enhance the allocative efficiency of the market and facilitate capital formation. If the information is used by investors but can be retrieved from alternative sources with little or no cost to investors (*e.g.,* share prices),[552] the effects of these amendments on investors should be minimal. In other cases where the information is less readily available from alternative sources (*e.g.,* average exchange rates for each of the five most recent financial years and any subsequent interim period),[553] these amendments may make it more burdensome for investors and other users to access the information, with a potentially adverse effect on the cost of capital of issuers. We do not expect these potential adverse effects to be significant as the amendments delete only requirements that call for information that is either no longer relevant or is readily available or can be derived from alternative sources, and which may, in fact, be more robust than the information currently required to be disclosed. As noted above, some amendments require disclosure of additional information (*e.g.,* the issuer's

[549] ASC 270–10–45–11 states: Revenues of certain entities are subject to material seasonal variations. To avoid the possibility that interim results with material seasonal variations may be taken as fairly indicative of the estimated results for a full fiscal year, such entities are required to disclose the seasonal nature of their activities, and should consider supplementing their interim reports with information for 12-month periods ended at the interim date for the current and preceding years.

[550] *See* Section VIII.B.

[551] *See, e.g.,* letters from CAQ; Deloitte; E&Y; Grant; KPMG; and PwC.

[552] Item 201(a)(1) of Regulation S–K.

[553] Item 3.A.3 of Form 20–F.

internet address, if available) to mitigate any loss of information or decrease the burden for investors.

One example of an outdated disclosure requirement is Item 201(a)(1) of Regulation S–K. Item 201(a)(1) requires the disclosure of historical market price information. We are substituting this disclosure with disclosure of the issuer's ticker symbol, which can be used to obtain current and historical information on stock price, among other information. This additional disclosure may help reduce any loss of information as well as facilitate access to additional information while imposing minimal or no cost on issuers and saving them the expense of disclosing information that is readily available in more up-to-date form from alternative sources. Commenters were generally supportive of this initiative to delete outdated requirements,[554] and specifically supported removing historical price information, noting that stock price information is readily available on commercial websites on a more current basis than what is required by existing disclosure requirements.[555]

4. Superseded Requirements

We are amending certain Commission disclosure requirements to address inconsistencies that have arisen between existing Commission disclosure requirements and newer requirements, recent legislation, or more recently updated U.S. GAAP requirements.

Eliminating or amending superseded Commission disclosure requirements may simplify issuer compliance efforts by resolving some confusion for issuers. Where there are superseded requirements, issuers may need to expend time and resources seeking advice from outside professionals or guidance from Commission staff as to compliance with such requirements. To the extent that, in practice, many issuers already comply with the more recently adopted requirements, we expect these benefits to be modest. In addition, investors may benefit from the reduction in the variation of disclosure practices that could result from confusion about the superseded requirements among issuers.

One example of superseded disclosure is the requirement to report the cumulative effect of a change in accounting principle in the income statement, which the FASB eliminated from U.S. GAAP in 2005.[556] Instead, U.S. GAAP now requires the cumulative effect of retrospectively-applied changes in accounting principle to be reflected in the opening balance of retained earnings for the earliest period presented. The Commission disclosure requirements, by contrast, continue to refer to a line on the income statement for a cumulative effect of a change in accounting principle. Eliminating references to the cumulative effect of a change in accounting principle in the income statement in the Commission disclosure requirements resolves this contradiction and removes any resulting issuer confusion.

As another example, Rule 10–01(b)(2) of Regulation S–X requires, for interim periods, the presentation of dividends per share applicable to common stock on the face of the income statement. These rules are inconsistent with U.S. GAAP, which prohibits presentation of dividends per share on the face of the income statement. We are deleting Rule 10–01(b)(2) to conform to U.S. GAAP and simplify issuer compliance efforts.

In connection with this amendment and to avoid any loss of disclosure, we are extending the annual disclosure requirement of changes in stockholders' equity in Rule 3–04 of Regulation S–X to interim periods, which also requires disclosure of the amount of dividends per share for each class of shares, rather than only for common stock. As suggested by a few commenters, the final amendments clarify that Rule 3–04 requires both the year-to-date information and subtotals for each interim period.[557] Investors and other users may benefit from the additional information on dividends per share for each class of shares for interim periods. For example shareholders may use dividends to value an issuer.[558] Information about dividends also can be material for debtholders.[559] In addition, there may also be different dividend preferences based on an investor's characteristics.[560]

These amendments may give rise to Disclosure Location Considerations, in that issuers will now disclose dividends either in the changes in stockholders' equity statement or the notes to the financial statements to comply with Regulation S–X instead of on the face of the income statement.[561] Disclosing information on dividends issued and the relationship it has to stockholders' equity in one location may help investors understand some of the strategic decisions made by management, such as dividend payout versus share buyback. The extension of the disclosure requirement in Rule 3–04 of Regulation S–X may create some additional burden for issuers, including Regulation A issuers,[562] because it requires disclosure of dividends per share for each class of shares, rather than only for common stock, and disclosure of changes in stockholders' equity in interim periods. However, such costs should be limited to the extent that the required information is already available from the preparation of other aspects of the interim financial statements. Disclosure of this additional information may also lead to additional costs for issuers to comply with ICFR, audit, and XBRL tagging requirements, as applicable.

In the Proposing Release, we requested comments about other disclosure requirements that meet the criteria in any of the four sections of the release. Based on commenter responses and further internal review, we identified additional disclosure requirements that contained typographical errors, incorrect references, or references to rules that no longer exist. As a result, we are adopting additional conforming amendments, the majority of which are in the superseded category. These technical and conforming amendments should lower disclosure costs for issuers.

C. Anticipated Effects on Efficiency, Competition, and Capital Formation

The rules may improve capital allocation efficiency by enabling

[554] *See e.g.,* letters from CAQ; EEI and AGA; FedEx; R.G. Associates; and XBRL US.

[555] *See* letters from E&Y; EEI and AGA; FedEx; and KPMG.

[556] *See* SFAS No. 154, Accounting Changes and Error Corrections. This is now reflected in ASC 250, Accounting Changes and Error Corrections.

[557] *See* letters from CAQ and PwC.

[558] *See* M. Miller and F. Modigliani, *Dividend Policy, Growth, and the Valuation of Shares,* Journal of Business 34 (4), 1961 at 411–433 (providing an early theory of the effects of dividend policy on share price). *See also,* F. Black, *The Dividend Puzzle,* The Journal of Portfolio Management 2(2), 1976 at 5–8 (discussing reasons why firms pay dividends).

[559] *See* P. Healy and K. Palepu, *Effectiveness of Accounting-Based Dividend Covenants,* Journal of Accounting and Economics 12, 1990 at 97–123 (examining the effectiveness of dividend covenants in mitigating conflicts of interests between stockholders and bondholders). *See also,* H. Fan and S. Sundaresan, *Debt Valuation, Renegotiation, and Optimal Dividend Policy,* Review of Financial Studies 13 (4), 2000 at 1057–1099 (developing a theoretical framework for optimal dividend policy and capital structure).

[560] *See* R. Pettit, *Taxes, Transactions Costs and the Clientele Effect of Dividends,* Journal of Financial Economics 5 (3), 1977 at 419–436 (showing that individuals' preferences for dividends are influenced by their age and their tax rates on dividends and capital gains).

[561] ASC 260–10–45–5 requires disclosure of dividends per share in the notes to the financial statements.

[562] The amendments to require interim disclosure of changes in stockholders' equity and dividends per share amounts are being made directly to Forms 1–A and 1–SA for Regulation A issuers.

investors to make more efficient investment decisions. For example, the rules may reduce search costs for investors by eliminating information that is redundant, duplicative, overlapping, outdated, or superseded. Given that investors may have limited attention and limited information processing capabilities, elimination of such information may facilitate more efficient investment decision-making. In addition, elimination of these disclosure requirements may reduce issuer compliance costs and encourage capital formation. The reduction in compliance costs might be particularly beneficial for smaller and younger issuers that are resource constrained. A more efficient and less costly disclosure environment may make the public capital markets more competitive relative to private capital market alternatives and may additionally make the U.S. capital markets more competitive relative to markets in other countries. Although it is difficult to quantify these effects, to the extent that they are present, they may result in more public capital market investment opportunities for investors.

Eliminating information could result in increased information asymmetries between issuers and investors. Such asymmetries may increase the cost of capital, reduce capital formation, and hamper efficient allocation of capital across companies. To the extent that certain disclosure is no longer required, issuers for which this disclosure would be unfavorable may be less likely to disclose such information voluntarily. Even if other issuers do disclose such information voluntarily, it will be difficult to estimate the relative quality of issuers without every issuer's disclosure. This will make it more difficult for higher quality issuers to distinguish their quality with respect to this metric even with voluntary disclosures. Such negative effects might be more pronounced among smaller and younger issuers that suffer more from information asymmetries. Overall, though, to the extent that we eliminate disclosure that we consider redundant, duplicative, overlapping, outdated, or superseded, we do not think these effects are likely to be significant.

D. Alternatives

We considered reasonable alternatives to the amendments. For redundant, duplicative, outdated, or superseded disclosure requirements being eliminated, we considered the alternative of retaining these requirements. However, as a general matter, given the nature of these requirements, we believe retaining the requirements could result in inefficiencies for investors, issuers, and others. For certain of the disclosure requirements that we proposed to modify or delete, where commenters indicated that the requirements may provide beneficial incremental disclosures for investors and other users, we are retaining the requirements and also are referring some of them to the FASB for potential incorporation into U.S. GAAP.

For overlapping disclosure requirements, we solicited comments in the Proposing Release on certain requirements to determine whether to retain, modify, eliminate, or refer them to the FASB for potential incorporation into U.S. GAAP. After further consideration based on our review of the issues and consideration of the comments received, we are retaining all of the requirements discussed in Section III.D and referring all except one to the FASB for potential incorporation.

As an alternative to retaining these requirements, we could eliminate the Commission requirements and refer them to the FASB. This would deprive investors of any incremental disclosures elicited by the Commission requirements pending the FASB's deliberations. If the disclosure requirements are ultimately added to U.S. GAAP, some information would be relocated from outside the financial statements to within the financial statements, giving rise to Disclosure Location Considerations, potentially impacting issuers, investors, and other users.[563] Another alternative to retaining these requirements is to simply eliminate the Commission requirements and forgo disclosure of the incremental information without FASB referral. Although such an alternative would simplify issuer compliance efforts, it also may result in less informed investment decisions and diminished investor protections.

VIII. Paperwork Reduction Act

A. Background

Certain provisions of our rules and forms that would be affected by the final amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[564] The Commission published a notice requesting comment on the collection of information requirements in the Proposing Release and has submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[565] The titles for the affected collections of information are:

Title	OMB Control No.
Regulation S–X[566]	3235–0009
Regulation S–K	3235–0071
Rule 405 of Regulation C	3235–0074
Rule 436 of Regulation C	3235–0074
Form S–1	3235–0065
Form S–3	3235–0073
Form S–11	3235–0067
Form S–4	3235–0324
Form F–1	3235–0258
Form F–3	3235–0256
Form F–4	3235–0325
Form F–6	3235–0292
Form F–7	3235–0383
Form F–8	3235–0378
Form F–10	3235–0380
Form F–80	3235–0404
Form SF–1	3235–0707
Form SF–3	3235–0690
Form 1–A	3235–0286
Form 1–K	3235–0720
Form 1–SA	3235–0721
Exchange Act Rule 10A–1	3235–0468
Exchange Act Rule 12b-2	3235–0062
Schedule 14A	3235–0059
Schedule 14C	3235–0057
Exchange Act Rule 15c3–1g	3235–0200
Exchange Act Rule 17a–5 and Form X–17A–5	3235–0123
Exchange Act Rule 17a–12	3235–0498
Exchange Act Rule 17h–1T	3235–0410
Form 10	3235–0064
Form 20–F	3235–0288
Form 40–F	3235–0381
Form 10–Q	3235–0070
Form 10–K	3235–0063
Form 11–K	3235–0082
Form 10–D	3235–0604
Form N–5	3235–0169
Form N–1A	3235–0307
Form N–2	3235–0026
Form N–3	3235–0316
Form N–4	3235–0318
Form N–6	3235–0503
Form N–8B–2	3235–0186

The majority of these regulations, schedules, and forms were adopted under the Securities Act, the Exchange Act, and/or the Investment Company Act and set forth the disclosure requirements for registration statements, periodic reports, and proxy and information statements filed by issuers to help investors make informed investment and voting decisions.

[563] Any future consideration of amendments to these disclosures requirements will take into account the outcome of standard-setting activities undertaken by the FASB.

[564] 44 U.S.C. 3501 *et seq.*

[565] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[566] The paperwork burdens from Regulation S–X and Regulation S–K are imposed through the forms that are subject to the disclosure requirements in both regulations and are reflected in the analysis of these forms. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, for administrative convenience we estimate the burden imposed by Regulation S–X and Regulation S–K to be a total of one hour for each regulation.

Certain other forms and reports are filed by broker-dealers, entities regulated by the Investment Company Act and the Investment Advisers Act, and NRSROs in connection with the Commission's oversight of such entities.

These amendments are the result of the staff's ongoing evaluation of our disclosure requirements [567] and also are part of our efforts to implement Title LXXII, Section 72002(2) of the FAST Act.

The hours and costs associated with preparing, filing, and sending the schedules and forms constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collections are not kept confidential, and there is no mandatory retention period for the information disclosed.

B. Summary of the Final Amendments

As described in more detail above, we are adopting amendments to certain of our disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment.

By eliminating the redundancy, duplication, and overlap in current Commission disclosure requirements, we are enabling respondents to consider fewer rules and requirements in their compliance efforts even as they are preparing a substantially similar level of disclosures. As such, except for the amendment to eliminate the requirement to disclose the ratio of earnings to fixed charges, which may result in a modest decrease in the paperwork burden, we believe that the amendments to eliminate these redundant, duplicative, and overlapping Commission requirements would marginally reduce, if at all, respondents' overall paperwork burden.

Similarly, we expect that the amendments to eliminate outdated requirements would marginally reduce the paperwork burden on respondents by eliminating any efforts that were undertaken to prepare these disclosures. With the exception of the amendments to require the disclosure of an issuer's website address and the ticker symbol of their common equity that is publicly traded, which will slightly increase the paperwork burden, the remaining amendments related to outdated requirements would have no change or only a modest reduction in the paperwork burden when respondents are providing information in response to Forms 10, 10–K, 20–F, S–1, and F–1.

Finally, we believe that the amendments to update superseded Commission disclosure requirements would marginally reduce, if at all, respondents' paperwork burden, except for the extension of the application of Rule 3–04 of Regulation S–X to interim period disclosures,[568] which we estimate will modestly increase the paperwork burden. While the amendments eliminate any existing confusion related to contradictory and inconsistent requirements, in many instances, we believe respondents are currently not providing information in response to the requirements that we are deleting. Instead, we believe respondents provide information in response to U.S. GAAP or other Commission disclosure requirements that have been updated more recently, rather than the superseded requirement covered by the amendments. As a result, we do not believe the majority of these amendments would result in a change to respondents' overall paperwork burden.

In light of the foregoing, our estimates for the paperwork burden for a number of the collections of information have not changed. The tables below therefore do not reflect any change in the paperwork burden for the following collections of information: Rules 405 and 436 of Regulation C and Forms F–6, F–7, F–8, F–10, F–80, 1–K under the Securities Act; Exchange Rules 10A–1, 12b–2, 15c3–1g, 17a–5, 17h–1T and Forms 40–F, 11–K, 10–D, X–17A–5 under the Exchange Act; Forms N–5, N–1A, N–2, N–3, N–4, N–6, N–8B–2 under the Investment Company Act; and Schedules 14A and 14C under the Exchange Act.

C. Summary of Comment Letters and Revisions to Proposals

In the Proposing Release, we requested comment on our PRA burden hour and cost estimates and the analysis used to derive such estimates. We did not receive any comments that addressed our PRA analysis of the proposed amendments.

We did make some changes to the proposed amendments as a result of comments received, but we do not expect any of those changes to affect the compliance burdens of the existing collections of information, and therefore we are not revising our PRA burden hour and cost estimates as a result of these changes.

D. Burden and Cost Estimates

As noted above, we do not believe that the overwhelming majority of the amendments will result in a change to respondents' overall paperwork burden. In this subsection we discuss the few amendments that will result in a change to respondents' overall paperwork burden.

1. Forms 10, 10–K, 10–Q, 20–F, and 1–SA

We anticipate that the amendments to eliminate the requirement to disclose the market prices for an issuer's common equity for the two most recent fiscal years will modestly reduce affected issuers' current paperwork burdens. We estimate that issuers currently expend an average of two hours internally preparing the market price disclosure for inclusion in their Forms 10–K and 20–F. As such, we estimate that affected issuers would experience a two hour reduction in their annual paperwork burden.[569] We also estimate that there are 8,862 annual responses made in connection with Forms 10–K and 20–F. The table below illustrates the overall impact on respondents filing Forms 10–K and 20–F as a result of these amendments.

[567] *See supra* note 12.

[568] The extension of Rule 3–04 of Regulation S–X addresses both overlapping and superseded disclosure issues and is discussed in both Sections III.C.16 and V.B.5 above.

[569] In the Proposing Release we included estimates for the minimal paperwork burden increase associated with the proposed amendments to require disclosure of an issuer's ticker symbol and internet address. Upon further consideration, we are not making a separate burden adjustment for these two amendments. We believe the burdens for these amendments will be mostly incurred upon initial disclosure and not in subsequent periods. In addition, any increases in burden associated with the disclosure of the ticker symbol and internet address would be fully offset by the reduction in burden associated with the elimination of two years' worth of market price disclosure. Accordingly, we believe the two-hour reduction in burden hours associated with the elimination of the market price disclosure requirement will encompass the combined effect of these related changes.

TABLE 1

	Number of responses	Reduction in incremental burden hours/form	Total incremental burden hours reduction	Internal company time reduction
	(A)	(B)	(C) = (A) * (B)	(D) = (C)
Form 10–K	8,137	(2)	(16,274)	(16,274)
Form 20–F	725	(2)	(1,450)	(1,450)

The amendments will extend to interim periods the requirements under Rule 3–04 of Regulation S–X to disclose changes in stockholders' equity and dividends per share for each class of shares, rather than only for common stock. Prior to these amendments, these disclosures were not required for interim periods. While this creates a new disclosure requirement for respondents, the information being required is generally readily available from respondents' preparation of other aspects of the interim financial statements. As a result, we estimate that this amendment will increase the average paperwork burdens by 0.5 hours each time such disclosure is required.[570] We also estimate that there are 23,159 annual responses in connection with Forms 10, 10–Q, and 1–SA. The table below illustrates the overall impact on respondents filing Forms 10, 10–Q, and 1–SA as a result of the proposed application of Rule 3–04 to interim period disclosures.[571]

TABLE 2

	Number of responses	Increase in incremental burden hours/form	Total incremental burden hours increase	Internal company time increase
	(A)	(B)	(C) = (A) * (B)	(D) = (C)
Form 10	216	0.5	108	108
Form 10–Q	22,907	0.5	11,453.5	11,453.5
Form 1–SA	36	0.5	18	18

2. Forms S–1, S–3, S–4, S–11, SF–1, SF–3, F–1, F–3, F–4, and 1–A

We anticipate that the amendments to eliminate the market prices disclosure will have the same paperwork burden reduction for Forms S–1, S–4, S–11, F–1, and F–4 as for Forms 10–K and 20–F.[572] As such, we estimate that there will be a corresponding reduction in the burden estimate for these forms.[573] We estimate that there are approximately 1,618 annual responses made in connection with the referenced forms. The table below illustrates the overall impact on respondents filing the referenced forms as a result of these amendments.

TABLE 3

	Number of responses	Reduction in incremental burden hours/form	Total incremental burden hours reduction	Internal company time reduction
	(A)	(B)	(C) = (A) * (B)	(D) = (C)
Form S–1	901	(2)	(1,802)	(1,802)
Form S–4	551	(2)	(1,102)	(1,102)
Form S–11	64	(2)	(128)	(128)
Form F–1	63	(2)	(126)	(126)
Form F–4	39	(2)	(78)	(78)

The amendments to extend Rule 3–04 of Regulation S–X to interim periods will also impact the paperwork burdens of registration statements filed on Forms 1–A, S–1, S–4, S–11, F–1, and F–4 because such forms require interim period financial disclosures, when applicable.[574] We believe that the

[570] As Form 10–Q is filed for the first three quarters of an issuer's fiscal year, the annual burden increase is estimated to be 1.5 hours annually. As such, there is no increase to the paperwork burdens associated with preparing annual reports filed on Forms 10–K or 20–F. However, for registration statements filed on Form 10s and 20–F, to the extent that interim period disclosures are made, the issuer would experience an increase in paperwork burden.

[571] While this amendment will not impact foreign private issuers that file a Form 20–F as an annual report, it may impact those that file the form to register a class of securities when they would be required to provide interim period disclosures. However, the staff has observed that this occurs so infrequently that we estimate no change in the burden estimate for Form 20–F.

[572] The information subject to the amendments discussed in this paragraph is incorporated by reference into Forms S–3 and F–3 and not provided in direct response to a form item requirement. As such, the amendments do not affect the paperwork burdens associated with Forms S–3 and F–3.

[573] *See supra* note 570.

[574] Filers of the referenced forms may have to provide interim period financial disclosures in order to comply with Rule 3–12 of Regulation S–X. While the timing of the effectiveness of the registration statement or qualification of the offering

estimated burden increase of 0.5 hours discussed above similarly applies to the referenced registration statements. We estimate that there are approximately 1,730 annual responses made in connection with the referenced forms. The table below illustrates the overall impact on respondents filing the referenced forms as a result of these amendments.

	Number of responses (A)	Increase in incremental burden hours/form (B)	Total incremental burden hours increase (C) = (A) * (B)	Internal company time increase (D) = (C)
Form S–1	901	0.5	450.5	450.5
Form S–4	551	0.5	275.5	275.5
Form S–11	64	0.5	32	32
Form F–1	63	0.5	31.5	31.5
Form F–4	39	0.5	19.5	19.5
Form 1–A	112	0.5	56	56

The amendment to eliminate the requirements to disclose the ratio of earnings to fixed charges, when an issuer registers debt securities, and the ratio of combined fixed charges and preference dividends to earnings, when an issuer registers preference securities, will reduce the current paperwork burden for issuers registering such securities on Forms S–1, S–3, S–4, S–11, F–1, F–3 and F–4. Depending on the size and complexity of the issuer, the paperwork burden associated with preparing this information for inclusion in the aforementioned registration statements can vary greatly. We estimate that issuers expend an average of four hours preparing this disclosure for inclusion in their registration statements. For the purposes of this analysis, we assume that the ratio is prepared internally, and we have estimated that there are approximately 1,722 annual responses made in connection with the referenced forms. Based on this average, the table below illustrates the overall impact on respondents filing the referenced forms as a result of the amendments.

	Number of responses (A) [575]	Reduction in incremental burden hours/form (B)	Total incremental burden hours reduction (C) = (A) * (B)	Internal company time reduction (D) = (C)
Form S–1	450	(4)	(1,800)	(1,800)
Form S–3	800	(4)	(3,200)	(3,200)
Form S–4	300	(4)	(1,200)	(1,200)
Form S–11	32	(4)	(128)	(128)
Form F–1	32	(4)	(128)	(128)
Form F–3	78	(4)	(312)	(312)
Form F–4	30	(4)	(120)	(120)

IX. Final Regulatory Flexibility Act Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the Regulatory Flexibility Act (''RFA'').[576] This FRFA relates to final amendments that will eliminate certain Commission disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment. These amendments are the result of the staff's ongoing evaluation of our disclosure requirements [577] and also are part of our efforts to implement Title LXXII, Section 72002(2) of the FAST Act.

A. Need for, and Objectives of, the Amendments

The main purpose of the amendments is to update and simplify the Commission's current disclosure requirements. Specifically, the amendments will:

- Eliminate certain Commission disclosure requirements that are redundant or duplicative of requirements in U.S. GAAP, IFRS, or other Commission disclosure requirements.
- Streamline certain overlapping Commission disclosure requirements by deleting or integrating provisions that address disclosure topics covered elsewhere in our rules or regulations.
- Revise certain Commission disclosure requirements that are outdated.
- Revise certain superseded Commission disclosure requirements to update and conform these provisions with recent legislation, more recently updated Commission disclosure requirements, or more recently updated U.S. GAAP requirements.

The need for, and objectives of, the final amendments are discussed in more detail throughout this release, particularly in Section I, above.

statement may not trigger the requirement for interim period financial disclosure, we have used the full population of responses for our estimate to be conservative.

[575] The portion of registration statements filed on each referenced form that actually registers debt or preference securities varies from year to year. As a result, the numbers in this column are based on staff estimates using data samples obtained from EDGAR.

[576] 5 U.S.C. 601 *et seq.*

[577] *See supra* note 12.

B. Significant Issues Raised by Public Comments

In the Proposing Release we requested comment on any aspect of the Initial Regulatory Flexibility Analysis (''IRFA''), including the number of small entities that would be affected by the proposed amendments, the nature of the impact, how to quantify the number of small entities that would be affected, and how to quantify the impact of the proposed amendments. We did not receive comments specifically addressing the IRFA or the proposed amendments' impact on small entities.

C. Small Entities Subject to the Amendments

The amendments will affect some small entities that file registration statements under the Securities Act, the Exchange Act, and the Investment Company Act and periodic reports, proxy and information statements, or other reports under the Exchange Act and the Investment Company Act. In addition, the amendments will affect some small entities that are not reporting companies and that issue securities under Regulation A exemption. The RFA defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [578]

For purposes of the RFA, under 17 CFR 230.157 (''Securities Act Rule 157''), an issuer, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities not exceeding $5 million. Under 17 CFR 240.0–10(a) (''Exchange Act Rule 0–10(a)''), an issuer, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. In total, we estimate that there are approximately 1,233 issuers, other than investment companies, that may be considered small entities and will be subject to the amendments.[579]

An investment company, including a business development company, is considered to be a ''small business,'' for the purposes of the RFA, if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[580] We estimate that there are approximately 112 investment companies, including 18 business development companies, that will be subject to the amendments that may be considered small entities.[581]

For the purposes of the RFA, an investment adviser generally is a small entity if it: (1) Has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[582] We estimate that there are approximately 447 investment advisers that will be subject to the amendments that may be considered small entities.[583]

For the purposes of the RFA, a broker-dealer is considered to be a ''small business'' if its total capital (net worth plus subordinated liabilities) is less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) under the Exchange Act,[584] or, if not required to file such statements, a broker-dealer with total capital (net worth plus subordinated liabilities) of less than $500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and that is not affiliated with any person (other than a natural person) that is not a small business or small organization.[585] We estimate there are approximately 1,042 broker-dealers that may be considered small entities. Of these, nine were Part II filers and 1,033 were Part IIA filers.[586]

The Commission has previously stated, and we continue to believe, that an NRSRO with total assets of $5 million or less would qualify as a ''small'' entity for purposes of the RFA.[587] Currently, there are 10 NRSROs and, based on their most recently filed annual reports pursuant to Rule 17g–3, two NRSROs are small entities under the above definition and will be subject to the amendments.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

As noted above, the final amendments update and simplify the Commission's disclosure requirements and do not impose any significant new disclosure obligations. While there are no particular professional skills that are required to comply with the amendments, the professional skills necessary for complying with an issuer's disclosure obligations as a whole may include legal, accounting, or information technology skills. As adopted, the amendments address requirements that have become redundant, duplicative, overlapping, outdated, or superseded in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment. We expect these amendments to reduce slightly the existing reporting, recordkeeping, and other compliance burdens for all issuers, including small entities.

The amendments are discussed in detail in Sections II, III, IV, and V, above. We discuss the economic impact, including the estimated compliance costs and burdens, of the amendments in Section VII (Economic Analysis) and Section VIII (Paperwork Reduction Act) above.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the final amendments, we considered the following alternatives: (1) Establishing different compliance or

[578] 5 U.S.C. 601(6).

[579] This estimate includes 1,163 reporting companies and 70 Regulation A issuers estimated to be small entities (1,233 = 1,163 + 70). The reporting company small entity estimate is based on staff analysis of XBRL data submitted by filers, other than co-registrants, with EDGAR filings of Forms 10–K, 20–F, and 40–F and amendments filed during the calendar year 2017. The Regulation A small entity estimate is based on staff analysis of Form 1–A data from EDGAR filings of Forms 1–A qualified during the calendar year 2017, excluding issuers in subsequently withdrawn offerings and issuers that became reporting companies during the calendar year 2017.

[580] *See* 17 CFR 270.0–10(a).

[581] The estimate of small investment companies is derived from an analysis of data obtained from Morningstar Direct as well as data reported on Forms N–SAR filed with the Commission for the period ending December 31, 2017. The number of small business development companies is derived from data obtained from Forms 10–K and Forms 10–Q for reporting periods ended in the last quarter of 2017, adjusted by the number of active business development companies that do not submit such filings and late filers.

[582] *See* 17 CFR 275.0–7.

[583] The estimate is based on SEC-registered investment adviser responses to Items 5.F. and 12 of Form ADV.

[584] *See* 17 CFR 240.17a–5(d).

[585] *See* 17 CFR 240.0–10(c).

[586] This estimate is based on the FOCUS Reports, or ''Financial and Operational Combined Uniform Single'' Reports, which broker-dealers are generally required to file with the Commission and/or SROs pursuant to Exchange Act Rule 17a–5. The estimate is based on the FOCUS Reports data as of December 31, 2017. The information on Part IIB and Part III filers are not available from this data source.

[587] *See, e.g., Final Rules: Nationally Recognized Statistical Rating Organizations,* Release No. 34–72936 (Aug. 27, 2014) [79 FR 55077 (Sep. 15, 2014)].

reporting requirements or timetables that take into account the resources available to small entities; (2) clarifying, consolidating, or simplifying compliance and reporting requirements for small entities; (3) using performance rather than design standards; and (4) exempting small entities from coverage of all or part of the proposed amendments.

With respect to clarification, consolidation, and simplification of compliance and reporting requirements for small entities, the amendments do not impose any significant new disclosure obligations, and they reduce other disclosure obligations. As noted above, the amendments address certain of our disclosure requirements that have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment. The amendments will clarify, consolidate, and simplify compliance for all issuers, including small entities.

For similar reasons, we do not believe it is necessary, and indeed would be contrary to the stated objectives of the amendments, to establish different compliance or reporting requirements or timetables or to exempt small entities from all or part of the amendments.[588] The Commission's existing disclosure requirements provide for scaled disclosure requirements and other accommodations for SRCs and EGCs, and the amendments would not alter these existing accommodations.

Finally, with respect to use of performance rather than design standards, the amendments to eliminate certain prescriptive Commission rules that call for information that overlaps with information required by U.S. GAAP or revise certain prescriptive rules to streamline our disclosure requirements may result in issuers, including small entities, being provided with additional flexibility when preparing their disclosures. For instance, existing Rule 4–08(e)(3) requires disclosure of dividend restrictions and related disclosures when restricted net assets exceed 25 percent. As amended, the rule will require such disclosure when it is material and not based on a bright line threshold. While not all amendments use performance standards, many would have a similar effect—namely, to provide issuers, including small entities, with additional flexibility to present more tailored disclosures without meaningfully reducing the total mix of information provided to investors.

[588] The amendment discussed in Section V.B.2 that extends the disclosure requirement in Rule 3–04 of Regulation S–X to interim periods will apply to all issuers, including small entities. As the required information would be readily available from the preparation of the interim financial statements, the Commission expects the additional burdens to be limited. The new disclosure would better facilitate investor understanding of stockholders' equity, as dividends are distributed from stockholders' equity. As such, we do not believe it is necessary to scale this specific amendment for small entities.

X. Statutory Authority

The amendments contained in this document are being adopted under the authority set forth in Sections 7, 10, 19(a), and 28 of the Securities Act, Sections 3(b), 12, 13, 15, 23(a), and 36 of the Exchange Act, Sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act, and Title LXXII, Section 72002(2) of the FAST Act.

Text of the Final Amendments

List of Subjects

17 CFR Part 210

Accountants, Accounting, Banks, Banking, Employee benefit plans, Holding companies, Insurance companies, Investment companies, Oil and gas exploration, Reporting and recordkeeping requirements, Securities, Utilities.

17 CFR Part 229

Reporting and recordkeeping requirements, Securities.

17 CFR Part 230

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Brokers, Fraud, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Brokers, Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons stated in the preamble, the Commission is amending Title 17, Chapter II, of the Code of the Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77nn(25), 77nn(26), 78c, 78j–1, 78*l,* 78m, 78n, 78*o*(d), 78q, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, and sec. 102(c), Pub L. 112–106, 126 Stat. 310 (2012), unless otherwise noted.

■ 2. Amend § 210.1–02 by:
■ a. Revising paragraphs (d) and (w)(3);
■ b. Redesignating the Computational note as Computational note 1 to paragraph (w)(3);
■ c. Revising paragraph 2 of the newly redesignated Computational note 1 to paragraph (w)(3);
■ d. Revising paragraph (bb)(1)(ii); and
■ e. Adding paragraphs (cc) and (dd).

The revisions and additions read as follows:

§ 210.1–02 Definitions of terms used in Regulation S–X (17 CFR part 210).

* * * * *

(d) *Audit (or examination).* The term *audit* (or *examination*), when used in regard to financial statements of issuers as defined by Section 2(a)(7) of the Sarbanes-Oxley Act of 2002, means an examination of the financial statements by an independent accountant in accordance with the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'') for the purpose of expressing an opinion thereon. When used in regard to financial statements of entities that are not issuers as defined by Section 2(a)(7) of the Sarbanes-Oxley Act of 2002, the term means an examination of the financial statements by an independent accountant in accordance with either the standards of the PCAOB or U.S. generally accepted auditing standards (''U.S. GAAS'') as specified or permitted in the regulations and forms applicable to those entities for the purpose of expressing an opinion thereon. The standards of the PCAOB and U.S. GAAS may be modified or supplemented by the Commission.

* * * * *

(w) * * *

(3) The registrant's and its other subsidiaries' equity in the income from continuing operations before income taxes of the subsidiary exclusive of amounts attributable to any

noncontrolling interests exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Note to paragraph (w): * * *

Computational note 1 to paragraph (w)(3): * * *

* * * * *

2. If income of the registrant and its subsidiaries consolidated exclusive of amounts attributable to any noncontrolling interests for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

* * * * *

(bb) * * *

(1) * * *

(ii) Net sales or gross revenues, gross profit (or, alternatively, costs and expenses applicable to net sales or gross revenues), income or loss from continuing operations, net income or loss, and net income or loss attributable to the entity (for specialized industries, other information may be substituted for sales and related costs and expenses if necessary for a more meaningful presentation); and

* * * * *

(cc) *Statement(s) of comprehensive income.* The term *statement(s) of comprehensive income* means a financial statement that includes all changes in equity during a period except those resulting from investments by owners and distributions to owners. Comprehensive income comprises all components of net income and all components of other comprehensive income. The statement of comprehensive income may be presented either in a single continuous financial statement or in two separate but consecutive financial statements. A statement(s) of operations or variations thereof may be used in place of a statement(s) of comprehensive income if there was no other comprehensive income during the period(s).

(dd) *Restricted net assets.* The term *restricted net assets* shall mean that amount of the registrant's proportionate share of net assets of consolidated subsidiaries (after intercompany eliminations) which as of the end of the most recent fiscal year may not be transferred to the parent company by subsidiaries in the form of loans, advances or cash dividends without the consent of a third party (*i.e.,* lender, regulatory agency, foreign government, etc.). Not all limitations on transferability of assets are considered to be restrictions for purposes of this rule, which considers only specific third party restrictions on the ability of subsidiaries to transfer funds outside of the entity. For example, the presence of subsidiary debt which is secured by certain of the subsidiary's assets does not constitute a restriction under this rule. However, if there are any loan provisions prohibiting dividend payments, loans or advances to the parent by a subsidiary, these are considered restrictions for purposes of computing restricted net assets. When a loan agreement requires that a subsidiary maintain certain working capital, net tangible asset, or net asset levels, or where formal compensating arrangements exist, there is considered to be a restriction under the rule because the lender's intent is normally to preclude the transfer by dividend or otherwise of funds to the parent company. Similarly, a provision which requires that a subsidiary reinvest all of its earnings is a restriction, since this precludes loans, advances or dividends in the amount of such undistributed earnings by the entity. Where restrictions on the amount of funds which may be loaned or advanced differ from the amount restricted as to transfer in the form of cash dividends, the amount least restrictive to the subsidiary shall be used. Redeemable preferred stocks (§ 210.5–02.27) and noncontrolling interests shall be deducted in computing net assets for purposes of this test.

■ 3. Amend § 210.2–01 by revising paragraph (f)(7)(ii)(B) to read as follows:

§ 210.2–01 Qualifications of accountants.

* * * * *

(f) * * *

(7) * * *

(ii) * * *

(B) The partner conducting a quality review under applicable professional standards and any applicable rules of the Commission to evaluate the significant judgments and the related conclusions reached in forming the overall conclusion on the audit or review engagement (''Engagement Quality Reviewer'' or ''Engagement Quality Control Reviewer'');

* * * * *

■ 4. Amend § 210.2–02 by revising paragraph (b)(1) to read as follows:

§ 210.2–02 Accountants' reports and attestation reports.

* * * * *

(b) * * *

(1) Shall state the applicable professional standards under which the audit was conducted; and

* * * * *

■ 5. Amend § 210.3–01 by revising paragraphs (c)(2) and (3) to read as follows:

§ 210.3–01 Consolidated balance sheets.

* * * * *

(c) * * *

(2) For the most recent fiscal year for which audited financial statements are not yet available the registrant reasonably and in good faith expects to report income attributable to the registrant, after taxes; and

(3) For at least one of the two fiscal years immediately preceding the most recent fiscal year the registrant reported income attributable to the registrant, after taxes.

* * * * *

■ 6. Amend § 210.3–02 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 210.3–02 Consolidated statements of comprehensive income and cash flows.

(a) There shall be filed, for the registrant and its subsidiaries consolidated and for its predecessors, audited statements of comprehensive income and cash flows for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed or such shorter period as the registrant (including predecessors) has been in existence. A registrant that is an emerging growth company, as defined in § 230.405 of this chapter (Rule 405 of the Securities Act) or § 240.12b–2 of this chapter (Rule 12b–2 of the Exchange Act), may, in a Securities Act registration statement for the initial public offering of the emerging growth company's equity securities, provide audited statements of comprehensive income and cash flows for each of the two fiscal years preceding the date of the most recent audited balance sheet (or such shorter period as the registrant has been in existence).

(b) In addition, for any interim period between the latest audited balance sheet and the date of the most recent interim balance sheet being filed, and for the corresponding period of the preceding fiscal year, statements of comprehensive income and cash flows shall be provided. Such interim financial statements may be unaudited and need not be presented in greater detail than is required by § 210.10–01.

* * * * *

■ 7. Amend § 210.3–03 by

■ a. Revising the section heading and paragraphs (b) and (d); and

■ b. Removing paragraph (e).

The revisions read as follows:

§ 210.3–03 Instructions to statement of comprehensive income requirements.

* * * * *

(b) If the registrant is engaged primarily—

(1) In the generation, transmission or distribution of electricity, the manufacture, mixing, transmission or distribution of gas, the supplying or distribution of water, or the furnishing of telephone or telegraph service; or

(2) In holding securities of companies engaged in such businesses, it may at its option include statements of comprehensive income and cash flows (which may be unaudited) for the twelve-month period ending on the date of the most recent balance sheet being filed, in lieu of the statements of comprehensive income and cash flows for the interim periods specified.

* * * * *

(d) Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

■ 8. Revise § 210.3–04 to read as follows:

§ 210.3–04 Changes in stockholders' equity and noncontrolling interests.

An analysis of the changes in each caption of stockholders' equity and noncontrolling interests presented in the balance sheets shall be given in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which a statement of comprehensive income is required to be filed with all significant reconciling items described by appropriate captions with contributions from and distributions to owners shown separately. Also, state separately the adjustments to the balance at the beginning of the earliest period presented for items which were retroactively applied to periods prior to that period. With respect to any dividends, state the amount per share and in the aggregate for each class of shares. Provide a separate schedule in the notes to the financial statements that shows the effects of any changes in the registrant's ownership interest in a subsidiary on the equity attributable to the registrant.

■ 9. Amend § 210.3–05 by revising paragraph (b)(4)(iii) to read as follows:

§ 210.3–05 Financial statements of businesses acquired or to be acquired.

* * * * *

(b) * * *

(4) * * *

(iii) Separate financial statements of the acquired business need not be presented once the operating results of the acquired business have been reflected in the audited consolidated financial statements of the registrant for a complete fiscal year unless such financial statements have not been previously filed or unless the acquired business is of such significance to the registrant that omission of such financial statements would materially impair an investor's ability to understand the historical financial results of the registrant. For example, if, at the date of acquisition, the acquired business met at least one of the conditions in the definition of significant subsidiary in § 210.1–02 at the 80 percent level, the statements of comprehensive income of the acquired business should normally continue to be furnished for such periods prior to the purchase as may be necessary when added to the time for which audited statements of comprehensive income after the purchase are filed to cover the equivalent of the period specified in § 210.3–02.

* * * * *

■ 10. Amend § 210.3–12 by revising paragraph (a) to read as follows:

§ 210.3–12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

(a) If the financial statements in a filing are as of a date the number of days specified in paragraph (g) of this section or more before the date the filing is expected to become effective, or proposed mailing date in the case of a proxy statement, the financial statements shall be updated, except as specified in the following paragraphs, with a balance sheet as of an interim date within the number of days specified in paragraph (g) of this section and with statements of comprehensive income and cash flows for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet provided and for the corresponding period of the preceding fiscal year. Such interim financial statements may be unaudited and need not be presented in greater detail than is required by § 210.10–01. Notwithstanding the above requirements, the most recent interim financial statements shall be at least as current as the most recent financial statements filed with the Commission on Form 10–Q.

* * * * *

■ 11. Amend § 210.3–14 by:

■ a. Revising paragraph (a) introductory text; and

■ b. Redesignating the Note following paragraph (a)(1)(iii) as Note 1 to paragraph (a)(1).

The revision reads as follows:

§ 210.3–14 Special instructions for real estate operations to be acquired.

(a) If, during the period for which statements of comprehensive income are required, the registrant has acquired one or more properties which in the aggregate are significant, or since the date of the latest balance sheet required has acquired or proposes to acquire one or more properties which in the aggregate are significant, the following shall be furnished with respect to such properties:

* * * * *

§ 210.3–15 [Amended]

■ 12. Amend § 210.3–15 by removing and reserving paragraphs (a) and (b).

■ 13. Amend § 210.3–17 by revising paragraph (a) to read as follows:

§ 210.3–17 Financial statements of natural persons.

(a) In lieu of the financial statements otherwise required, a natural person may file an unaudited balance sheet as of a date within 90 days of date of filing and unaudited statements of comprehensive income for each of the three most recent fiscal years.

* * * * *

■ 14. Amend § 210.3–20 by:

■ a. Revising the section heading;

■ b. Redesignating paragraph (a) as paragraph (a)(1);

■ c. Adding paragraph (a)(2);

■ d. Redesignating paragraph (b) as paragraph (b)(1) and adding paragraph (b)(2); and

■ e. Revising paragraph (d).

The additions and revisions read as follows:

§ 210.3–20 Currency for financial statements.

(a)(1) * * *

(2) An issuer that is not a foreign private issuer shall present its financial statements in U.S. dollars.

(b)(1) * * *

(2) If there are material exchange restrictions or controls relating to the

currency of a subsidiary's domicile, the currency held by a subsidiary, or the currency in which a subsidiary will pay dividends or transfer funds to the issuer or other subsidiaries, prominent disclosure of this fact shall be made in the financial statements.

* * * * *

(d) Notwithstanding the currency used for reporting purposes, the issuer shall measure separately its own transactions, and those of each of its material operations (*e.g.,* branches, divisions, subsidiaries, joint ventures, and similar entities) that is included in the issuer's consolidated financial statements and not located in a hyperinflationary environment, using the particular currency of the primary economic environment in which the issuer or the operation conducts its business. Assets and liabilities so determined shall be translated into the reporting currency at the exchange rate at the balance sheet date; all revenues, expenses, gains, and losses shall be translated at the exchange rate existing at the time of the transaction or, if appropriate, a weighted average of the exchange rates during the period; and all translation effects of exchange rate changes shall be included as a separate component (''cumulative translation adjustment'') of shareholder's equity. For purposes of this paragraph, the currency of an operation's primary economic environment is normally the currency in which cash is primarily generated and expended; a hyperinflationary environment is one that has cumulative inflation of approximately 100% or more over the most recent three year period. Departures from the methodology presented in this paragraph shall be quantified pursuant to Item 17(c)(2) of Form 20–F (§ 249.220f of this chapter).

§ 210.3A–01 [Removed and Reserved]

■ 15. Remove and reserve § 210.3A–01.

■ 16. Revise § 210.3A–02 to read as follows:

§ 210.3A–02 Consolidated financial statements of the registrant and its subsidiaries.

In deciding upon consolidation policy, the registrant must consider what financial presentation is most meaningful in the circumstances and should follow in the consolidated financial statements principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the registrant. There is a presumption that consolidated financial statements are more meaningful than separate financial statements and that they are usually necessary for a fair presentation when one entity directly or indirectly has a controlling financial interest in another entity. Other particular facts and circumstances may require combined financial statements, an equity method of accounting, or valuation allowances in order to achieve a fair presentation.

(a) *Majority ownership:* Among the factors that the registrant should consider in determining the most meaningful presentation is majority ownership. Generally, registrants shall consolidate entities that are majority owned and shall not consolidate entities that are not majority owned. The determination of *majority ownership* requires a careful analysis of the facts and circumstances of a particular relationship among entities. In rare situations, consolidation of a majority owned subsidiary may not result in a fair presentation, because the registrant, in substance, does not have a controlling financial interest (for example, when the subsidiary is in legal reorganization or in bankruptcy). In other situations, consolidation of an entity, notwithstanding the lack of technical majority ownership, is necessary to present fairly the financial position and results of operations of the registrant, because of the existence of a parent-subsidiary relationship by means other than record ownership of voting stock.

(b) [Reserved].

■ 17. Amend § 210.3A–03 by removing and reserving paragraph (a) and revising paragraph (b).

The revision reads as follows:

§ 210.3A–03 Statement as to principles of consolidation or combination followed.

* * * * *

(b) As to each consolidated financial statement and as to each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement for the preceding fiscal period filed with the Commission that has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed.

§ 210.3A–04 [Removed and Reserved]

■ 18. Remove and reserve § 210.3A–04.

§ 210.4–01 [Amended]

■ 19. Amend § 210.4–01 by removing paragraph (a)(3).

■ 20. Amend § 210.4–08 by:

■ a. Revising the introductory text;

■ b. Removing and reserving paragraph (a);

■ c. Redesignating paragraph (d)(1) as paragraph (d) and removing paragraph (d)(2);

■ d. Revising paragraphs (e)(1) and (e)(3) introductory text;

■ e. Revising paragraphs (f) and (h)(1) introductory text;

■ f. Redesignating the Note following paragraph (h)(1) as Note 1 to paragraph (h)(1);

■ g. Revising paragraph (h)(2);

■ h. Removing paragraph (h)(3);

■ i. Removing and reserving paragraph (i);

■ j. Revising paragraph (k); and

■ k. Revising paragraphs (m)(2)(ii) and (n).

The revisions read as follows:

§ 210.4–08 General notes to financial statements.

If applicable to the person for which the financial statements are filed, the following shall be set forth on the face of the appropriate statement or in appropriately captioned notes. The information shall be provided for each statement required to be filed, except that the information required by paragraphs (b), (c), (d), (e), and (f) of this section shall be provided as of the most recent audited balance sheet being filed and for paragraph (j) of this section as specified therein. When specific statements are presented separately, the pertinent notes shall accompany such statements unless cross-referencing is appropriate.

* * * * *

(e) * * *

(1) Describe the most significant restrictions on the payment of dividends by the registrant, indicating their sources, their pertinent provisions, and the amount of retained earnings or net income restricted or free of restrictions.

* * * * *

(3) The disclosures in paragraphs (e)(3)(i) and (ii) of this section shall be provided when material.

* * * * *

(f) *Significant changes in bonds, mortgages and similar debt.* Any significant changes in the authorized amounts of bonds, mortgages and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

* * * * *

(h) *Income tax expense.* (1) Disclosure shall be made in the statement of comprehensive income or a note thereto, of the components of income (loss) before income tax expense (benefit) as either domestic or foreign.

* * * * *

(2) In the reconciliation between the amount of reported total income tax expense (benefit) and the amount computed by multiplying the income (loss) before tax by the applicable

statutory Federal income tax rate, if no individual reconciling item amounts to more than five percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than five percent of such computed amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than five percent of the computed amount may be aggregated in the reconciliation. Where the reporting person is a foreign entity, the income tax rate in that person's country of domicile should normally be used in making the above computation, but different rates should not be used for subsidiaries or other segments of a reporting entity. When the rate used by a reporting person is other than the United States Federal corporate income tax rate, the rate used and the basis for using such rate shall be disclosed.

* * * * *

(k) *Related party transactions that affect the financial statements.* (1) Amounts of related party transactions should be stated on the face of the balance sheet, statement of comprehensive income, or statement of cash flows.

(2) In cases where separate financial statements are presented for the registrant, certain investees, or subsidiaries, any intercompany profits or losses resulting from transactions with related parties and the effects thereof shall be disclosed.

* * * * *

(m) * * *

(2) *Reverse repurchase agreements (assets purchased under agreements to resell).* (i) If, as of the most recent balance sheet date, the aggregate carrying amount of ''reverse repurchase agreements'' (securities or other assets purchased under agreements to resell) exceeds 10% of total assets:

(A) Disclose separately such amount in the balance sheet; and

(B) Disclose in an appropriately captioned footnote:

(*1*) The registrant's policy with regard to taking possession of securities or other assets purchased under agreements to resell; and

(*2*) Whether or not there are any provisions to ensure that the market value of the underlying assets remains sufficient to protect the registrant in the event of default by the counterparty and if so, the nature of those provisions.

(ii) If, as of the most recent balance sheet date, the amount at risk under reverse repurchase agreements with any individual counterparty or group of related counterparties exceeds 10% of stockholders' equity (or in the case of investment companies, net asset value), disclose the name of each such counterparty or group of related counterparties, the amount at risk with each, and the weighted average maturity of the reverse repurchase agreements with each. The amount at risk under reverse repurchase agreements is defined as the excess of the carrying amount of the reverse repurchase agreements over the market value of assets delivered pursuant to the agreements by the counterparty to the registrant (or to a third party agent that has affirmatively agreed to act on behalf of the registrant) and not returned to the counterparty, except in exchange for their approximate market value in a separate transaction.

(n) *Accounting policies for certain derivative instruments.* Disclosures regarding accounting policies shall include, to the extent material, where in the statement of cash flows derivative financial instruments, and their related gains and losses, as defined by U.S. generally accepted accounting principles, are reported.

■ 21. Amend § 210.4–10 by revising paragraph (c)(7)(i) to read as follows:

§ 210.4–10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(c) * * *

(7) * * *

(i) For each cost center for each year that a statement of comprehensive income is required, disclose the total amount of amortization expense (per equivalent physical unit of production if amortization is computed on the basis of physical units or per dollar of gross revenue from production if amortization is computed on the basis of gross revenue).

* * * * *

■ 22. Amend § 210.5–02 by:

■ a. Removing ''[See § 210.4–05]'' immediately below the undesignated heading ''Current Assets, when appropriate'' and immediately above paragraph 1;

■ b. Revising paragraphs 6.(a)(2) and (3);

■ c. Revising the undesignated heading immediately above paragraph 19;

■ d. Revising paragraphs 22.(a) introductory text, 27.(c)(3), 28, and 29; and

■ e. Revising paragraph 30.(a).

The revisions read as follows:

§ 210.5–02 Balance sheets.

* * * * *

6. * * *

(a) * * *

(2) inventoried costs relating to long-term contracts or programs (see paragraph (d) of this section);

(3) work in process;

* * * * *

Current Liabilities, When Appropriate

19. * * *

* * * * *

22. * * *

(a) State separately, in the balance sheet or in a note thereto, each issue or type of obligation and such information as will indicate:

* * * * *

27. * * *

(c) * * *

(3) the changes in each issue for each period for which a statement of comprehensive income is required to be filed. (See also § 210.4–08(d).)

* * * * *

28. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* State on the face of the balance sheet, or if more than one issue is outstanding state in a note, the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. State on the face of the balance sheet or in a note, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate (see § 210.4–07). Show in a note or separate statement the changes in each class of preferred shares reported under this caption for each period for which a statement of comprehensive income is required to be filed. (See also § 210.4–08(d).)

* * * * *

29. *Common stocks.* For each class of common shares state, on the face of the balance sheet, the number of shares issued or outstanding, as appropriate (see § 210.4–07), and the dollar amount thereof. If convertible, this fact should be indicated on the face of the balance sheet. For each class of common shares state, on the face of the balance sheet or in a note, the title of the issue, the number of shares authorized, and, if convertible, the basis of conversion (see also § 210.4–08(d)). Show also the dollar amount of any common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement the changes in each class of common shares for each period for which a

statement of comprehensive income is required to be filed.

* * * * *

30. *Other stockholders' equity.*

(a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital, (3) retained earnings, (i) appropriated and (ii) unappropriated (See § 210.4–08(e)), and (4) accumulated other comprehensive income.

Note 1 to paragraph 30.(a). Additional paid-in capital and other additional capital may be combined with the stock caption to which it applies, if appropriate.

* * * * *

■ 23. Amend § 210.5–03 by:

■ a. Revising the section heading and paragraphs (a), (b)1, 7, and 9;

■ b. Removing and reserving paragraphs (b)15, 16, and 17;

■ c. Redesignating paragraph (b)21 as (b)25; and

■ d. Adding new paragraph (b)21 and paragraphs (b)22, 23, and 24.

The revisions and additions read as follows:

§ 210.5–03 Statements of comprehensive income.

(a) The purpose of this rule is to indicate the various line items which, if applicable, and except as otherwise permitted by the Commission, should appear on the face of the statements of comprehensive income filed for the persons to whom this article pertains (see § 210.4–01(a)).

(b) * * *

1. *Net sales and gross revenues.* State separately:

(a) Net sales of tangible products (gross sales less discounts, returns and allowances), (b) operating revenues of public utilities or others; (c) income from rentals; (d) revenues from services; and (e) other revenues. Amounts earned from transactions with related parties shall be disclosed as required under § 210.4–08(k). A public utility company using a uniform system of accounts or a form for annual report prescribed by federal or state authorities, or a similar system or report, shall follow the general segregation of operating revenues and operating expenses reported under § 210.5–03.2 prescribed by such system or report. If the total of sales and revenues reported under this caption includes excise taxes in an amount equal to 1 percent or more of such total, the amount of such excise taxes shall be shown on the face of the statement parenthetically or otherwise.

* * * * *

7. *Non-operating income.* State separately in the statement of comprehensive income or in a note thereto amounts earned from (a) dividends, (b) interest on securities, (c) profits on securities (net of losses), and (d) miscellaneous other income. Amounts earned from transactions in securities of related parties shall be disclosed as required under § 210.4–08(k). Material amounts included under miscellaneous other income shall be separately stated in the statement of comprehensive income or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * *

9. *Non-operating expenses.* State separately in the statement of comprehensive income or in a note thereto amounts of (a) losses on securities (net of profits) and (b) miscellaneous income deductions. Material amounts included under miscellaneous income deductions shall be separately stated in the statement of comprehensive income or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * *

21. *Other comprehensive income.* State separately the components of and the total for other comprehensive income. Present the components either net of related tax effects or before related tax effects with one amount shown for the aggregate income tax expense or benefit. State the amount of income tax expense or benefit allocated to each component, including reclassification adjustments, in the statement of comprehensive income or in a note.

22. *Comprehensive income.*

23. *Comprehensive income attributable to the noncontrolling interest.*

24. *Comprehensive income attributable to the controlling interest.*

25. *Earnings per share data.*

■ 24. Amend § 210.5–04 by revising paragraph (a)(2); and Schedule I to read as follows:

§ 210.5–04 What schedules are to be filed.

(a) * * *

(2) Schedule II of this section shall be filed for each period for which an audited statement of comprehensive income is required to be filed for each person or group.

* * * * *

Schedule I—Condensed financial information of registrant. The schedule prescribed by § 210.12–04 shall be filed when the restricted net assets (§ 210.1.02(dd)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year.

* * * * *

■ 25. Amend § 210.6–03 by revising paragraph (c)(1) introductory text and removing and reserving paragraph (c)(1)(i).

The revision reads as follows:

§ 210.6–03 Special rules of general application to registered investment companies and business development companies.

* * * * *

(c) * * *

(1) Consolidated and combined statements filed for registered investment companies and business development companies shall be prepared in accordance with §§ 210.3A–02 and 210.3A–03 (Article 3A), except that:

* * * * *

■ 26. Amend § 210.6–04 by revising the paragraph 17 heading, its introductory text, and paragraph 17.(a) to read as follows:

§ 210.6–04 Balance sheets.

* * * * *

17. *Total distributable earnings (loss).* Disclose total distributable earnings (loss), which generally comprise:

(a) Accumulated undistributed investment income-net,

* * * * *

■ 27. Amend § 210.6–07 by revising the introductory text to read as follows:

§ 210.6–07 Statements of operations.

Statements of operations, or statements of comprehensive income, where applicable, filed by registered investment companies, other than issuers of face-amount certificates, subject to the special provisions of § 210.6–08, and business development companies, shall comply with the following provisions:

* * * * *

■ 28. Amend § 210.6–09 by revising paragraphs 3, 4.(b), and 7 to read as follows:

§ 210.6–09 Statements of changes in net assets.

* * * * *

3. *Distributions to shareholders.* State total distributions to shareholders which generally come from: (a) Investment income-net; (b) realized gain from investment transactions-net; and (c) other sources, except tax return of capital distributions, which shall be disclosed separately.

4. * * *

(b) Disclose in the body of the statements or in the notes, for each class

of the person's shares, the number and value of shares issued in reinvestment of dividends as well as the number and dollar amounts received for shares sold and paid for shares redeemed.

* * * * *

7. *Net assets at the end of the period.*

■ 29. Amend § 210.6A–04 by revising the section heading and introductory text to read as follows:

§ 210.6A–04 Statements of comprehensive income and changes in plan equity.

Statements of comprehensive income and changes in plan equity filed under this rule shall comply with the following provisions:

* * * * *

■ 30. Amend § 210.6A–05 by revising paragraph (a) introductory text and Schedule III to read as follows:

§ 210.6A–05 What schedules are to be filed.

(a) Schedule I of this section shall be filed as of the most recent audited statement of financial condition and any subsequent unaudited statement of financial condition being filed. Schedule II of this section shall be filed as of the date of each statement of financial condition being filed. Schedule III of this section shall be filed for each period for which a statement of comprehensive income and changes in plan equity is filed. All schedules shall be audited if the related statements are audited.

* * * * *

Schedule III—Allocation of plan income and changes in plan equity to investment programs. If the plan provides for separate investment programs with separate funds, and if the allocation of income and changes in plan equity to the several funds is not shown in the statement of comprehensive income and changes in plan equity in columnar form or by the submission of separate statements for each fund, a schedule shall be submitted showing the allocation of each caption of each statement of comprehensive income and changes in plan equity filed to the applicable fund.

* * * * *

■ 31. Amend § 210.7–03 by:
■ a. Revising paragraphs (a)6, (a)11, and (a)13.(a)(2); and
■ b. Removing and reserving paragraph (a)13.(b);
■ c. Removing paragraph (a)13.(c); and
■ d. Revising paragraphs (a)23.(a)(3) and (a)23.(c)(2).

The revisions read as follows:

§ 210.7–03 Balance sheets.

(a) * * *

6. *Reinsurance recoverable.*

* * * * *

11. *Separate account assets.* Include under this caption the portion of separate account-assets representing contract holder funds required to be reported in an insurance entity's financial statements as a summary total. An equivalent summary total for the related liability shall be included under caption 18.

* * * * *

13. * * *

(a) * * *

(2) unearned premiums and

(3) * * *

* * * * *

23. * * *

(a) * * *

(3) accumulated other comprehensive income,

* * * * *

(c) * * *

(2) property and liability insurance legal entities: The amount of statutory stockholders' equity as of the date of each balance sheet presented and the amount of statutory net income or loss for each period for which a statement of comprehensive income is presented.

* * * * *

■ 32. Amend § 210.7–04 by:
■ a. Revising the section heading;
■ b. Revising the introductory text;
■ c. Revising paragraph 3.(b);
■ d. Removing and reserving paragraph 3.(c);
■ e. Revising paragraphs 3.(d), 7, and 9;
■ f. Removing and reserving paragraphs 13, 14, and 15;
■ g. Redesignating paragraph 19 as paragraph 23; and
■ h. Adding new paragraph 19 and paragraphs 20, 21, and 22.

The revisions and additions read as follows:

§ 210.7–04 Statements of comprehensive income.

The purpose of this section is to indicate the various items which, if applicable, should appear on the face of the statements of comprehensive income and in the notes thereto filed for persons to whom this article pertains. (See § 210.4–01(a).)

* * * * *

3. * * *

(b) Indicate in a footnote the registrant's policy with respect to whether investment income and realized gains and losses allocable to policyholders and separate accounts are included in the investment income and realized gain and loss amounts reported in the statement of comprehensive income. If the statement of comprehensive income includes investment income and realized gains and losses allocable to policyholders and separate accounts, indicate the amounts of such allocable investment income and realized gains and losses and the manner in which the insurance enterprise's obligation with respect to allocation of such investment income and realized gains and losses is otherwise accounted for in the financial statements.

* * * * *

(d) For each period for which a statement of comprehensive income is filed, include in a note an analysis of realized and unrealized investment gains and losses on fixed maturities and equity securities. For each period, state separately for fixed maturities [see § 210.7–03.1(a)] and for equity securities [see § 210.7–03.1(b)] the following amounts:

* * * * *

7. *Underwriting, acquisition and insurance expenses.* State separately in the statement of comprehensive income or in a note thereto (a) the amount included in this caption representing deferred policy acquisition costs amortized to income during the period, and (b) the amount of other operating expenses. State separately in the statement of comprehensive income any material amount included in all other operating expenses.

* * * * *

9. *Income tax expense.* Include under this caption only taxes based on income (See § 210.4–08(h).)

* * * * *

19. *Other comprehensive income.* State separately the components of and the total for other comprehensive income. Present the components either net of related tax effects or before related tax effects with one amount shown for the aggregate income tax expense or benefit. State the amount of income tax expense or benefit allocated to each component, including reclassification adjustments, in the statement of comprehensive income or in a note.

20. *Comprehensive income.*

21. *Comprehensive income attributable to the noncontrolling interest.*

22. *Comprehensive income attributable to the controlling interest.*

23. *Earnings per share data.*

■ 33. Amend § 210.7–05 by revising paragraph (a)(2) and Schedules II and III to read as follows:

§ 210.7–05 What schedules are to be filed.

(a) * * *

(2) The schedules specified in this section as Schedule IV and V shall be

filed for each period for which an audited statement of comprehensive income is required to be filed for each person or group.

* * * * *

Schedule II—Condensed financial information of registrant. The schedule prescribed by § 210.12–04 shall be filed when the restricted net assets (§ 210.1.02(dd)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year.

Schedule III—Supplementary insurance information. The schedule prescribed by § 210.12–16 shall be filed giving segment detail in support of various balance sheet and statement of comprehensive income captions. The required balance sheet information shall be presented as of the date of each audited balance sheet filed, and the statement of comprehensive income information shall be presented for each period for which an audited statement of comprehensive income is required to be filed, for each person or group.

* * * * *

■ 34. Amend § 210.8–01 by revising paragraph a. of Note 2 to § 210.8 and removing Note 6 to § 210.8.

The revision reads as follows:

§ 210.8–01 Preliminary Notes to Article 8.

* * * * *

Note 2 to § 210.8. * * *

a. The report and qualifications of the independent accountant shall comply with the requirements of §§ 210.2–01 through 210.2–07 (Article 2 of this part); and

* * * * *

■ 35. Revise § 210.8–02 to read as follows:

§ 210.8–02 Annual financial statements.

Smaller reporting companies shall file an audited balance sheet as of the end of each of the most recent two fiscal years, or as of a date within 135 days if the issuer has existed for a period of less than one fiscal year, and audited statements of comprehensive income, cash flows and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent audited balance sheet (or such shorter period as the registrant has been in business).

■ 36. Amend § 210.8–03 by:

■ a. Revising the introductory text;

■ b. Revising paragraph (a)(2);

■ c. Adding paragraph (a)(5);

■ d. Removing and reserving paragraph (b)(2);

■ e. Revising paragraphs (b)(4) and (5);

■ f. Removing paragraph (b)(6); and

■ g. Revising Instruction 1 to § 210.8–03.

The revisions and addition read as follows:

§ 210.8–03 Interim financial statements.

Interim financial statements may be unaudited; however, before filing, interim financial statements included in quarterly reports on Form 10–Q (§ 249.308(a) of this chapter) must be reviewed by an independent public accountant using applicable professional standards and procedures for conducting such reviews, as may be modified or supplemented by the Commission. If, in any filing, the issuer states that interim financial statements have been reviewed by an independent public accountant, a report of the accountant on the review must be filed with the interim financial statements. Interim financial statements shall include a balance sheet as of the end of the issuer's most recent fiscal quarter, a balance sheet as of the end of the preceding fiscal year, and statements of comprehensive income and statements of cash flows for the interim period up to the date of such balance sheet and the comparable period of the preceding fiscal year.

(a) * * *

(2) Statements of comprehensive income (or the statement of net income if comprehensive income is presented in two separate but consecutive financial statements) should include net sales or gross revenue, each cost and expense category presented in the annual financial statements that exceeds 20% of sales or gross revenues, provision for income taxes, and discontinued operations. (Financial institutions should substitute net interest income for sales for purposes of determining items to be disclosed.)

* * * * *

(5) Provide the information required by § 210.3–04 for the current and comparative year-to-date periods, with subtotals for each interim period.

(b) * * *

(4) *Significant dispositions.* If a significant disposition has occurred during the most recent interim period and the transaction required the filing of a Form 8–K (§ 249.308 of this chapter), pro forma data must be presented that reflects revenue, income from continuing operations, net income, net income attributable to the registrant and income per share for the current interim period and the corresponding interim period of the preceding fiscal year.

(5) *Material accounting changes.* The registrant's independent accountant must provide a letter in the first Form 10–Q (§ 249.308a of this chapter) filed after the change indicating whether or not the change is to a preferable method. Disclosure must be provided of any retroactive change to prior period financial statements, including the effect of any such change on income and income per share.

Instruction 1 to § 210.8–03. Where §§ 210.8–01 through 210.8–08 (Article 8 of this part) are applicable to a Form 10–Q (§ 249.308a of this chapter) and the interim period is more than one quarter, statements of comprehensive income must also be provided for the most recent interim quarter and the comparable quarter of the preceding fiscal year.

* * * * *

■ 37. Amend § 210.8–04 by revising paragraph (b)(3) to read as follows:

§ 210.8–04 Financial statements of businesses acquired or to be acquired.

* * * * *

(b) * * *

(3) Compare the smaller reporting company's equity in the income from continuing operations before income taxes of the acquiree exclusive of amounts attributable to any noncontrolling interests to such consolidated income of the smaller reporting company for the most recently completed fiscal year.

* * * * *

■ 38. Amend § 210.8–05 by revising paragraphs (b)(1) and (2) to read as follows:

§ 210.8–05 Pro forma financial information.

* * * * *

(b) * * *

(1) If the transaction was consummated during the most recent fiscal year or subsequent interim period, pro forma statements of comprehensive income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any; or

(2) If consummation of the transaction has occurred or is probable after the date of the most recent balance sheet required by § 210.8–02 or § 210.8–03, a pro forma balance sheet giving effect to the combination as of the date of the most recent balance sheet. For a purchase, pro forma statements of comprehensive income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any, are required.

■ 39. Amend § 210.8–06 by revising the introductory text to read as follows:

§ 210.8–06 Real estate operations acquired or to be acquired.

If, during the period for which statements of comprehensive income are required, the smaller reporting company has acquired one or more properties that

in the aggregate are significant, or since the date of the latest balance sheet required by § 210.8–02 or § 210.8–03, has acquired or proposes to acquire one or more properties that in the aggregate are significant, the following shall be furnished with respect to such properties:

* * * * *

■ 40. Amend § 210.9–03 by:
■ a. Revising paragraph 3;
■ b. Removing paragraph 6.(a) and removing and reserving paragraph 7.(d); and
■ c. Revising paragraphs 7.(e)(3), 10, and 12.(a).

The revisions read as follows:

§ 210.9–03 Balance sheets.

* * * * *

3. *Federal funds sold and securities purchased under resale agreements or similar arrangements.*

* * * * *

7. * * *

(e) * * *

(3) Notwithstanding the aggregate disclosure called for by paragraph (e)(1) of this section, if any loans were not made in the ordinary course of business during any period for which a statement of comprehensive income is required to be filed, provide an appropriate description of each such loan.

* * * * *

10. *Other assets.* Disclose separately on the balance sheet or in a note thereto any of the following assets or any other asset the amount of which exceeds thirty percent of stockholders equity. The remaining assets may be shown as one amount.

(1) Goodwill.

(2) Other intangible assets (net of amortization).

(3) Investments in and indebtedness of affiliates and other persons.

(4) Other real estate.

(a) Disclose in a note the basis at which other real estate is carried. A reduction to fair market value from the carrying value of the related loan at the time of acquisition shall be accounted for as a loan loss. Any allowance for losses on other real estate which has been established subsequent to acquisition should be deducted from other real estate. For each period for which a statement of comprehensive income is required, disclosures should be made in a note as to the changes in the allowances, including balance at beginning and end of period, provision charged to income, and losses charged to the allowance.

* * * * *

12. * * *

(a) The amount of noninterest bearing deposits and interest bearing deposits in foreign banking offices must be presented if the disclosure provided by § 210.9–05 is required.

* * * * *

■ 41. Amend § 210.9–04 by:
■ a. Revising the section heading and introductory text;
■ b. Revising paragraph 13.(h);
■ c. Removing and reserving paragraphs 14.(c), 17, 18, and 19;
■ d. Redesignating paragraph 23 as paragraph 27; and
■ e. Adding new paragraph 23 and paragraphs 24, 25, and 26.

The revisions and additions read as follows:

§ 210.9–04 Statements of comprehensive income.

The purpose of this section is to indicate the various items which, if applicable, should appear on the face of the statement of comprehensive income or in the notes thereto.

* * * * *

13. * * *

(h) Investment securities gains or losses. Related income taxes shall be disclosed.

* * * * *

23. *Other comprehensive income.* State separately the components of and the total for other comprehensive income. Present the components either net of related tax effects or before related tax effects with one amount shown for the aggregate income tax expense or benefit. State the amount of income tax expense or benefit allocated to each component, including reclassification adjustments, in the statement of comprehensive income or in a note.

24. *Comprehensive income.*

25. *Comprehensive income attributable to the noncontrolling interest.*

26. *Comprehensive income attributable to the controlling interest.*

* * * * *

■ 42. Amend § 210.9–05 by revising paragraph (b)(2) to read as follows:

§ 210.9–05 Foreign activities.

* * * * *

(b) * * *

(2) For each period for which a statement of comprehensive income is filed, state the amount of revenue, income (loss) before taxes, and net income (loss) associated with foreign activities. Disclose significant estimates and assumptions (including those related to the cost of capital) used in allocating revenue and expenses to foreign activities; describe the nature and effects of any changes in such estimates and assumptions which have a significant impact on interperiod comparability.

* * * * *

■ 43. Revise § 210.9–06 to read as follows:

§ 210.9–06 Condensed financial information of registrant.

The information prescribed by § 210.12–04 shall be presented in a note to the financial statements when the restricted net assets (§ 210.1–02(dd)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year. The investment in and indebtedness of and to bank subsidiaries shall be stated separately in the condensed balance sheet from amounts for other subsidiaries; the amount of cash dividends paid to the registrant for each of the last three years by bank subsidiaries shall be stated separately in the condensed statement of comprehensive income from amounts for other subsidiaries.

■ 44. Amend § 210.10–01 by:
■ a. Revising paragraphs (a)(3), (5), and (7);
■ b. Revising paragraphs (b)(1) through (3);
■ c. Removing and reserving paragraphs (b)(4) and (5); and
■ d. Revising paragraphs (b)(6) through (8), (c)(2) and (4), and (d).

The revisions read as follows:

§ 210.10–01 Interim financial statements.

(a) * * *

(3) Interim statements of comprehensive income shall also include major captions prescribed by the applicable sections of part 210 of this chapter (Regulation S–X). When any major statement of comprehensive income (or statement of net income if comprehensive income is presented in two separate but consecutive financial statements) caption is less than 15% of average net income for the most recent three fiscal years and the amount in the caption has not increased or decreased by more than 20% as compared to the corresponding interim period of the preceding fiscal year, the caption may be combined with others. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test. Notwithstanding these tests, § 210.4–02 applies and de minimis amounts therefore need not be shown separately, except that registrants reporting under § 210.9 shall show investment securities gains or losses separately regardless of size.

* * * * *

(5) The interim financial information shall include disclosures either on the face of the financial statements or in accompanying footnotes sufficient so as to make the interim information presented not misleading. Registrants may presume that users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year and that the adequacy of additional disclosure needed for a fair presentation may be determined in that context. Accordingly, footnote disclosure which would substantially duplicate the disclosure contained in the most recent annual report to security holders or latest audited financial statements, such as a statement of significant accounting policies and practices, details of accounts which have not changed significantly in amount or composition since the end of the most recently completed fiscal year, and detailed disclosures prescribed by § 210.4–08 may be omitted.

* * * * *

(7) Provide the information required by § 210.3–04 for the current and comparative year-to-date periods, with subtotals for each interim period.

(b) * * *

(1) Summarized statement of comprehensive income information shall be given separately as to each subsidiary not consolidated or 50 percent or less owned persons or as to each group of such subsidiaries or fifty percent or less owned persons for which separate individual or group statements would otherwise be required for annual periods. Such summarized information, however, need not be furnished for any such unconsolidated subsidiary or person which would not be required pursuant to § 240.13a–13 or § 240.15d–13 of this chapter to file quarterly financial information with the Commission if it were a registrant.

(2) The basis of the earnings per share computation shall be stated together with the number of shares used in the computation.

(3) If, during the most recent interim period presented, the registrant or any of its consolidated subsidiaries entered into a combination between entities under common control, supplemental disclosure of the separate results of the combined entities for periods prior to the combination shall be given, with appropriate explanations.

* * * * *

(6) For filings on Form 10–Q (§ 249.308(a) of this chapter), a letter from the registrant's independent accountant shall be filed as an exhibit (in accordance with the provisions of 17 CFR 229.601 (Item 601 of Regulation S–K)) in the first Form 10–Q after the date of an accounting change indicating whether or not the change is to an alternative principle which, in the accountant's judgment, is preferable under the circumstances; except that no letter from the accountant need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board that requires such change.

(7) Any material retroactive prior period adjustment made during any period covered by the interim financial statements shall be disclosed, together with the effect thereof upon net income—total and per share—of any prior period included and upon the balance of retained earnings. If results of operations for any period presented have been adjusted retroactively by such an item subsequent to the initial reporting of such period, similar disclosure of the effect of the change shall be made.

(8) Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

(c) * * *

(2) Interim statements of comprehensive income shall be provided for the most recent fiscal quarter, for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the corresponding periods of the preceding fiscal year. Such statements may also be presented for the cumulative twelve month period ended during the most recent fiscal quarter and for the corresponding preceding period.

* * * * *

(4) Registrants engaged in seasonal production and sale of a single-crop agricultural commodity may provide interim statements of comprehensive income and cash flows for the twelve month period ended during the most recent fiscal quarter and for the corresponding preceding period in lieu of the year-to-date statements specified in paragraphs (c)(2) and (3) of this section.

(d) *Interim review by independent public accountant.* Prior to filing, interim financial statements included in quarterly reports on Form 10–Q (17 CFR 249.308(a)) must be reviewed by an independent public accountant using applicable professional standards and procedures for conducting such reviews, as may be modified or supplemented by the Commission. If, in any filing, the company states that interim financial statements have been reviewed by an independent public accountant, a report of the accountant on the review must be filed with the interim financial statements.

* * * * *

■ 45. Amend § 210.11–02 by:

■ a. Revising paragraphs (b)(1) and (3) and (b)(5) through (7);

■ b. Redesignating the Instructions following paragraph (b)(8) consecutively as Instruction 1 to paragraph (b), Instruction 2 to paragraph (b), Instruction 3 to paragraph (b), Instruction 4 to paragraph (b), Instruction 5 to paragraph (b), Instruction 6 to paragraph (b), and Instruction 7 to paragraph (b);

■ c. Revising newly redesignated Instruction 1 to paragraph (b), Instruction 2 to paragraph (b), Instruction 5 to paragraph (b), and Instruction 7 to paragraph (b); and

■ d. Revising paragraphs (c)(2) through (4).

The revisions read as follows:

§ 210.11–02 Preparation requirements.

* * * * *

(b) * * *

(1) Pro forma financial information shall consist of a pro forma condensed balance sheet, pro forma condensed statements of comprehensive income, and accompanying explanatory notes. In certain circumstances (*i.e.,* where a limited number of pro forma adjustments are required and those adjustments are easily understood), a narrative description of the pro forma effects of the transaction may be furnished in lieu of the statements described herein.

* * * * *

(3) The pro forma condensed financial information need only include major captions (*i.e.,* the numbered captions) prescribed by the applicable sections of part 210 of this chapter (Regulation S–X). Where any major balance sheet caption is less than 10 percent of total assets, the caption may be combined with others. When any major statement of comprehensive income caption is less than 15 percent of average net income attributable to the registrant for the most recent three fiscal years, the caption may be combined with others. In calculating average net income

attributable to the registrant, loss years should be excluded unless losses were incurred in each of the most recent three years, in which case the average loss shall be used for purposes of this test. Notwithstanding these tests, *de minimis* amounts need not be shown separately.

* * * * *

(5) The pro forma condensed statement of comprehensive income shall disclose income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction. Material nonrecurring charges or credits and related tax effects which result directly from the transaction and which will be included in the income of the registrant within the 12 months succeeding the transaction shall be disclosed separately. It should be clearly indicated that such charges or credits were not considered in the pro forma condensed statement of comprehensive income. If the transaction for which pro forma financial information is presented relates to the disposition of a business, the pro forma results should give effect to the disposition and be presented under an appropriate caption.

(6) Pro forma adjustments related to the pro forma condensed statement of comprehensive income shall be computed assuming the transaction was consummated at the beginning of the fiscal year presented and shall include adjustments which give effect to events that are directly attributable to the transaction, expected to have a continuing impact on the registrant, and factually supportable. Pro forma adjustments related to the pro forma condensed balance sheet shall be computed assuming the transaction was consummated at the end of the most recent period for which a balance sheet is required by § 210.3–01 and shall include adjustments which give effect to events that are directly attributable to the transaction and factually supportable regardless of whether they have a continuing impact or are nonrecurring. All adjustments should be referenced to notes which clearly explain the assumptions involved.

(7) Historical primary and fully diluted per share data based on continuing operations (or net income if the registrant does not report discontinued operations) for the registrant, and primary and fully diluted pro forma per share data based on continuing operations before nonrecurring charges or credits directly attributable to the transaction shall be presented on the face of the pro forma condensed statement of comprehensive income together with the number of shares used to compute such per share data. For transactions involving the issuance of securities, the number of shares used in the calculation of the pro forma per share data should be based on the weighted average number of shares outstanding during the period adjusted to give effect to shares subsequently issued or assumed to be issued had the particular transaction or event taken place at the beginning of the period presented. If a convertible security is being issued in the transaction, consideration should be given to the possible dilution of the pro forma per share data.

(8) * * *

Instruction 1 to paragraph (b). The historical statement of comprehensive income used in the pro forma financial information shall not report discontinued operations. If the historical statement of comprehensive income includes such items, only the portion of the statement of comprehensive income through ''income from continuing operations'' (or the appropriate modification thereof) should be used in preparing pro forma results.

Instruction 2 to paragraph (b). For a business combination, pro forma adjustments for the statement of comprehensive income shall include amortization, depreciation and other adjustments based on the allocated purchase price of net assets acquired. In some transactions, such as in financial institution acquisitions, the purchase adjustments may include significant discounts of the historical cost of the acquired assets to their fair value at the acquisition date. When such adjustments will result in a significant effect on earnings (losses) in periods immediately subsequent to the acquisition which will be progressively eliminated over a relatively short period, the effect of the purchase adjustments on reported results of operations for each of the next five years should be disclosed in a note.

* * * * *

Instruction 5 to paragraph (b). Adjustments to reflect the acquisition of real estate operations or properties for the pro forma statement of comprehensive income shall include a depreciation charge based on the new accounting basis for the assets, interest financing on any additional or refinanced debt, and other appropriate adjustments that can be factually supported. See also Instruction 4 to this paragraph (b).

* * * * *

Instruction 7 to paragraph (b). Tax effects, if any, of pro forma adjustments normally should be calculated at the statutory rate in effect during the periods for which pro forma condensed statements of comprehensive income are presented and should be reflected as a separate pro forma adjustment.

(c) * * *

(2)(i) Pro forma condensed statements of comprehensive income shall be filed for only the most recent fiscal year and for the period from the most recent fiscal year end to the most recent interim date for which a balance sheet is required. A pro forma condensed statement of comprehensive income may be filed for the corresponding interim period of the preceding fiscal year. A pro forma condensed statement of comprehensive income shall not be filed when the historical statement of comprehensive income reflects the transaction for the entire period.

(ii) For combinations between entities under common control, the pro forma statements of comprehensive income (which are in effect a restatement of the historical statements of comprehensive income as if the combination had been consummated) shall be filed for all periods for which historical statements of comprehensive income of the registrant are required.

(3) Pro forma condensed statements of comprehensive income shall be presented using the registrant's fiscal year end. If the most recent fiscal year end of any other entity involved in the transaction differs from the registrant's most recent fiscal year end by more than 93 days, the other entity's statement of comprehensive income shall be brought up to within 93 days of the registrant's most recent fiscal year end, if practicable. This updating could be accomplished by adding subsequent interim period results to the most recent fiscal year-end information and deducting the comparable preceding year interim period results. Disclosure shall be made of the periods combined and of the sales or revenues and income for any periods which were excluded from or included more than once in the condensed pro forma statements of comprehensive income (*e.g.,* an interim period that is included both as part of the fiscal year and the subsequent interim period). For investment companies subject to §§ 210.6–01 through 210.6–10, the periods covered by the pro forma statements must be the same.

(4) Whenever unusual events enter into the determination of the results shown for the most recently completed fiscal year, the effect of such unusual events should be disclosed and consideration should be given to presenting a pro forma condensed

statement of comprehensive income for the most recent twelve-month period in addition to those required in paragraph (c)(2)(i) of this section if the most recent twelve-month period is more representative of normal operations.

■ 46. Amend § 210.11–03 by revising paragraphs (a) introductory text and (a)(2) to read as follows:

§ 210.11–03 Presentation of financial forecast.

(a) A financial forecast may be filed in lieu of the pro forma condensed statements of comprehensive income required by § 210.11–02(b)(1).

* * * * *

(2) The forecasted statement of comprehensive income shall be presented in the same degree of detail as the pro forma condensed statement of comprehensive income required by § 210.11–02(b)(3).

* * * * *

■ 47. Amend § 210.12–16 by revising footnotes 4 and 5 to read as follows:

§ 210.12–16 Supplementary insurance information.

* * * * *

[4] The total of columns I and J should agree with the amount shown for statement of comprehensive income caption 7.

[5] Totals should agree with the indicated balance sheet and statement of comprehensive income caption amounts, where a caption number is shown.

■ 48. Amend § 210.12–17 by revising footnote 2 to read as follows:

§ 210.12–17 Reinsurance.

* * * * *

[2] This Column represents the total of column B less column C plus column D. The total premiums in this column should represent the amount of premium revenue on the statement of comprehensive income (or statement of net income if comprehensive income is presented in two separate but consecutive financial statements).

* * * * *

■ 49. Amend § 210.12–18 by revising footnote 1 to read as follows:

§ 210.12–18 Supplemental information (for property-casualty insurance underwriters).

* * * * *

[1] Information included in audited financial statements, including other schedules, need not be repeated in this schedule. Columns B, C, D, and E are as of the balance sheet dates, columns F, G, H, I, J, and K are for the same periods for which statements of comprehensive income are presented in the registrant's audited consolidated financial statements.

* * * * *

■ 50. Amend § 210.12–21 by revising footnote 4 to read as follows:

§ 210.12–21 Investments in securities of unaffiliated issuers.

* * * * *

[4] If any investments have been written down or reserved against by such companies pursuant to § 210.6–03(d), indicate each such item by means of an appropriate symbol and explain in a footnote.

* * * * *

■ 51. Amend § 210.12–22 by revising footnotes 1(a), 4(b), and 6 to read as follows:

§ 210.12–22 Investments in and advances to affiliates and income thereon.

* * * * *

[1] * * *

(a) The required information is to be given as to all investments in affiliates as of the close of the period. See §§ 210.6–06(1), 210.6–06(5)(b), 210.6–06(8)(a)(2), and 210.6–06(8)(a)(3). List each issue and group separately (1) investments in majority-owned subsidiaries, segregating subsidiaries consolidated; (2) other controlled companies; and (3) other affiliates. Give totals for each group. If operations of any controlled companies are different in character from those of the registrant, group such affiliates within divisions (1) and (2) by type of activities.

* * * * *

[4] * * *

(b) If any investments have been written down or reserved against by such companies pursuant to § 210.6–03(d), indicate each such item by means of an appropriate symbol and explain in a footnote.

* * * * *

[6] Show in column E(1) as to each issue held at close of period, the dividends or interest included in caption 1 of the profit and loss or income statement. In addition, show as the final item in column E(1) the aggregate dividends and interest included in the profit and loss or income statement in respect of investments in affiliates not held at the close of the period. The total of this column should agree with the amounts shown under such caption. Include in column E(2) all other dividends and interest. Explain briefly in an appropriate footnote the treatment accorded each item. Identify by an appropriate symbol all non-cash dividends and explain the circumstances in a footnote. See §§ 210.6–06(3)(a)(2), 210.6–03(g), and 210.6–07(1).

* * * * *

■ 52. Amend § 210.12–23 by revising footnotes 9 and 12 to read as follows:

§ 210.12–23 Mortgage loans on real estate and interest earned on mortgages.[1]

* * * * *

[9] If any item of mortgage loans on real estate investments has been written down or reserved against pursuant to § 210.6–03 describe the item and explain the basis for the write-down or reserve.

* * * * *

[12] Summarize the aggregate amounts for each column applicable to § 210.6–06(1) and 6–06(5)(a).

■ 53. Amend § 210.12–24 by revising the column headings to the first table and by revising footnotes 5 and 8 to read as follows:

§ 210.12–24 Real estate owned and rental income.[1]

* * * * *

Part 1—Real estate owned at end of period						Part 2—Rental income			
Column A—List classification of property as indicated below[2 3]	Column B—Amount of incumbrances	Column C—Initial cost to company	Column D—Cost of improvements, etc.	Column E—Amount at which carried at close of period[4 5 6 7]	Column F—Reserve for depreciation	Column G—Rents due and accrued at end of period	Column H—Total rental income applicable to period	Column I—Expended for interest, taxes, repairs and expenses	Column J—Net income applicable to period
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

[1] All money columns shall be totaled.

* * * * *

[5] If any item of real estate investments has been written down or reserved against pursuant to § 210.6–03(d), describe the item and explain the basis for the write-down or reserve.

* * * * *

[8] Summarize the aggregate amounts for each column applicable to § 210.6–06(1) and 6–06(5)(a).

■ 54. Amend § 210.12–27 by revising footnote 3 to read as follows:

§ 210.12–27 Qualified assets on deposit.[1]

* * * * *

[1] All money columns shall be totaled.

* * * * *

[3] Total of column F shall agree with note required by § 210.6–06(4) as to total amount of qualified Assets on Deposit.

■ 55. Amend § 210.12–28 by revising the heading in Column I of the table to read ''Life on which depreciation in latest statements of comprehensive income is computed'' and by revising the first sentence of footnote 4.

The revision reads as follows:

§ 210.12–28 Real estate and accumulated depreciation.[1]

* * * * *

[1] All money columns shall be totaled.

* * * * *

[4] In a note to this schedule, furnish a reconciliation, in the following form, of the total amount at which real estate was carried at the beginning of each period for which statements of comprehensive income are required, with the total amount shown in column E:

* * * * *

■ 56. Amend § 210.12–29 by revising footnote 6 introductory text to read as follows:

§ 210.12–29 Mortgage loans on real estate.[1]

* * * * *

[1] All money columns shall be totaled.

* * * * *

[6] In a note to this schedule, furnish a reconciliation, in the following form, of the carrying amount of mortgage loans at the beginning of each period for which statements of comprehensive income are required, with the total amount shown in column G:

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 57. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78*o,* 78u-5, 78w, 78*ll,* 78 mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; sec. 953(b), Pub. L. 111–203, 124 Stat. 1904 (2010); and sec. 102(c), Pub. L. 112–106, 126 Stat. 310 (2012).

■ 58. Amend § 229.10 by revising paragraphs (b)(2) and (e)(2)(i) to read as follows:

§ 229.10 (Item 10) General.

* * * * *

(b) * * *

(2) *Format for projections.* In determining the appropriate format for projections included in Commission filings, consideration must be given to, among other things, the financial items to be projected, the period to be covered, and the manner of presentation to be used. Although traditionally projections have been given for three financial items generally considered to be of primary importance to investors (revenues, net income (loss) and earnings (loss) per share), projection information need not necessarily be limited to these three items. However, management should take care to assure that the choice of items projected is not susceptible of misleading inferences through selective projection of only favorable items. Revenues, net income (loss) and earnings (loss) per share usually are presented together in order to avoid any misleading inferences that may arise when the individual items reflect contradictory trends. There may be instances, however, when it is appropriate to present earnings (loss) from continuing operations in addition to or in lieu of net income (loss). It generally would be misleading to present sales or revenue projections without one of the foregoing measures of income. The period that appropriately may be covered by a projection depends to a large extent on the particular circumstances of the company involved. For certain companies in certain industries, a projection covering a two or three year period may be entirely reasonable. Other companies may not have a reasonable basis for projections beyond the current year. Accordingly, management should select the period most appropriate in the circumstances. In addition, management, in making a projection, should disclose what, in its opinion, is the most probable specific amount or the most reasonable range for each financial item projected based on the selected assumptions. Ranges, however, should not be so wide as to make the disclosures meaningless. Moreover, several projections based on varying assumptions may be judged by management to be more meaningful than a single number or range and would be permitted.

* * * * *

(e) * * *

(2) * * *

(i) Excludes amounts, or is subject to adjustments that have the effect of excluding amounts, that are included in the most directly comparable measure calculated and presented in accordance with GAAP in the statement of comprehensive income, balance sheet or statement of cash flows (or equivalent statements) of the issuer; or

* * * * *

■ 59. Amend § 229.101 by:

■ a. Removing and reserving paragraphs (b), (c)(1)(xi), and (d);

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

■ c. Removing and reserving paragraph (h)(4)(x); and

■ d. Revising paragraph (h)(5)(iii).

The revisions read as follows:

§ 229.101 (Item 101) Description of business.

* * * * *

(e) *Available information.* Disclose the information in paragraphs (e)(1), (e)(2) and (e)(3) of this section in any registration statement you file under the Securities Act (15 U.S.C. 77a *et seq.*), and disclose the information in paragraph (e)(3) of this section in your annual report on Form 10–K (§ 249.310 of this chapter). Further disclose the information in paragraph (e)(4) of this section if you are an accelerated filer or a large accelerated filer (as defined in § 240.12b–2 of this chapter) filing an annual report on Form 10–K (§ 249.310 of this chapter):

* * * * *

(2) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*).

(3) Disclose your internet address, if you have one.

* * * * *

(h) * * *

(5) * * *

(iii) State that the Commission maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the Commission and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

■ 60. Amend § 229.201 by:

■ a. Revising paragraph (a)(1);

■ b. Removing and reserving paragraphs (a)(2)(i) and (c)(1);

■ c. Removing the text and reserving Instruction 1 to the Instructions to Item 201;

■ d. Redesignating Instructions 1 through 5 to Item 201 consecutively as Instruction 1 to Item 201, Instruction 2 to Item 201, Instruction 3 to Item 201, Instruction 4 to Item 201 and Instruction 5 to Item 201; and

■ e. Revising newly redesignated Instruction 2 to Item 201.

The revisions read as follows:

§ 229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.

(a) * * *

(1)(i) Identify the principal United States market(s) and the corresponding trading symbol(s) for each class of the registrant's common equity. In the case of foreign registrants, also identify the principal foreign public trading market(s), if any, and the corresponding

trading symbol(s) for each class of the registrant's common equity.

(ii) If the principal United States market for such common equity is not an exchange, indicate, as applicable, that any over-the-counter market quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions.

(iii) Where there is no established public trading market for a class of common equity, furnish a statement to that effect and, if applicable, state the range of high and low bid information for each full quarterly period within the two most recent fiscal years and any subsequent interim period for which financial statements are included, or are required to be included by 17 CFR 210.3–01 through 210.3–20 (Article 3 of Regulation S–X), indicating the source of such quotations. Reference to quotations shall be qualified by appropriate explanation. For purposes of this Item the existence of limited or sporadic quotations should not of itself be deemed to constitute an ''established public trading market.''

* * * * *

Instruction 1 to Item 201. [Reserved]

Instruction 2 to Item 201. Bid information reported pursuant to this Item shall be adjusted to give retroactive effect to material changes resulting from stock dividends, stock splits and reverse stock splits.

* * * * *

■ 61. Amend § 229.302 by:
■ a. Revising paragraphs (a)(1) and (3);
■ b. Redesignating the Instructions to paragraph (b) consecutively as Instruction 1 to paragraph (b), Instruction 2 to paragraph (b), and Instruction 3 to paragraph (b); and
■ c. Revising paragraphs (a) and (c) of newly redesignated Instruction 1 to paragraph (b).

The revisions read as follows:

§ 229.302 (Item 302) Supplementary financial information.

(a) * * *

(1) Disclosure shall be made of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income (loss) from continuing operations, per share data based upon income (loss) from continuing operations, net income (loss), per share data based upon net income (loss) and net income (loss) attributable to the registrant, for each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included or are required to be included by 17 CFR 210.3–01 through 210.3–20 (Article 3 of Regulation S–X).

* * * * *

(3) Describe the effect of any discontinued operations and unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included or are required to be included by 17 CFR 210.3–01 through 210.3–20 (Article 3 of Regulation S–X), as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

* * * * *

(b) * * *

Instruction 1 to paragraph (b). (a) FASB ASC Subtopic 932–235 disclosures that relate to annual periods shall be presented for each annual period for which a statement of comprehensive income (as defined in § 210.1–02 of Regulation S–X) is required,

* * * * *

(c) FASB ASC Subtopic 932–235 disclosures required as of the beginning of an annual period shall be presented as of the beginning of each annual period for which a statement of comprehensive income (as defined in § 210.1–02 of Regulation S–X) is required.

* * * * *

■ 62. Amend § 229.303 by:
■ a. Revising the paragraphs (a) introductory text and (b)(2);
■ b. Redesignating paragraphs 1 through 7 of the Instructions to paragraph (b) of Item 303 as Instruction 1 to paragraph (b), Instruction 2 to paragraph (b), Instruction 3 to paragraph (b), Instruction 4 to paragraph (b), Instruction 5 to paragraph (b), Instruction 6 to paragraph (b), and Instruction 7 to paragraph (b), consecutively.
■ c. Removing and reserving newly redesignated Instruction 5 to paragraph (b); and
■ d. Adding an Instruction 8 to paragraph (b).

The revisions and addition read as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

(a) *Full fiscal years.* Discuss registrant's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a)(1) through (5) of this Item and also shall provide such other information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. Where in the registrant's judgment a discussion of segment information and/or of other subdivisions (*e.g.,* geographic areas) of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment and/or other subdivision of the business and on the registrant as a whole.

* * * * *

(b) * * *

(2) *Material changes in results of operations.* Discuss any material changes in the registrant's results of operations with respect to the most recent fiscal year-to-date period for which a statement of comprehensive income (or statement of operations if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) is provided and the corresponding year-to-date period of the preceding fiscal year. If the registrant is required to or has elected to provide a statement of comprehensive income (or statement of operations if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) for the most recent fiscal quarter, such discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the registrant has elected to provide a statement of comprehensive income (or statement of operations if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) for the twelve-month period ended as of the date of the most recent interim balance sheet provided, the discussion also shall cover material changes with respect to that twelve-month period and the twelve-month period ended as of the corresponding interim balance sheet date of the preceding fiscal year. Notwithstanding the above, if for purposes of a registration statement a registrant subject to § 210.3–03(b) of Regulation S–X of this chapter provides a statement of comprehensive income (or statement of operations if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) for the twelve-month period ended as of the date of the most recent interim balance sheet provided in lieu

of the interim statements of comprehensive income (or statement of operations if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) otherwise required, the discussion of material changes in that twelve-month period will be in respect to the preceding fiscal year rather than the corresponding preceding period.

* * * * *

Instruction 8 to paragraph (b). The term statement of comprehensive income shall mean a statement of comprehensive income as defined in § 210.1–02 of Regulation S–X of this chapter.

* * * * *

■ 63. Amend § 229.406 by revising paragraph (d) to read as follows:

§ 229.406 (Item 406) Code of ethics.

* * * * *

(d) If the registrant intends to satisfy the disclosure requirement under Item 5.05 of Form 8–K regarding an amendment to, or a waiver from, a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in paragraph (b) of this Item by posting such information on its internet website, disclose the registrant's internet address and such intention.

* * * * *

■ 64. Amend § 229.503 by:

■ a. Revising the section heading;

■ b. Removing paragraph (d) and the instructions to paragraph (d); and

■ c. Removing paragraph (e).

The revision reads as follows:

§ 229.503 (Item 503) Prospectus summary and risk factors.

* * * * *

■ 65. Amend § 229.504 by revising Instruction 3 to the Instructions to Item 504 to read as follows:

§ 229.504 (Item 504) Use of proceeds.

* * * * *

Instructions to Item 504: * * *

■ 3. If any material amounts of other funds are necessary to accomplish the specified purposes for which the proceeds are to be obtained, state the amounts of such other funds needed for each such specified purpose and the sources thereof.

* * * * *

■ 66. Amend § 229.508 by revising paragraph (e) introductory text to read as follows:

§ 229.508 (Item 508) Plan of distribution.

* * * * *

(e) *Underwriter's compensation.* Provide a table that sets out the nature of the compensation and the amount of discounts and commissions to be paid to the underwriter for each security and in total. The table must show the separate amounts to be paid by the company and the selling shareholders. In addition, include in the table all other items considered by the Financial Industry Regulatory Authority (''FINRA'') to be underwriting compensation for purposes of FINRA rules.

* * * * *

■ 67. Amend § 229.512 by revising paragraph (a)(4) to read as follows:

§ 229.512 (Item 512) Undertakings.

* * * * *

(a) * * *

(4) If the registrant is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A of Form 20–F (§ 249.220f of this chapter) at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Act (15 U.S.C. 77j(a)(3)) need not be furnished, *provided* that the registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph (a)(4) and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, with respect to registration statements on Form F–3 (§ 239.33 of this chapter), a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Act or Item 8.A of Form 20–F if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Form F–3.

* * * * *

■ 68. Amend § 229.601 by:

■ a. Removing and reserving entries (11) and (12) from the exhibit table in paragraph (a);

■ b. In entry (13) in the exhibit table in paragraph (a), adding an X in the column labelled ''10–Q'';

■ c. Removing and reserving entries (19), (22), and (26) from the exhibit table in paragraph (a);

■ d. Removing and reserving paragraphs (b)(11) and (12);

■ e. Revising paragraph (b)(14);

■ f. Removing and reserving paragraphs (b)(19), (22), and (26); and

■ g. Removing paragraph (c).

The revision reads as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) * * *

(14) *Code of ethics.* Any code of ethics, or amendment thereto, that is the subject of the disclosure required by § 229.406 (Item 406 of Regulation S–K) or Item 5.05 of Form 8–K (§ 249.308 of this chapter), to the extent that the registrant intends to satisfy the Item 406 or Item 5.05 requirements through filing of an exhibit.

* * * * *

■ 69. Amend § 229.1010 by:

■ a. Revising paragraph (a)(2);

■ b. Removing and reserving paragraph (a)(3);

■ c. Revising paragraph (b)(2); and

■ d. Removing and reserving paragraph (c)(4).

The revisions read as follows:

§ 229.1010 (Item 1010) Financial statements.

(a) * * *

(2) Unaudited balance sheets, comparative year-to-date statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X of this chapter) and related earnings per share data and statements of cash flows required to be included in the company's most recent quarterly report filed under the Exchange Act; and

* * * * *

(b) * * *

(2) The company's statement of comprehensive income and earnings per share for the most recent fiscal year and the latest interim period provided under paragraph (a)(2) of this section; and

* * * * *

■ 70. Amend § 229.1118 by revising paragraph (b)(2) to read as follows:

§ 229.1118 (Item 1118) Reports and additional information.

* * * * *

(b) * * *

(2) State that the Commission maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the Commission and state the address of that site (*http://www.sec.gov*).

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 71. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 72. Amend § 230.158 by:
■ a. Revising paragraph (a)(1) introductory text; and
■ b. Designating as Note 1 to paragraph (a) the undesignated text between paragraphs (a)(2)(ii) and (b) and revising it.

The revisions read as follows:

§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).

(a) * * *

(1) There is included the information required for statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X of this chapter) contained either:

* * * * *

Note 1 to paragraph (a). A subsidiary issuing debt securities guaranteed by its parent will be deemed to have met the requirements of this paragraph (a) if the parent's statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X) satisfy the criteria of this paragraph and information respecting the subsidiary is included to the same extent as was presented in the registration statement. An ''earning statement'' not meeting the requirements of this paragraph (a) may otherwise be sufficient for purposes of the last paragraph of section 11(a) of the Act.

* * * * *

■ 73. Amend § 230.405, in the definition of ''Significant subsidiary'' by:
■ a. Revising paragraphs (1) and (3)*;*
■ b. Adding a Note 1 following paragraph (3) before the Computational note;
■ c. Redesignating the Computational note as Computational note 1 to paragraph (3) and revising it.

The revisions and addition read as follows:

§ 230.405 Definitions of terms.

* * * * *

Significant subsidiary. * * *

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for a proposed combination between entities under common control, this condition is also met when the number of common shares exchanged or to be exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

* * * * *

(3) The registrant's and its other subsidiaries' equity in the income from continuing operations before income taxes of the subsidiary exclusive of amounts attributable to any noncontrolling interests exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Note 1: A registrant that files its financial statements in accordance with or provides a reconciliation to U.S. Generally Accepted Accounting Principles shall make the prescribed tests using amounts determined under U.S. Generally Accepted Accounting Principles. A foreign private issuer that files its financial statements in accordance with IFRS as issued by the IASB shall make the prescribed tests using amounts determined under IFRS as issued by the IASB.

Computational note 1 to paragraph (3): For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss exclusive of amounts attributable to any noncontrolling interests has been incurred by either the parent and its subsidiaries consolidated or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary exclusive of amounts attributable to any noncontrolling interests should be excluded from such income of the registrant and its subsidiaries consolidated for purposes of the computation.

2. If income of the registrant and its subsidiaries consolidated exclusive of amounts attributable to any noncontrolling interests for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

* * * * *

■ 74. Amend § 230.436 by revising paragraph (d)(4) to read as follows:

§ 230.436 Consents required in special cases.

* * * * *

(d) * * *

(4) A statement that a review of interim financial information is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB''), the objective of which is an expression of an opinion regarding the financial statements taken as a whole, and, accordingly, no such opinion is expressed; and

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 75. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l,* 78m, 78n, 78*o*(d), 78o–7 note, 78u–5, 78w(a), 78*ll,* 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

■ 76. Amend Form S–1 (referenced in § 239.11) by revising the heading of Item 3 and revising Item 12.(c)(2)(ii) to read as follows:

Note: The text of Form S–1 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM S–1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I—INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 3. Summary Information and Risk Factors.

* * * * *

Item 12. Incorporation of Certain Information by Reference.

* * * * *

(c) * * *

(2) * * *

(ii) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*).

* * * * *

■ 77. Amend Form S–3 (referenced in § 239.13) by:
■ a. Revising General Instruction I.B.2;
■ b. Revising General Instruction I.C.2 and I.D.1.(c)(iv) to remove the text, ''(Primary Offerings of Non-Convertible Investment Grade Securities)'' and add, in its place, the words ''(Primary Offerings of Non-Convertible Securities Other than Common Equity)'';
■ c. Revising the heading of Item 3;
■ d. Revising Item 12.(c)(2)(ii); and
■ e. Removing Instruction 3 to the Instructions to Signatures.

The revisions read as follows:

Note: The text of Form S–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM S–3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

I. Eligibility Requirements for Use of Form S–3

* * * * *

B. Transaction Requirements. * * *

2. *Primary Offerings of Non-Convertible Securities Other than Common Equity.* Non-convertible securities, other than common equity, to be offered for cash by or on behalf of a registrant, provided the registrant:

(i) Has issued (as of a date within 60 days prior to the filing of the registration statement) at least $1 billion in non-convertible securities, other than common equity, in primary offerings for cash, not exchange, registered under the Securities Act, over the prior three years; or

(ii) has outstanding (as of a date within 60 days prior to the filing of the registration statement) at least $750 million of non-convertible securities, other than common equity, issued in primary offerings for cash, not exchange, registered under the Securities Act; or

(iii) is a wholly-owned subsidiary of a well-known seasoned issuer (as defined in 17 CFR 230.405); or

(iv) is a majority-owned operating partnership of a real estate investment trust that qualifies as a well-known seasoned issuer (as defined in 17 CFR 230.405).

* * * * *

C. Majority-Owned Subsidiaries. * * *

2. the parent of the registrant-subsidiary meets the Registrant Requirements and the conditions of Transaction Requirements B.2. (Primary Offerings of Non-Convertible Securities Other than Common Equity) are met;

* * * * *

D. Automatic Shelf Offerings by Well-Known Seasoned Issuers. * * *

1. * * *

(c) * * *

(iv) Securities of a majority-owned subsidiary that meet the conditions of Transaction Requirement I.B.2. of this Form (Primary Offerings of Non-Convertible Securities Other than Common Equity).

* * * * *

PART I

INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 3. Summary Information and Risk Factors.

* * * * *

Item 12. Incorporation of Certain Information by Reference.

* * * * *

(c) * * *

(2) * * *

(ii) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

■ 78. Amend Form S–11 (referenced in § 239.18) by revising the heading of Item 3 and revising Item 29.(b)(2)(ii) to read as follows:

Note: The text of Form S–11 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM S–11

FOR REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF SECURITIES OF CERTAIN REAL ESTATE COMPANIES

* * * * *

PART I. INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 3. Summary Information and Risk Factors.

* * * * *

Item 29. Incorporation of Certain Information by Reference.

* * * * *

(b) * * *

(2) * * *

(ii) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*).

* * * * *

■ 79. Amend Form S–4 (referenced in § 239.25) by revising the heading of Item 3 and revising Items 11.(c)(2) and 13.(d)(2) to read as follows:

Note: The text of Form S–4 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM S–4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED IN THE PROSPECTUS

* * * * *

Item 3. Risk Factors and Other Information.

* * * * *

Item 11. Incorporation of Certain Information by Reference.

* * * * *

(c) * * *

(2) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

Item 13. Incorporation of Certain Information by Reference.

* * * * *

(d) * * *

(2) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

■ 80. Amend Form F–1 (referenced in § 239.31) by:

■ a. Revising General Instruction II.C;

■ b. Revising the heading of Item 3;

■ c. Revising Item 4.b;

■ d. Removing and reserving Item 4.c;

■ e. Revising Item 4.d;

■ f. Adding Item 4.e;

■ g. Removing Instruction 2 to Item 4;

■ h. Revising Item 4A.(b)1.iii.;

■ i. Revising the Instruction to Item 4A; and

■ j. Revising Item 5.(b)2.ii.

The revisions and addition read as follows:

Note: The text of Form F–1 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

II. Application of General Rules and Regulations

* * * * *

C. A registrant must file the Form F–1 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

PART I—INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 3. Summary Information and Risk Factors.

* * * * *

Item 4. Information with Respect to the Registrant and the Offering.

* * * * *

b. Information required by Item 18 of Form 20–F (Schedules required under Regulation S–X shall be filed as ''Financial Statement Schedules Pursuant to Item 8, Exhibit and Financial Statement Schedules, of this Form), as well as any information required by Rule 3–05 and Article 11 of Regulation S–X (part 210 of this chapter).

* * * * *

d. Information required by Item 16F of Form 20–F.

e. State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

Item 4A. Material Changes.

* * * * *

(b)

1. * * *

iii. Restated financial statements where a combination of entities under common control has been consummated subsequent to the most recent fiscal year and the transferred businesses, considered in the aggregate, are significant under Rule 11–01(b) (§ 210.11–01(b) of this chapter); or

* * * * *

Instruction. Financial statements or information required to be furnished by this Item shall be reconciled pursuant to Item 18 of Form 20–F.

* * * * *

Item 5. Incorporation of Certain Information by Reference.

* * * * *

(b) * * *

2. * * *

ii. State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*).

* * * * *

■ 81. Amend Form F–3 (referenced in § 239.33) by:

■ a. Revising General Instructions I.B.2, I.B.3, I.B.4 and II.D;

■ b. Revising the heading of Item 3;

■ c. Revising Item 5 Instructions 1 and 2; and

■ d. Revising Item 6.(e)(2).

The revisions read as follows:

Note: The text of Form F–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

I. Eligibility Requirements for Use of Form F–3

* * * * *

B. Transaction Requirements

* * * * *

2. Primary Offerings of Non-Convertible Securities Other than Common Equity. Non-convertible securities, other than common equity, to be offered for cash by or on behalf of a registrant, provided the registrant:

(i) Has issued (as of a date within 60 days prior to the filing of the registration statement) at least $1 billion in non-convertible securities, other than common equity, in primary offerings for cash, not exchange, registered under the Securities Act, over the prior three years; or

(ii) has outstanding (as of a date within 60 days prior to the filing of the registration statement) at least $750 million of non-convertible securities, other than common equity, issued in primary offerings for cash, not exchange, registered under the Securities Act; or

(iii) is a wholly-owned subsidiary of a well-known seasoned issuer (as defined in 17 CFR 230.405); or

(iv) is a majority-owned operating partnership of a real estate investment trust that qualifies as a well-known seasoned issuer (as defined in 17 CFR 230.405).

* * * * *

3. Transactions Involving Secondary Offerings. Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities. The financial statements included in this registration statement must comply with Item 18 of Form 20–F. In addition, Form F–3 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction C to Form S–8 (§ 239.16b of this chapter). In the case of such securities, the financial statements included in this registration statement must comply with Item 18 of Form 20–F (§ 249.220f of this chapter).

4. Rights Offerings, Dividend or Interest Reinvestment Plans, and Conversions or Warrants. Securities to be offered: (a) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (b) pursuant to a dividend or interest reinvestment plan; or (c) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer. The financial statements included in this registration statement must comply with Item 18 of Form 20–F. The registration of securities to be offered or sold in a standby underwriting in the United States or similar arrangement is not permitted pursuant to this paragraph. See paragraphs B.1., B.2., and B.3. of this Instruction.

* * * * *

II. Application of General Rules and Regulations

* * * * *

D. A registrant must file the Form F–3 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with EDGAR

questions, call the Filer Support Office at (202) 551–8900.

* * * * *

PART I—INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 3. Summary Information and Risk Factors.

* * * * *

Item 5. Material Changes.

* * * * *

Instructions

1. Financial statements or information required to be furnished by this Item shall be reconciled pursuant to Item 18 of Form 20–F.

2. Material changes to be disclosed pursuant to Item 5(a) include changes in and disagreements with registrant's certifying accountant. Disclosure pursuant to Item 16F of Form 20–F should be provided as of the date of the registration statement or prospectus.

Item 6. Incorporation of Certain Information by Reference.

* * * * *

(e) * * *

(2) state that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

■ 82. Amend Form F–4 (referenced in § 239.34) by:

■ a. Revising General Instruction D.4;

■ b. Revising the heading of Item 3;

■ c. Revising Instruction 1 of the instructions to paragraphs (e) and (f) of Item 3;

■ d. Revising Item 10.(c)(3);

■ e. Revising paragraph 1 of the Instructions between Items 11(a) and (b);

■ f. Revising Item 11.(c)(2);

■ g. Revising the introductory text of Items 12 and 12.(b)(2)

■ h. Revising Items 12.(b)(2)(iv) and 12.(b)(3)(vii) and (ix);

■ i. Revising paragraph 1 of the Instructions between Items 13.(b) and (c);

■ j. Revising Item 13.(c)(2); and

■ k. Revising Items 14.(h) and 14.(j).

The revisions read as follows:

Note: The text of Form F–4 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

D. Application of General Rules and Regulations.

* * * * *

4. A registrant must file the Form F–4 registration statement in electronic format via the Commission's Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232), except that a registrant that has obtained a hardship exception under Regulation S–T Rule 201 or 202 (17 CFR 232.201 or 232.202) may file the registration statement in paper. For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

PART I

INFORMATION REQUIRED IN THE PROSPECTUS

* * * * *

Item 3. Risk Factors and Other Information.

* * * * *

Instructions to paragraphs (e) and (f).

1. For a business combination accounted for as a purchase, the financial information required by paragraphs (e) and (f) shall be presented only for the most recent fiscal year and interim period. For a combination of entities under common control, the financial information required by paragraphs (e) and (f) (except for information with regard to book value) shall be presented for the most recent three fiscal years and interim period. For a combination of entities under common control, information with regard to book value shall be presented as of the end of the most recent fiscal year and interim period. Equivalent pro forma per share amounts shall be calculated by multiplying the pro forma income (loss) per share before non-recurring charges or credits directly attributable to the transaction, pro forma book value per share, and the pro forma dividends per share of the registrant by the exchange ratio so that the per share amounts are equated to the respective values for one share of the company being acquired.

* * * * *

Item 10. Information With Respect to F–3 Companies.

* * * * *

(c) * * *

(3) Restated financial statements prepared in accordance with or, if prepared using a basis of accounting other than IFRS as issued by the IASB, reconciled to U.S. GAAP and Regulation S–X where one or more business combinations accounted for as combinations of entities under common control have been consummated subsequent to the most recent fiscal year and the transferred businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X (§ 210.11–01(b) of this chapter); or

* * * * *

Item 11. Incorporation of Certain Information by Reference.

* * * * *

(a) * * *

Instructions

1. All annual reports or registration statements incorporated by reference pursuant to Item 11 of this Form shall contain financial statements that comply with Item 18 of Form 20–F.

* * * * *

(c) * * *

(2) state that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

Item 12. Information with Respect to F–3 Registrants.

If the registrant meets the requirements for use of Form F–3 or Form S–3 and elects to comply with this Item, furnish the information required by either paragraph (a) or (b) of this Item. However, the registrant shall not provide prospectus information in the manner allowed by paragraph (a) of this Item if the financial statements incorporated by reference pursuant to Item 13 reflect: (1) Restated financial statements prepared in accordance with or reconciled to U.S. GAAP and Regulation S–X if there has been a change in accounting principles or a correction of an error where such a change or correction requires a material retroactive statement of financial statements; (2) restated financial statements prepared in accordance with or reconciled to U.S. GAAP and Regulation S–X where a combination of

entities under common control has been consummated subsequent to the most recent fiscal year and the transferred businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; or (3) any financial information required because of a material disposition of assets outside of the normal course of business.

* * * * *

(b) * * *

(2) Include financial statements and information as required by Item 18 of Form 20–F. In addition, provide: * * *

(iv) Restated financial statements prepared in accordance with or, if prepared using a basis of accounting other than IFRS as issued by the IASB, reconciled to U.S. GAAP and Regulation S–X where a combination of entities under common control has been consummated subsequent to the most recent fiscal year and the transferred businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; and

* * * * *

(3) * * *

(vii) Financial statements required by Item 18 of Form 20–F, and financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which the securities being registered are to be issued;

* * * * *

(ix) Item 16F of Form 20–F, change in registrant's certifying accountant.

Item 13. Incorporation of Certain Information by Reference.

* * * * *

(b) * * *

Instructions

1. All annual reports incorporated by reference pursuant to Item 13 of this Form shall contain financial statements that comply with Item 18 of Form 20–F.

* * * * *

(c) * * *

(2) state that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

Item 14. Information With Respect to Registrants Other Than F–3 Registrants.

* * * * *

(h) Financial statements required by Item 18 of Form 20–F. In addition, financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which the securities being registered are to be issued. (Schedules required by Regulation S–X shall be filed as ''Financial Statement Schedules'' pursuant to Item 21 of this Form.);

* * * * *

(j) Item 16F of Form 20–F, change in registrant's certifying accountant.

* * * * *

■ 83. Amend Form F–6 (referenced in § 239.36) by revising the first paragraph of General Instruction III.C to read as follows:

Note: The text of Form F–6 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–6

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 FOR DEPOSITARY SHARES EVIDENCED BY AMERICAN DEPOSITARY RECEIPTS

* * * * *

GENERAL INSTRUCTIONS

* * * * *

III. Application of General Rules and Regulations

* * * * *

C. You must file the Form F–6 registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 84. Amend Form F–7 (referenced in § 239.37) by revising the first paragraph of General Instruction II.C to read as follows:

Note: The text of Form F–7 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–7

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

II. Application of General Rules and Regulations

* * * * *

C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 85. Amend Form F–8 (referenced in § 239.38) by revising the first paragraph of General Instruction IV.C to read as follows:

Note: The text of Form F–8 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

IV. Application of General Rules and Regulations

* * * * *

C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 86. Amend Form F–10 (referenced in § 239.40) by revising the first paragraph of General Instruction II.D to read as follows:

Note: The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–10

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

II. Application of General Rules and Regulations

* * * * *

D. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 87. Amend Form F–80 (referenced in § 239.41) by revising the first paragraph of General Instruction IV.C to read as follows:

Note: The text of Form F–80 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM F–80

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

IV. Application of General Rules and Regulations

* * * * *

C. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 88. Amend Form SF–1 (referenced in § 239.44) by revising Item 10.(b)(2)(ii) to read as follows:

Note: The text of Form SF–1 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM SF–1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 10. Incorporation of Certain Information by Reference.

* * * * *

(b)(2) * * *

(ii) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address (or address of the specified transaction party where such information is posted), if available.

* * * * *

■ 89. Amend Form SF–3 (referenced in § 239.45) by revising Item 10.(e)(2)(ii) to read as follows:

Note: The text of Form SF–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM SF–3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 10. Incorporation of Certain Information by Reference.

* * * * *

(e)(1) * * *

(2) * * *

(ii) State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address (or address of the specified transaction party where such information is posted), if available.

* * * * *

■ 90. Amend Form 1–A (referenced in § 239.90) by:

■ a. Revising the section entitled ''Financial Statements'' in Item 1 of Part I;

■ b. Removing and reserving Items 7.(a)(1)(iii) and 7.(b) of Part II;

■ c. Revising paragraph (3) of the Instruction to Item 9.(a) of Part II; and

■ d. Revising paragraphs (b)(4) and (5) and paragraph (c)(1)(i) of Part F/S of Part II.

The revisions read as follows:

Note: The text of Form 1–A does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 1–A

REGULATION A OFFERING STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I—NOTIFICATION

* * * * *

ITEM 1. Issuer Information

* * * * *

Financial Statements

* * * * *

BILLING CODE 8011–01–P

[If "Other" is selected, display the following options in the Financial Statements table:]

Balance Sheet Information

Cash and Cash Equivalents: _____
Investment Securities: _____
Accounts and Notes Receivable: _____
Property, Plant and Equipment (PP&E): _____
Total Assets: _____
Accounts Payable and Accrued Liabilities: _____
Long Term Debt: _____
Total Liabilities: _____
Total Stockholders' Equity: _____
Total Liabilities and Equity: _____

Statement of Comprehensive Income Information

Total Revenues: _____
Costs and Expenses Applicable to Revenues: _____
Depreciation and Amortization: _____
Net Income: _____
Earnings Per Share – Basic: _____
Earnings Per Share – Diluted: _____

[If "Banking" is selected, display the following options in the Financial Statements table:]

Balance Sheet Information

Cash and Cash Equivalents: _____
Investment Securities: _____
Loans: _____
Property and Equipment: _____
Total Assets: _____
Accounts Payable and Accrued Liabilities: _____
Deposits: _____
Long Term Debt: _____
Total Liabilities: _____
Total Stockholders' Equity: _____
Total Liabilities and Equity: _____

Statement of Comprehensive Income Information

Total Interest Income: _____

Total Interest Expense: _____

Depreciation and Amortization: _____

Net Income: _____

Earnings Per Share – Basic: _____

Earnings Per Share – Diluted: _____

[If "Insurance" is selected, display the following options in the Financial Statements table:]

Balance Sheet Information

Cash and Cash Equivalents: _____

Total Investments: _____

Accounts and Notes Receivable: _____

Property and Equipment: _____

Total Assets: _____

Accounts Payable and Accrued Liabilities: _____

Policy Liabilities and Accruals: _____

Long Term Debt: _____

Total Liabilities: _____

Total Stockholders' Equity: _____

Total Liabilities and Equity: _____

Statement of Comprehensive Income Information

Total Revenues: _____

Costs and Expenses Applicable to Revenues: _____

Depreciation and Amortization: _____

Net Income: _____

Earnings Per Share – Basic: _____

Earnings Per Share – Diluted: _____

[End of section that varies based on the selection of Industry Group]

Name of Auditor (if any): _____

BILLING CODE 8011–01–C

* * * * *

PART II—INFORMATION REQUIRED IN OFFERING CIRCULAR

* * * * *

Item 9. Management's Discussion and Analysis of Financial Condition and Results of Operations

* * * * *

(a) * * *

Instruction to Item 9(a)

* * * * *

(3) When interim period financial statements are included, discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim

balance sheet provided. Discuss any material changes in the issuer's results of operations with respect to the most recent fiscal year-to-date period for which a statement of comprehensive income (or statement of net income if comprehensive income is presented in two separate but consecutive financial statements or if no other comprehensive income) is provided and the corresponding year-to-date period of the preceding fiscal year.

* * * * *

Part F/S

* * * * *

(b) Financial Statements for Tier 1 Offerings

* * * * *

(4) *Statements of comprehensive income, cash flows, and changes in stockholders' equity.* File consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flows, and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed or such shorter period as the issuer has been in existence.

(5) *Interim financial statements.*

(i) If a consolidated interim balance sheet is required by (b)(3) of Part F/S, consolidated interim statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and cash flows shall be provided and must cover at least the first six months of the issuer's fiscal year and the corresponding period of the preceding fiscal year. An analysis of the changes in each caption of stockholders' equity presented in the balance sheets must be provided in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which a statement of comprehensive income is required to be filed with all significant reconciling items described by appropriate captions with contributions from and distributions to owners shown separately. Dividends per share for each class of shares shall also be provided.

(ii) Interim financial statements of issuers that report under U.S. GAAP may be condensed as described in Rule 8–03(a) of Regulation S–X.

(iii) The interim statements of comprehensive income for all issuers must be accompanied by a statement that in the opinion of management all adjustments necessary in order to make the interim financial statements not misleading have been included.

* * * * *

(c) Financial Statement Requirements for Tier 2 Offerings

(1) * * *

(i) Issuers that report under U.S. GAAP and, when applicable, other entities for which financial statements are required, must comply with Article 8 of Regulation S–X, as if they were conducting a registered offering on Form S–1, except the age of financial statements may follow paragraphs (b)(3)–(4) of this Part F/S.

* * * * *

■ 91. Amend Form 1–K (referenced in § 239.91) by revising Item 7.(e) of Part II to read as follows:

Note: The text of Form 1–K does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 1–K

* * * * *

PART II

INFORMATION TO BE INCLUDED IN REPORT

* * * * *

Item 7. Financial Statements

* * * * *

(e) *Statements of comprehensive income, cash flows, and changes in stockholders' equity.* File audited consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flows, and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed or such shorter period as the issuer has been in existence.

* * * * *

■ 92. Amend Form 1–SA (referenced in § 239.92) by:

■ a. Revising the third paragraph of the undesignated introductory text of Item 3;

■ b. Revising Item 3.(b);

■ c. Redesignating current Items 3.(d) and (e) as 3.(e) and (f), respectively;

■ d. Adding new Item 3.(d); and

■ e. Revising newly redesignated Item 3.(e).

The revisions and addition read as follows:

Note: The text of Form 1–SA does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 1–SA

[ ] SEMIANNUAL REPORT PURSUANT TO REGULATION A

or

[ ] SPECIAL FINANCIAL REPORT PURSUANT TO REGULATION A

* * * * *

INFORMATION TO BE INCLUDED IN REPORT

* * * * *

Item 3. Financial Statements

* * * * *

The financial statements included pursuant to this item may be condensed, unaudited, and are not required to be reviewed. For additional guidance on presentation of the financial statements, issuers that report under U.S. GAAP should refer to Rule 8–03(a) of Regulation S–X. The financial statements for all issuers must include the following:

* * * * *

(b) Interim consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) must be provided for the six month interim period covered by this report and for the corresponding period of the preceding fiscal year. Statements of comprehensive income must be accompanied by a statement that in the opinion of management all adjustments necessary in order to make the interim financial statements not misleading have been included.

* * * * *

(d) An analysis of the changes in each caption of stockholders' equity presented in the balance sheets must be provided in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which a statement of comprehensive income is required to be filed with all significant reconciling items described by appropriate captions with contributions from and distributions to owners shown separately. Dividends per share for each class of shares shall also be presented.

(e) Footnote and other disclosures should be provided as needed for fair presentation and to ensure that the financial statements are not misleading. Issuers that report under U.S. GAAP

should refer to Rule 8–03(b) of Regulation S–X for examples of disclosures that may be needed.

(f) Financial Statements of Guarantors and Issuers of Guaranteed Securities.

* * *

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 93. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*-10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.;* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; and Pub. L. 111–203, 939A, 124 Stat. 1887 (2010); and secs. 503 and 602, Pub. L. 112–106, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 94. Amend § 240.3a51–1 by revising paragraph (a)(2)(i)(A)(*3*) to read as follows:

§ 240.3a51–1 Definition of ''penny stock''.

* * * * *

(a) * * *

(2) * * *

(i) * * *

(A) * * *

(*3*) Net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

* * * * *

■ 95. Amend § 240.10A–1 by revising paragraph (b)(3) to read as follows:

§ 240.10A–1 Notice to the Commission Pursuant to Section 10A of the Act.

* * * * *

(b) * * *

(3) Submission of the report (or documentation) by the independent accountant as described in paragraphs (b)(1) and (2) of this section shall not replace, or otherwise satisfy the need for, the newly engaged and former accountants' letters under §§ 229.304(a)(2)(D) and 229.304(a)(3) of this chapter (Items 304(a)(2)(D) and 304(a)(3) of Regulation S–K, respectively) and shall not limit, reduce, or affect in any way the independent accountant's obligations to comply fully with all other legal and professional responsibilities, including, without limitation, those under the standards of the Public Company Accounting Oversight Board (United States) (''PCAOB'') and the rules or interpretations of the Commission that modify or supplement those auditing standards.

* * * * *

■ 96. Amend § 240.12b–2 in the definition of ''Significant subsidiary'' by:

■ a. Revising paragraph (3);

■ b. Adding a Note 1 following paragraph (3) before the Computational note; and

■ c. Redesignating the Computational note as Computational note 1 to paragraph (3).

The revision and addition read as follows:

§ 240.12b-2 Definitions.

* * * * *

Significant subsidiary. * * *

(3) The registrant's and its other subsidiaries' equity in the income from continuing operations before income taxes of the subsidiary exclusive of amounts attributable to any noncontrolling interests exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Note 1: A registrant that files its financial statements in accordance with or provides a reconciliation to U.S. Generally Accepted Accounting Principles shall make the prescribed tests using amounts determined under U.S. Generally Accepted Accounting Principles. A foreign private issuer that files its financial statements in accordance with IFRS as issued by the IASB shall make the prescribed tests using amounts determined under IFRS as issued by the IASB.

* * * * *

■ 97. Amend § 240.12g–3 by revising paragraphs (a)(2), (b)(2), and (c)(2) to read as follows:

§ 240.12g-3 Registration of securities of successor issuers under section 12(b) or 12(g).

(a) * * *

(2) All securities of such class are held of record by fewer than 300 persons, or 1,200 persons in the case of a bank; a savings and loan holding company, as such term is defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1461); or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

* * * * *

(b) * * *

(2) All securities of such class are held of record by fewer than 300 persons, or 1,200 persons in the case of a bank; a savings and loan holding company, as such term is defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1461); or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

* * * * *

(c) * * *

(2) All securities of such class are held of record by fewer than 300 persons, or 1,200 persons in the case of a bank; a savings and loan holding company, as such term is defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1461); or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

* * * * *

■ 98. Amend § 240.13a–10 by revising paragraphs (b) and (g)(3) to read as follows:

§ 240.13a–10 Transition reports.

* * * * *

(b) The report pursuant to this section shall be filed for the transition period not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report shall be filed on the form appropriate for annual reports of the issuer, shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements for the transition period filed therewith shall be audited. Financial statements, which may be unaudited, shall be filed for the comparable period of the prior year, or a footnote, which may be unaudited, shall state for the comparable period of the prior year, revenues, gross profits, income taxes, income or loss from continuing operations and net income or loss. The effects of any discontinued operations as classified under the provisions of generally accepted accounting principles also shall be shown, if applicable. Per share data based upon such income or loss and net income or loss shall be presented in conformity with applicable accounting standards. Where called for by the time span to be covered, the comparable period financial statements or footnote shall be included in subsequent filings.

* * * * *

(g) * * *

(3) The report for the transition period shall be filed on Form 20–F (§ 249.220f of this chapter) responding to all items to which such issuer is required to respond when Form 20–F is used as an annual report. The financial statements for the transition period filed therewith shall be audited. The report shall be filed within four months after either the

close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later.

* * * * *

■ 99. Amend § 240.13b2–2 by revising paragraphs (b)(2)(i) and (ii) to read as follows:

§ 240.13b2–2 Representations and conduct in connection with the preparation of required reports and documents.

* * * * *

(b) * * *

(2) * * *

(i) To issue or reissue a report on an issuer's financial statements that is not warranted in the circumstances (due to material violations of generally accepted accounting principles, the standards of the PCAOB, or other professional or regulatory standards);

(ii) Not to perform audit, review or other procedures required by the standards of the PCAOB or other professional standards;

* * * * *

■ 100. Amend § 240.15c3–1g by revising paragraphs (b)(1)(i)(A), (b)(1)(ii)(A) and (E), and (b)(2)(i)(A) and (D) to read as follows:

§ 240.15c3–1g Conditions for ultimate holding companies of certain brokers or dealers (Appendix G to 17 CFR 240.15c3–1).

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) A consolidated balance sheet and income statement (including notes to the financial statements) for the ultimate holding company and statements of allowable capital and allowances for market, credit, and operational risk computed pursuant to paragraph (a) of this appendix G, *except* that the consolidated balance sheet and income statement for the first month of the fiscal year may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker's or dealer's application under § 240.15c3–1e(a)). A statement of comprehensive income (as defined in § 210.1–02 of Regulation S–X of this chapter) shall be included in place of an income statement, if required by the applicable generally accepted accounting principles.

* * * * *

(ii) * * *

(A) Consolidating balance sheets and income statements for the ultimate holding company. The consolidating balance sheet must provide information regarding each material affiliate of the ultimate holding company in a separate column, but may aggregate information regarding members of the affiliate group that are not material affiliates into one column. Statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X) shall be included in place of an income statement, if required by the applicable generally accepted accounting principles;

* * * * *

(E) For a quarter-end that coincides with the ultimate holding company's fiscal year-end, the ultimate holding company need not include consolidated and consolidating balance sheets and income statements (or statements of comprehensive income, as applicable) in its quarterly reports. The consolidating balance sheet and income statement (or statement of comprehensive income, as applicable) for the quarter-end that coincides with the fiscal year-end may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker's or dealer's application under § 240.15c3–1e(a));

* * * * *

(2) * * *

(i) * * *

(A) Consolidated (including notes to the financial statements) and consolidating balance sheets and income statements for the ultimate holding company. Statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X) shall be included in place of income statements, if required by the applicable generally accepted accounting principles;

* * * * *

(D) For a quarter-end that coincides with the ultimate holding company's fiscal year-end, the ultimate holding company need not include consolidated and consolidating balance sheets and income statements (or statements of comprehensive income, as applicable) in its quarterly reports. The consolidating balance sheet and income statement (or statement of comprehensive income, as applicable) for the quarter-end that coincides with the fiscal year-end may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker's or dealer's application under § 240.15c3–1e(a)).

* * * * *

■ 101. Amend § 240.15d–2 by revising paragraph (a) to read as follows:

§ 240.15d–2 Special financial report.

(a) If the registration statement under the Securities Act of 1933 did not contain certified financial statements for the registrant's last full fiscal year (or for the life of the registrant if less than a full fiscal year) preceding the fiscal year in which the registration statement became effective, the registrant shall, within 90 days after the effective date of the registration statement, file a special report furnishing certified financial statements for such last full fiscal year or other period, as the case may be, meeting the requirements of the form appropriate for annual reports of the registrant. If the registrant is a foreign private issuer as defined in § 230.405 of this chapter, then the special financial report shall be filed on the appropriate form for annual reports of the registrant and shall be filed by the later of 90 days after the date on which the registration statement became effective, or four months following the end of the registrant's latest full fiscal year.

* * * * *

■ 102. Amend § 240.15d–10 by revising paragraphs (b) and (g)(3) to read as follows:

§ 240.15d–10 Transition reports.

* * * * *

(b) The report pursuant to this section shall be filed for the transition period not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report shall be filed on the form appropriate for annual reports of the issuer, shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements for the transition period filed therewith shall be audited. Financial statements, which may be unaudited, shall be filed for the comparable period of the prior year, or a footnote, which may be unaudited, shall state for the comparable period of the prior year, revenues, gross profits, income taxes, income or loss from continuing operations and net income or loss. The effects of any discontinued operations as classified under the provisions of generally accepted accounting principles also shall be shown, if applicable. Per share data based upon such income or loss and net income or loss shall be presented in conformity with applicable accounting standards. Where called for by the time span to be covered, the comparable period financial statements or footnote shall be included in subsequent filings.

* * * * *

(g) * * *

(3) The report for the transition period shall be filed on Form 20–F (§ 249.220f of this chapter) responding to all items to which such issuer is required to

respond when Form 20–F is used as an annual report. The financial statements for the transition period filed therewith shall be audited. The report shall be filed within four months after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later.

* * * * *

■ 103. Amend § 240.17a–5 by adding Note 1 to paragraph (d)(2)(i) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(d) * * *

(2) * * *

(i) * * *

Note 1 to paragraph (d)(2)(i). If there is other comprehensive income in the period(s) presented, the financial report must contain a Statement of Comprehensive Income (as defined in § 210.1–02 of Regulation S–X of this chapter) in place of a Statement of Income.

* * * * *

■ 104. Amend § 240.17a–12 by adding Note 1 to paragraph (b)(2) to read as follows:

§ 240.17a–12 Reports to be made by certain OTC derivatives dealers.

* * * * *

(b) * * *

(2) * * *

Note 1 to paragraph (b)(2). If there is other comprehensive income in the period(s) presented, the financial report must contain a Statement of Comprehensive Income (as defined in § 210.1–02 of Regulation S–X of this chapter) in place of a Statement of Income.

* * * * *

■ 105. Amend § 240.17g–3 by revising paragraph (a)(1)(i) to read as follows:

§ 240.17g–3 Annual financial and other reports to be filed or furnished by nationally recognized statistical rating organizations.

(a) * * *

(1) * * *

(i) Include a balance sheet, an income statement (or a statement of comprehensive income, as defined in § 210.1–02 of Regulation S–X of this chapter, if required by the applicable generally accepted accounting principles noted in paragraph (a)(1)(ii) of this section) and statement of cash flows, and a statement of changes in ownership equity;

* * * * *

■ 106. Amend § 240.17h–1T by adding Note 1 to Paragraph (a)(1)(v) to read as follows:

§ 240.17h–1T Risk assessment recordkeeping requirements for associated persons of brokers and dealers.

(a) * * *

(1) * * *

(v) * * *

Note 1 to paragraph (a)(1)(v). Statements of comprehensive income (as defined in § 210.1–02 of Regulation S–X of this chapter) must be included in place of income statements, if required by the applicable generally accepted accounting principles.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 107. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112–106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

■ 108. Amend § 249.210 by revising the section heading to read as follows:

§ 229.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

■ 109. Amend Form 20–F (referenced in § 249.220f) by:

■ a. Revising General Instructions A.(b), D.(a), E.(c), G.(c) and G.(f)(1);

■ b. Removing Item 3.A.3;

■ c. Revising Instruction 2. of the Instructions to Item 3.A;

■ d. Adding Item 4.A.8;

■ e. Revising Item 5.C;

■ f. Revising Item 8.A.1.(b) and Item 8.A.5;

■ g. Revising Instruction 2 of the Instructions to Items 8.A.2 and 8.A.4;

■ h. Revising Item 9.A.4;

■ i. Revising Item 10.F;

■ j. Removing and reserving Instruction 1 to General Instructions to Items 11(a), 11(b), 11(c), 11(d), and 11(e);

■ k. Revising Instruction 1 of the Instructions to Item 12;

■ l. Removing Instruction to Item 14.B;

■ m. Removing Item 15T;

■ n. Removing and reserving Instruction 1 to Instructions to Item 16F;

■ o. Revising Instruction to Item 16G;

■ p. Revising Items 17(c)(2)(v) and (vi);

■ q. Removing and reserving Instruction 3 to Item 17;

■ r. Removing *Special Instruction for Certain European Issuers* to Item 17;

■ s. Revising Instruction 1 to Instruction to Item 18;

■ t. Removing *Special Instruction for Certain European Issuers* to Item 18; and

■ u. Removing and reserving Instructions 6 and 7 of the Instructions as to Exhibits.

The revisions read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 20–F

☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

☐ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

GENERAL INSTRUCTIONS

A. Who May Use Form 20–F and When It Must be Filed.

* * * * *

(b) A foreign private issuer must file its annual report on this Form within four months after the end of the fiscal year covered by the report.

* * * * *

D. How to File Registration Statements and Reports on this Form.

(a) You must file the Form 20–F registration statement or annual report in electronic format via our Electronic Data Gathering and Retrieval System (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). The Form 20–F registration statement or annual report must be in the English language as required by Regulation S–T Rule 306 (17 CFR 232.306). You must provide the signatures required for the Form 20–F registration statement or annual report in accordance with Regulation S–T Rule 302 (17 CFR 232.302). If you have EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

E. Which Items to Respond to in Registration Statements and Annual Reports.

* * * * *

(c) *Financial Statements.* (1) An Exchange Act registration statement or annual report filed on this Form must contain the financial statements and related information specified in Item 18 of this Form. Note that Items 17 and 18 may require you to file the financial statements of other entities in certain circumstances. These circumstances are described in Regulation S–X.

(2) The issuer's financial statements must be audited in accordance with the standards of the Public Company

Accounting Oversight Board (United States) (''PCAOB''), and the auditor must be qualified and independent in accordance with Article 2 of Regulation S–X. The financial statements of entities other than the issuer must be audited in accordance with applicable professional standards. If you have any questions about these requirements, contact the Office of Chief Accountant in the Division of Corporation Finance at (202) 551–3400.

* * * * *

G. First-Time Application of International Financial Reporting Standards.

* * * * *

(c) *Selected Financial Data.* The selected historical financial data required pursuant to Item 3.A shall be based on financial statements prepared in accordance with IFRS and shall be presented for the two most recent financial years.

* * * * *

(f) *Financial Information.*

(1) *General.* With respect to the financial information of the issuer required by Item 8.A, all instructions contained in Item 8, including the instruction requiring audits in accordance with the standards of the PCAOB, shall apply.

* * * * *

PART I

* * * * *

Item 3. Key Information

* * * * *

Instructions to Item 3.A:

* * * * *

2. *You may present the selected financial data on the basis of the accounting principles used in your primary financial statements. If you use a basis of accounting other than IFRS as issued by the IASB, however, you also must include in this summary any reconciliations of the data to U.S. generally accepted accounting principles and Regulation S–X, pursuant to Item 17 or 18 of this Form. For financial statements prepared using a basis of accounting other than IFRS as issued by the IASB, you only have to provide selected financial data on a basis reconciled to U.S. generally accepted accounting principles for (i) those periods for which you were required to reconcile the primary annual financial statements in a filing under the Securities Act or the Exchange Act, and (ii) any interim periods. An issuer that adopted IFRS as issued by the IASB during the past three years is only required to provide selected financial data for the periods that it prepared financial statements in accordance with IFRS as issued by the IASB.*

* * * * *

Item 4. Information on the Company

* * * * *

A. * * *

8. State that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (*http://www.sec.gov*). Disclose your internet address, if available.

* * * * *

Item 5. Operating and Financial Review and Prospects

* * * * *

C. ***Research and development, patents and licenses, etc.*** Provide a description of the company's research and development policies for the last three years.

* * * * *

Item 8. Financial Information

* * * * *

A. * * *

1. * * *

(b) statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income);

* * * * *

5. If the document is dated more than nine months after the end of the last audited financial year, it should contain consolidated interim financial statements, which may be unaudited (in which case that fact should be stated), covering at least the first six months of the financial year. The interim financial statements should include a balance sheet, statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flow statement, and a statement showing either (i) changes in equity other than those arising from capital transactions with owners and distributions to owners, or (ii) all changes in equity (including a subtotal of all non-owner items recognized directly in equity). Each of these statements may be in condensed form as long as it contains the major line items from the latest audited financial statements and includes the major components of assets, liabilities and equity (in the case of the balance sheet); income and expenses (in the case of the statement of comprehensive income) and the major subtotals of cash flows (in the case of the cash flow statement). The interim financial statements should include comparative statements for the same period in the prior financial year, except that the requirement for comparative balance sheet information may be satisfied by presenting the year end balance sheet. If not included in the primary financial statements, a note should be provided analyzing the changes in each caption of shareholders' equity presented in the balance sheet. The interim financial statements should include selected note disclosures that will provide an explanation of events and changes that are significant to an understanding of the changes in financial position and performance of the enterprise since the last annual reporting date. If, at the date of the document, the company has published interim financial information that covers a more current period than those otherwise required by this standard, the more current interim financial information must be included in the document. Companies are encouraged, but not required, to have any interim financial statements in the document reviewed by an independent auditor. If such a review has been performed and is referred to in the document, a copy of the auditor's interim review report must be provided in the document.

* * * * *

Instructions to Item 8.A.2:

* * * * *

2. The financial statements of the issuer must be audited in accordance with the standards of the PCAOB and the auditor must comply with the Commission standards for auditor independence. Refer to Article 2 of Regulation S–X, which contains requirements for qualifications and reports of accountants.

* * * * *

Instructions to Item 8.A.4:

* * * * *

2. The additional requirement that financial statements be no older than 12 months at the date of filing applies only in those limited cases where a nonpublic company is registering its initial public offering of securities. A company may comply with only the 15-month requirement in this item if the company is able to represent that it is not required to comply with the 12-month requirement in any other jurisdiction outside the United States

and that complying with the 12-month requirement is impracticable or involves undue hardship. File this representation as an exhibit to the registration statement.

* * * * *

Item 9. The Offer and Listing.

* * * * *

A. * * *

4. Identify the principal host market(s) and principal market(s) outside the principal host market and corresponding trading symbol(s) for those markets for each class of the registrant's common equity. If significant trading suspensions occurred in the prior three years, they shall be disclosed. If the securities are not regularly traded in an organized market, information shall be given about any lack of liquidity.

* * * * *

Item 10. Additional Information.

* * * * *

F. *Dividends and paying agents.* Disclose the date on which the entitlement to dividends arises, if known, and any procedures for nonresident holders to claim dividends. Identify the financial organizations which, at the time of admission of shares to official listing, are the paying agents of the company in the countries where admission has taken place or is expected to take place.

* * * * *

Item 11. Quantitative and Qualitative Disclosure About Market Risk.

* * * * *

Item 12. Description of Securities Other than Equity Securities.

* * * * *

Instructions to Item 12:

1. *Except for Item 12.D.3. and Item 12.D.4, you do not need to provide the information called for by this Item if you are using this form as an annual report.*

* * * * *

Item 16F. Change in Registrant's Certifying Accountant.

* * * * *

Item 16G. Corporate Governance.

* * * * *

Instructions to Item 16G:

Item 16G only applies to annual reports, and not to registration statements on Form 20–F. Registrants should provide a brief and general discussion, rather than a detailed, item-by-item analysis.

* * * * *

Item 17. Financial Statements.

* * * * *

(c) * * *

(2) * * *

(v) Issuers that prepare financial statements on a basis of accounting other than U.S. generally accepted accounting principles that are furnished for a business acquired or to be acquired pursuant to § 210.3–05 of this chapter may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item if the conditions specified in the definition of a significant subsidiary in § 210.1–02(w) of this chapter do not exceed 30 percent. Issuers that prepare financial statements using IFRS as issued by the IASB that are furnished pursuant to § 210.3–05 may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item regardless of the size of the business acquired or to be acquired.

(vi) Issuers that prepare financial statements on a basis of accounting other than U.S. generally accepted accounting principles that are furnished for a less-than-majority-owned investee pursuant to § 210.3–09 of this chapter may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item if the first and third conditions specified in the definition of a significant subsidiary in § 210.1–02(w) of this chapter do not exceed 30 percent. Issuers that prepare financial statements using IFRS as issued by the IASB that are furnished pursuant to § 210.3–09 may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item regardless of the size of the investee.

* * * * *

Item 18. Financial Statements.

* * * * *

Instructions to Item 18:

1. *All of the instructions to Item 17 also apply to this Item.*

* * * * *

■ 110. Amend Form 40–F (referenced in § 249.240f) by revising the first paragraph of General Instruction D.(7) to read as follows:

Note: The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 40–F

□ REGISTRATION STATEMENT PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

OR

□ ANNUAL REPORT PURSUANT TO SECTION 13(a) OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

GENERAL INSTRUCTIONS

* * * * *

D. Application of General Rules and Regulations

* * * * *

(7) A filer must file the Form 40–F registration statement or annual report in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR questions, call the Filer Support Office at (202) 551–8900.

* * * * *

■ 111. Amend Form 10–K (referenced in § 249.310) by:

■ a. Removing and reserving paragraph J.(1)(e) of the General Instructions; and

■ b. Revising paragraph J.(1)(f) of the General Instructions.

The revisions read as follows:

Note: The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 10–K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

GENERAL INSTRUCTIONS

* * * * *

J. * * *

(1) * * *

(f) Item 5, Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities;

* * * * *

■ 112. Amend Form 11–K (referenced in § 249.311) by revising paragraph 2 of Required Information to read as follows:

Note: The text of Form 11–K does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 11–K

FOR ANNUAL REPORTS OF EMPLOYEE STOCK PURCHASE, SAVINGS AND SIMILAR PLANS PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

REQUIRED INFORMATION

* * * * *

2. An audited statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence).

* * * * *

Form 10–D (referenced in § 249.312) [Amended]

■ 113. Amend Form 10–D (referenced in § 249.312) by removing and reserving Item 5.

Note: The text of Form 10–D does not, and this amendment will not, appear in the Code of Federal Regulations.

■ 114. Amend the Form X–17A–5 Part II (FOCUS Report) (referenced in § 249.617) by:

■ a. Revising under the heading ''Statement of Financial Condition'' paragraph 29 by redesignating current paragraphs 29.E and F as paragraphs 29.F and G, respectively and adding a new paragraph 29.E; and

■ b. Revising the heading ''Statement of Income (Loss)'' and under that heading, revising the subheading ''Net Income'', removing and reserving paragraphs 32, 32.a and 33, revising paragraph 34, redesignating current paragraph 35 as paragraph 37, adding new paragraph 35 and paragraphs 35.a and 36, and revising newly redesignated paragraph 37.

The revisions and additions read as follows:

Note: The text of Form X–17A–5 Part II does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM X-17A-5
FOCUS REPORT
(Financial and Operational Combined Uniform Single Report)
PART II 11

* * * * *

STATEMENT OF FINANCIAL CONDITION

* * * * *

29. * * *

E. Accumulated other comprehensive income _____ 1797

F. Total _____ 1795

G. Less capital stock in treasury (_____) 1796

* * * * *

STATEMENT OF INCOME (LOSS) or STATEMENT OF COMPREHENSIVE INCOME (as defined in §210.1-02 of Regulation S-X), as applicable

* * * * *

NET INCOME/COMPREHENSIVE INCOME

* * * * *

34. Net income (loss) after Federal income taxes $_____ 4230

35. Other comprehensive income (loss) _____ 4226

a. After Federal income taxes of _____ 4227

36. Comprehensive income (loss) $_____ 4228

MONTHLY INCOME

37. Income (current month only) before provision for Federal income taxes $ ____ 4211

■ 115. Amend the Form X–17A–5 Part II (FOCUS Report) (referenced in § 249.617) General Instructions by:

■ a. Revising the heading ''Statement of Income (Loss)'' and removing from under that heading the subheadings ''Extraordinary Items'' and ''Effect of Changes in Accounting Principles'' and their related text; and

■ b. Revising under the heading ''Statement of Changes in Ownership Equity (Sole Proprietorship, Partnership or Corporation)'' the text related to the

subheading ''Net Income (Loss) For Period''.

The revisions read as follows:

Note: The text of Form X–17A–5 Part II does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM X–17A–5 PART II

(FOCUS Report)

GENERAL INSTRUCTIONS

* * * * *

STATEMENT OF INCOME (LOSS) or STATEMENT OF COMPREHENSIVE INCOME

(as defined in § 210.1–02 of Regulation S–X), as applicable

If there are no items of other comprehensive income in the period presented, the broker or dealer is not required to report comprehensive income.

* * * * *

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

(SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION)

* * * * *

Net Income (Loss) for Period

Report the amount of net income (loss) for the period reported on the Statement of Income (Loss) or Statement of Comprehensive Income, as applicable.

* * * * *

■ 116. Amend the Form X–17A–5 Part IIA (FOCUS Report) (referenced in § 249.617) by:

■ a. Revising under the heading ''Statement of Financial Condition for Noncarrying, Nonclearing and Certain other Brokers or Dealers'' paragraph 23 by redesignating current paragraphs 23.E and F as paragraphs 23.F and G, respectively and adding a new paragraph 23.E; and

■ b. Revising the heading ''Statement of Income (Loss)'' and under that heading, revising the subheading ''Net Income'', removing and reserving paragraphs 20, 20.a and 21, revising paragraph 22, redesignating current paragraph 23 as paragraph 25, adding new paragraph 23 and paragraphs 23.a and 24, and revising newly redesignated paragraph 25.

The revisions and additions read as follows:

Note: The text of Form X–17A–5 Part IIA does not, and this amendment will not, appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

FORM X-17A-5
FOCUS REPORT
(Financial and Operational Combined Uniform Single Report)
PART IIA 12

* * * * *

STATEMENT OF FINANCIAL CONDITION FOR NONCARRYING, NONCLEARING AND CERTAIN OTHER BROKERS OR DEALERS

* * * * *

23. * * *

E. Accumulated other comprehensive income		_____ 1797
F. Total		_____ 1795
G. Less capital stock in treasury	▼16	(_____) 1796

* * * * *

STATEMENT OF INCOME (LOSS) or STATEMENT OF COMPREHENSIVE INCOME (as defined in §210.1-02 of Regulation S-X), as applicable

* * * * *

NET INCOME/COMPREHENSIVE INCOME

* * * * *

22. Net income (loss) after Federal income taxes		$_____ 4230
23. Other comprehensive income (loss)		_____ 4226
a. After Federal income taxes of	_____ 4227	
24. Comprehensive income (loss)		$_____ 4228

MONTHLY INCOME

25. Income (current month only) before provision for Federal income taxes	$____ 4211

BILLING CODE 8011–01–C

■ 117. Amend the Form X–17A–5 Part IIA (FOCUS Report) (referenced in § 249.617) General Instructions by:

■ a. Revising the heading ''Statement of Income (Loss)'' and removing from under that heading paragraphs 20 and 21; and

■ b. Revising under the heading ''Statement of Changes in Ownership Equity (Sole Proprietorship, Partnership or Corporation)'' the text related to the subheading ''Net Income (Loss) For Period''.

The revisions read as follows:

Note: The text of Form X–17A–5 Part IIA does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM X–17A–5 PART IIA

(FOCUS Report)

GENERAL INSTRUCTIONS

* * * * *

STATEMENT OF INCOME (LOSS) or STATEMENT OF COMPREHENSIVE INCOME

(as defined in § 210.1–02 of Regulation S–X), as applicable

If there are no items of other comprehensive income in the period presented, the broker or dealer is not required to report comprehensive income.

* * * * *

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

(SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION)

* * * * *

Net Income (Loss) for Period

Report the amount of net income (loss) for the period reported on the Statement of Income (Loss) or Statement of Comprehensive Income, as applicable.

* * * * *

■ 118. Amend the Form X–17A–5 Part IIB (FOCUS Report) (referenced in § 249.617) by:

■ a. Revising under the heading ''Statement of Financial Condition for OTC Derivatives Dealers'' paragraph 28 by redesignating current paragraphs 28.E and F as paragraphs 28.F and G, respectively and adding a new paragraph 28.E; and

■ b. Revising the heading ''Statement of Income (Loss)'' and under that heading, revising the subheading ''Net Income'', removing and reserving paragraphs 29, 29.a and 30, revising paragraph 31, redesignating current paragraph 32 as paragraph 34. adding new paragraph 32 and paragraphs 32.a and 33, and revising newly redesignated paragraph 34.

The revisions and additions read as follows:

Note: The text of Form X–17A–5 Part IIB does not, and this amendment will not, appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

FORM X-17A-5
FOCUS REPORT
(Financial and Operational Combined Uniform Single Report)
PART IIB 11

* * * * *

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

* * * * *

28. * * *

E. Accumulated other comprehensive income _____ 1797

F. Total _____ 1795

G. Less capital stock in treasury (_____) 1796

* * * * *

STATEMENT OF INCOME (LOSS) or STATEMENT OF COMPREHENSIVE INCOME (as defined in §210.1-02 of Regulation S-X), as applicable

* * * * *

NET INCOME/COMPREHENSIVE INCOME

* * * * *

31. Net income (loss) after Federal income taxes $_____ 4230

32. Other comprehensive income (loss) _____ 4226

A. After Federal income taxes of _____ 4227

33. Comprehensive income (loss) $_____ 4228

MONTHLY INCOME

34. Income (current month only) before provision for Federal income taxes $_____ 4211

BILLING CODE 8011–01–C

■ 119. Amend the Form X–17A–5 Part III (FOCUS Report) (referenced in § 249.617) by revising under the heading ''Oath or Affirmation'' checkbox (c) to read as follows:

Note: The text of Form X–17A–5 Part III does not, and this amendment will not, appear in the Code of Federal Regulations.

ANNUAL AUDITED REPORT

FORM X–17A–5

PART III

* * * * *

OATH OR AFFIRMATION

* * * * *

☐ (c) Statement of Income (Loss) or, if there is other comprehensive income in the period(s) presented, a Statement of Comprehensive Income (as defined in § 210.1–02 of Regulation S–X).

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 120. The authority citation for part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b),78*l,* 78m, 78n, 78*o*(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 121. Amend Form N–5 (referenced in §§ 239.24 and 274.5) by revising Item 3(i) to read as follows:

Note: The text of Form N–5 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–5

REGISTRATION STATEMENT OF SMALL BUSINESS INVESTMENT COMPANY UNDER THE SECURITIES ACT OF 1933 AND THE INVESTMENT COMPANY ACT OF 1940 *

* * * * *

PART I. INFORMATION REQUIRED IN REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

* * * * *

Item 3. Policies with Respect to Security Investments.

* * * * *

(i) Whether the registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule l 7j–1 of the Investment Company Act of 1940 [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the registrant. Also explain that these codes of ethics are available on the EDGAR Database on the Commission's internet site at *http://www.sec.gov,* and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following Email address: *publicinfo@sec.gov.*

* * * * *

■ 122. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by:

■ a. Revising Item 1.(b)(3);

■ b. Revising Instruction 3.(c)(ii) to Item 3 and Instruction 2.(a)(ii) to Item 27.(d)(1); and

■ c. Removing Item 27.(d)(3)(iii) and redesignating current Item 27.(d)(3)(iv) as Item 27.(d)(3)(iii).

The revisions read as follows:

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–1A

* * * * *

☐ REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

☐ REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

* * * * *

PART A—INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 1. Front and Back Cover Pages

* * * * *

(b) * * *

(3) State that reports and other information about the Fund are available on the EDGAR Database on the Commission's internet site at *http://www.sec.gov,* and that copies of this information may be obtained, after paying a duplicating fee, by electronic request at the following Email address: *publicinfo@sec.gov.*

* * * * *

Item 3. Risk/Return Summary: Fee Table

* * * * *

Instructions

* * * * *

3. * * *

(c) * * *

(ii) ''Other Expenses'' do not include extraordinary expenses.—''Extraordinary expenses'' refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If extraordinary expenses were incurred that materially affected the Fund's ''Other Expenses,'' disclose in a footnote to the table what ''Other Expenses'' would have been had the extraordinary expenses been included.

* * * * *

Item 27. Financial Statements

* * * * *

(d) * * *

(1) * * *

Instructions

* * * * *

2. * * *

(a) * * *

(ii) For purposes of this Item 27(d)(1), ''Other Expenses'' include extraordinary expenses. ''Extraordinary expenses'' refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If extraordinary expenses were incurred that materially affected the Fund's ''Other Expenses,'' the Fund may disclose in a footnote to the Example what ''actual expenses'' would have been had the extraordinary expenses not been included.

* * * * *

(3). *Statement Regarding Availability of Quarterly Portfolio Schedule.* A statement that: (i) The Fund files its complete schedule of portfolio holdings with the Commission for the first and third quarters of each fiscal year on Form N–Q; (ii) the Fund's Forms N–Q are available on the Commission's

website at *http://www.sec.gov;* and (iii) if the Fund makes the information on Form N–Q available to shareholders on its website or upon request, a description of how the information may be obtained from the Fund.

* * * * *

■ 123. Amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by revising Item 18.15 and revising Instruction 6.b to Item 24 to read as follows:

Note: The text of Form N–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–2

* * * * *

☐ REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

☐ REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

* * * * *

PART B—INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

* * * * *

Item 18. Management.

* * * * *

15. *Codes of Ethics:* Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j–1 of the 1940 Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also explain in the statement that these codes of ethics are available on the EDGAR Database on the Commission's internet site at *http://www.sec.gov,* and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following email address: *publicinfo@sec.gov.*

* * * * *

Item 24. Financial Statements

* * * * *

Instructions

* * * * *

6. * * *

b. a statement that: (i) The Registrant files its complete schedule of portfolio holdings with the Commission for the first and third quarters of each fiscal year on Form N–Q; (ii) the Registrant's Forms N–Q are available on the Commission's website at *http://www.sec.gov;* and (iii) if the Registrant makes the information on Form N–Q available to shareholders on its website or upon request, a description of how the information may be obtained from the Registrant.

* * * * *

■ 124. Amend Form N–3 (referenced in §§ 239.17a and 274.11b) by:

■ a. Revising Instruction 4.(c)(i) to Item 3.(a);

■ b. Revising Item 20.(m); and

■ c. Removing Instruction 6.(ii)(C) to Item 28.(a) and redesignating current Instruction 6.(ii)(D) to Item 28.(a) as Instruction 6.(ii)(C) to Item 28.(a).

The revisions read as follows:

Note: The text of Form N–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–3

* * * * *

☐ REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

☐ REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

* * * * *

PART A—INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 3. Synopsis or Highlights

* * * * *

Instructions

* * * * *

4. * * *

(c) * * *

(i) ''Other Expenses'' do not include extraordinary expenses. ''Extraordinary expenses'' refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If extraordinary expenses were incurred that materially affected the Registrant's ''Other Expenses,'' the Registrant should disclose in the narrative following the table what the ''Other Expenses'' would have been had extraordinary expenses been included.

* * * * *

Item 20. Management

* * * * *

(m) Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j–1 of the 1940 Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also explain in the statement that these codes of ethics are available on the EDGAR Database on the Commission's internet site at *http://www.sec.gov,* and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following Email address: *publicinfo@sec.gov.*

* * * * *

Item 28. Financial Statements

(a) * * *

Instructions

(6) * * *

(ii) a statement that: (A) the Registrant files its complete schedule of portfolio holdings with the Commission for the first and third quarters of each fiscal year on Form N–Q; (B) the Registrant's Forms N–Q are available on the Commission's website at *http://www.sec.gov;* and (C) if the Registrant makes the information on Form N–Q available to contractowners on its website or upon request, a description of how the information may be obtained from the Registrant;

* * * * *

■ 125. Amend Form N–4 (referenced in §§ 239.17b and 274.11c) by revising Item 1.(a)(v) and revising Instruction 17.(b) to Item 3(a) to read as follows:

Note: The text of Form N–4 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

* * * * *

INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 1. Cover Page

(a) * * *

(v) a statement or statements that: (A) The prospectus sets forth the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be kept for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request without charge (This statement should explain how to obtain the Statement of Additional Information, whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the Statement of Additional Information appears in the prospectus. If the Registrant intends to disseminate its prospectus electronically, also include the information that the Commission maintains a website (*http://www.sec.gov*) that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.);

* * * * *

Item 3. Synopsis

* * * * *

Instructions

* * * * *

17. * * *

(b) ''Total Annual [Portfolio Company] Operating Expenses'' do not include extraordinary expenses. ''Extraordinary expenses'' refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If extraordinary expenses were incurred by any portfolio company that would, if included, materially affect the minimum or maximum amounts shown in the table, disclose in a footnote to the table what the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' would have been had the extraordinary expenses been included.

* * * * *

■ 126. Amend Form N–6 (referenced in §§ 239.17c and 274.11d) by revising Item 1.(b)(3) and Instruction 4.(c) to Item 3 to read as follows:

Note: The text of Form N–6 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–6

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 □

* * * * *

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940 □

* * * * *

PART A: INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 1. Front and Back Cover Pages

* * * * *

(b) * * *

(3) State that reports and other information about the Registrant are available on the Commission's internet site at *http://www.sec.gov.*

* * * * *

Item 3. Risk/Benefit Summary: Fee Table

* * * * *

Instructions.

* * * * *

4. * * *

(c) ''Total Annual [Portfolio Company] Operating Expenses'' do not include extraordinary expenses. ''Extraordinary expenses'' refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If extraordinary expenses were incurred by any Portfolio Company that would, if included, materially affect the minimum or maximum amounts shown in the table, disclose in a footnote to the table what the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' would have been had the extraordinary expenses been included.

* * * * *

■ 127. Amend Form N–8B–2 (referenced in § 274.12) by revising Item 52.(e) to read as follows:

Note: The text of Form N–8B–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N–8B–2

REGISTRATION STATEMENT OF UNIT INVESTMENT TRUSTS WHICH ARE CURRENTLY ISSUING SECURITIES

* * * * *

VII

POLICY OF REGISTRANT

52. * * *

(e) Provide a brief statement disclosing whether the trust and its principal underwriter have adopted codes of ethics under rule 17j–l of the Act [17 CFR 270.l7j–l] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the trust. Also explain that these codes of ethics are available on the EDGAR Database on the Commission's internet site at *http://www.sec.gov,* and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following Email address: *publicinfo@sec.gov.*

* * * * *

By the Commission.

Dated: August 17, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18142 Filed 10–3–18; 8:45 am]

BILLING CODE 8011–01–P

FEDERAL REGISTER

Vol. 83 Thursday,
No. 193 October 4, 2018

Part III

The President

Memorandum of September 10, 2018—Delegation of Authority Under Section 1290(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019
Presidential Determination No. 2018–12 of September 11, 2018—Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2019
Proclamation 9791—National Breast Cancer Awareness Month, 2018
Proclamation 9792—National Cybersecurity Awareness Month, 2018
Proclamation 9793—National Disability Employment Awareness Month, 2018
Proclamation 9794—National Energy Awareness Month, 2018
Proclamation 9795—National Substance Abuse Prevention Month, 2018
Proclamation 9796—Gold Star Mother's and Family's Day, 2018
Proclamation 9797—Child Health Day, 2018

Federal Register
Vol. 83, No. 193
Thursday, October 4, 2018

Presidential Documents

Title 3—

The President

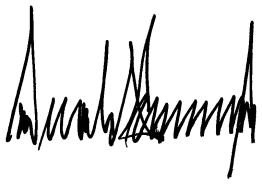
Memorandum of September 10, 2018

Delegation of Authority Under Section 1290(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019

Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State, the Secretary of Defense, and the Director of National Intelligence the authority to provide the appropriate briefings to the Congress as required by section 1290(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232).

The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, September 10, 2018

[FR Doc. 2018–21805
Filed 10–3–18; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2018–12 of September 11, 2018

Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2019

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), I hereby identify the following countries as major drug transit or major illicit drug producing countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

A country's presence on the foregoing list is not necessarily a reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(2) and (5) of the Foreign Assistance Act of 1961, as amended (FAA), the reason countries are placed on the list is the combination of geographic, commercial, and economic factors that allow drugs to transit or be produced, even if a government has engaged in robust and diligent narcotics control measures.

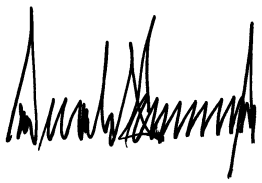
Pursuant to section 706(2)(A) of the FRAA, I hereby designate Bolivia and Venezuela as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and to take the measures required by section 489(a)(1) of the FAA. Included with this determination are justifications for these designations, as required by section 706(2)(B) of the FRAA. I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that support for programs to aid the promotion of democracy in Venezuela are vital to the national interests of the United States.

Combatting the ongoing United States opioid epidemic is one of my Administration's most urgent priorities. The Consolidated Appropriations Act of 2018, which I signed into law this spring, dedicated nearly $4 billion in additional funding to confront this national crisis. My Administration is committed to addressing all factors fueling this drug crisis, which is devastating communities across America, including steps to curb over-prescription, expand access to treatment and recovery programs, improve public education programs to prevent illicit drug use before it begins, and to strengthening domestic drug enforcement at our borders and throughout our Nation. Alongside these massive and historic United States efforts, I expect the governments of countries where illicit drugs originate and through which they transit to similarly strengthen their commitments to reduce dangerous drug production and trafficking.

In this respect, I am deeply concerned that illicit drug crops have expanded over successive years in Colombia, Mexico, and Afghanistan, and are now at record levels. Drug production and trafficking in these three countries directly affect United States national interests and the health and safety of American citizens. Heroin originating from Mexico and cocaine from Colombia are claiming thousands of lives annually in the United States. Afghanistan's illicit opium economy promotes corruption, funds the Taliban,

and undermines that country's security, which thousands of United States service men and women help defend. Despite the efforts of law enforcement and security forces, these countries are falling behind in the fight to eradicate illicit crops and reduce drug production and trafficking. These governments must redouble their efforts to rise to the challenge posed by the criminal organizations producing and trafficking these drugs, and achieve greater progress over the coming year in stopping and reversing illicit drug production and trafficking. The United States will continue its strong support for international efforts against drug production and trafficking, as well as to strengthen prevention and treatment efforts in the United States. The urgency of our national drug epidemic requires significant and measurable results immediately, in the coming year and in the future.

You are authorized and directed to submit this designation, with the Bolivia and Venezuela memoranda of justification, under section 706 of the FRAA, to the Congress, and publish it in the *Federal Register.*



THE WHITE HOUSE,
Washington, September 11, 2018

[FR Doc. 2018–21806
Filed 10–3–18; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Proclamation 9791 of September 28, 2018

National Breast Cancer Awareness Month, 2018

By the President of the United States of America

A Proclamation

During National Breast Cancer Awareness Month, we recognize the women and men who courageously fight to survive, detect, treat, prevent, and support survivors of this devastating disease. Our Nation vows to honor the loving memory of those lost to this disease, and we pray for their grieving families. We reaffirm our ongoing commitment to defeat breast cancer through education, early detection, and innovative research.

In the United States this year, more than 260,000 women and approximately 2,600 men will likely be diagnosed with breast cancer. The statistics are frightening and staggering, yet we are encouraged to know that survival rates have drastically improved in recent years due to increased awareness and innovative advancements in early detection and treatment. The First Lady and I encourage all Americans to be proactive in the crusade against this deadly disease. This includes seeking the advice of healthcare providers, who can better educate patients of the importance of getting appropriate cancer screening tests at the right time, knowing their family history and other risk factors, and making lifestyle changes that may reduce the possibility of breast cancer.

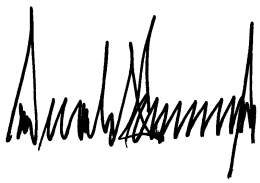
My Administration is committed to supporting our Nation's dedicated researchers in their diligent efforts to advance medical breakthroughs that will save and improve lives. Earlier this year, I signed into law Federal ''Right to Try'' legislation, which provides those diagnosed with a terminal illness expanded options for treatment that could save their lives. Cutting-edge developments in the fight against breast cancer include interventions and treatments that are more effective and less debilitating. Recently, a groundbreaking national study found that most women with an early-stage diagnosis of the most common type of breast cancer can safely forgo chemotherapy. Such research will continue to assist medical professionals in devising optimal recommendations for their patients and help Americans make informed healthcare choices.

American physicians, researchers, public health professionals, and advocates have made tremendous progress in the fight against breast cancer, which is evident by the decline in mortality rates from this disease nationwide. Each life is precious. For this reason, we continue to pursue greater understanding of this disease, support pioneering research, promote effective prevention strategies, and ensure broad access to healthcare screenings. Together, we can usher in a new era of hope in the fight against breast cancer and anticipate the victorious day when this disease no longer plagues our Nation.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2018 as National Breast Cancer Awareness Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of how Americans can fight breast cancer. I also invite the Governors of the States and Territories and officials

of other areas subject to the jurisdiction of the United States to join me in recognizing National Breast Cancer Awareness Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21811
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9792 of September 28, 2018

National Cybersecurity Awareness Month, 2018

By the President of the United States of America

A Proclamation

During National Cybersecurity Awareness Month, we acknowledge the danger that cyber threats pose to our economy and public infrastructure, and raise awareness about steps we can take to mitigate and prevent future attacks. As these threats have continued to increase year after year, my Administration remains committed to bolstering our Nation's cyber defenses and strengthening our national security.

Under my Administration, our Nation's cybersecurity is a Government-wide effort. Collaboration among all United States Government departments and agencies, including the Departments of State, Defense, Justice, Commerce, and Homeland Security, have improved Federal network cybersecurity, enhanced coordination with the private sector to protect critical infrastructure, strengthened our ability to detect and deter cyber threats, and expanded efforts to build the world's best cybersecurity workforce. To advance these efforts, on September 20, 2018, I released the National Cyber Strategy, the first fully articulated cyber strategy for the United States in 15 years. This strategy makes clear that the Federal Government will use all means available to keep our country safe from cyber threats and to protect the American people in the digital domain.

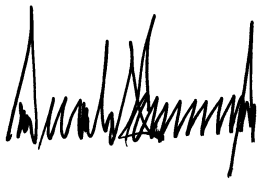
While we are making great strides to help protect American businesses and individuals, the Government cannot secure cyberspace alone. The internet touches many aspects of our daily lives. Our ability to prevent and mitigate cyber threats will improve when all citizens adopt better cybersecurity practices to protect their systems and data. Each of us can contribute by requesting more security from the products and services we use; using multi-factor authentication on our digital accounts and devices; leveraging private, protected, and secure networks; limiting how much personal information and location data we share; and taking other actions to secure the applications we use every day. I also encourage every American to learn more about how to protect themselves and their businesses through the Department of Homeland Security's *STOP.THINK.CONNECT.* campaign and the Department of Commerce's NIST Cybersecurity Framework.

This month especially, I encourage all Americans to promote and improve online security. I also call on our industry and Government partners to work together to share information, build greater trust, and lead the national effort to protect and enhance the resilience of the Nation's cyber infrastructure. I encourage and applaud industry efforts to produce products and services with full-lifecycle cybersecurity. Through continued cooperation between the public and private sectors, and by practicing personal risk-management, we can strengthen our Nation's cyberinfrastructure for ourselves and for future generations of Americans.

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 Cybersecurity Awareness Month. I call upon the people, companies,

and institutions of the United States to recognize the importance of cybersecurity and to observe this month through events, training, and education to further our country's national security and resilience.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21812
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9793 of September 28, 2018

National Disability Employment Awareness Month, 2018

By the President of the United States of America

A Proclamation

During National Disability Employment Awareness Month, we recognize the achievements of Americans with disabilities whose contributions in the workforce help ensure the strength of our Nation. We also renew our commitment to creating an environment of opportunity for all Americans and educating people about disability employment issues.

The American economy is roaring back as a result of my Administration's economic policies, including the enactment of the Tax Cuts and Jobs Act and the elimination of unnecessary and burdensome regulations. More than 4 million jobs have been created since my election. On average, in 2018, more than 5.6 million men and women with disabilities have been employed each month, which is on pace to be the highest annual level ever recorded. Earlier this year, the unemployment rate for Americans with disabilities reached the lowest rate ever recorded. These are positive indicators, and ones that continue to highlight the incredible value that individuals with disabilities offer to the workforce.

To accelerate this momentum and build on my promise to America's workers, I signed an Executive Order establishing the National Council for the American Worker. This initiative will develop a national strategy that guarantees American workers have the ability to learn the skills needed to secure sustained employment, especially in high-demand industries, such as medicine, science, and technology. This national strategy will outline policies to provide all Americans, including Americans with disabilities, more opportunities to work, earn competitive wages, and connect with others worldwide.

My Administration has also taken action to address disability employment issues, which includes encouraging those with disabilities to engage in the workforce, providing greater opportunities for their involvement, and preventing workplace injuries from occurring. For example, in September, the Department of Labor awarded nearly $20 million in grants to eight States for Retaining Employment and Talent after Injury/Illness Network Demonstration (RETAIN) projects. These projects develop innovative strategies that enable Americans who are injured or ill to remain in or return to the workforce. Each year, more than 3.5 million nonfatal work-related injuries and illnesses occur at a cost of $170 billion to the economy. When an illness or injury forces workers to discontinue employment, the loss can be devastating to both the workers and their families. RETAIN projects work because timely, coordinated, and effective support can help hundreds of thousands of workers who have been injured or fallen ill remain in their jobs.

In addition to testing innovative policy solutions, this year, the Department of Labor helped 44 States adopt disability employment policies to meet their workforce needs, and the Department of Labor's Job Accommodation Network provided guidance on accommodations for workplace success to nearly 50,000 employers and to individuals with disabilities. To expand apprenticeship opportunities, the Department of Labor has created inclusive apprenticeship tools for job creators and more than 35,000 employers receive

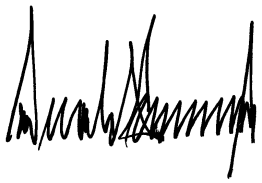
help with recruiting and retaining workers with disabilities through the Employer Assistance and Resource Network on Disability Inclusion.

My Administration will continue these efforts, and renews its commitment to creating more opportunities for Americans with disabilities who want to provide for themselves and their families and contribute to their communities by participating in the workforce. My Administration also reaffirms its support for all the employers who hire Americans with disabilities, providing opportunities for success. It is important that all our Nation's job seekers and creators are both empowered and motivated to partake in our booming economy, and apply their unique talents and skills to the growing workforce.

The Congress, by Joint Resolution approved August 11, 1945, as amended (36 U.S.C. 121), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim October 2018 as National Disability Employment Awareness Month. I call upon government and labor leaders, employers, and the great people of the United States to recognize the month with appropriate programs, ceremonies, and activities across our land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21813
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9794 of September 28, 2018

National Energy Awareness Month, 2018

By the President of the United States of America

A Proclamation

During National Energy Awareness Month, we recognize the remarkable role American energy plays in producing more abundant, affordable, and reliable power for our Nation and the world. My Administration is reducing regulatory burdens on the energy sector, developing innovative energy technologies, and building new energy-related infrastructure. Our agenda is fueling tremendous economic growth and forging a more secure future for our country and our allies.

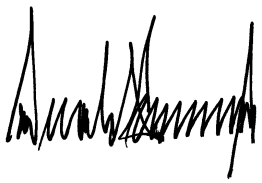
The American energy renaissance is pressing forward with stunning speed. The United States is becoming both energy independent and energy dominant because of the entrepreneurial spirit of the American people and the application of innovative technologies to energy production, transmission, distribution, and use. Recently, United States crude oil production rose to roughly 11 million barrels a day, making our Nation the largest global producer. Additionally, the United States is the world's largest producer of natural gas, and, in 2017, our coal exports rose by roughly 60 percent over the previous year. American energy dominance means the end of our crippling dependence on foreign energy, and that our industries have access to reliable, affordable, and diverse energy supplies that enable them to compete in the global marketplace. Increasing energy security is also ushering in a new era of American leadership around the world as we export more of our energy bounty to friends and allies abroad, freeing them from hostile dependence.

Our Nation's increasingly innovative energy industry is proving that we can be responsible stewards of the environment while developing energy resources to grow the economy, lower costs, ignite job creation, and drive up incomes for American workers. From 2005 to 2017, the United States led the world in cutting energy-related carbon dioxide emissions, reducing them by about 860 million metric tons. Between 1970 and 2017, combined emissions from the six common pollutants dropped by 73 percent, all while our economy continued to grow. We are leading the world in the development of the next generation of energy technologies that will convert our abundant and diverse domestic energy resources, including coal, natural gas, nuclear, and renewables, into the useful energy services that power our economy. America's innovative minds and industrial might, not the mandates of international agreements, have made our Nation the world leader in producing energy more abundantly while simultaneously reducing emissions.

America's future has never been brighter, and American energy is leading the way in providing jobs, opportunity, and security for our Nation. This month, we recommit to strengthening our energy security and to responsibly using our energy resources so that we can continue on our path towards energy independence and dominance.

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 Energy Awareness Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21816
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9795 of September 28, 2018

National Substance Abuse Prevention Month, 2018

By the President of the United States of America

A Proclamation

During National Substance Abuse Prevention Month, we recognize the importance of ending and preventing substance abuse. We must remain vigilant in raising awareness about the harms posed by alcohol and drugs, including prescription opioids, and their high potential for addiction. We can—and we must—provide families with the information, skills, and resources to stay safe and strong. As a Nation, we renew our commitment to improving individual and community health through increased education on the risks of substance abuse. Our investment in prevention will help to further yield improved academic performance, healthier lifestyles, more successful citizens, and safer communities.

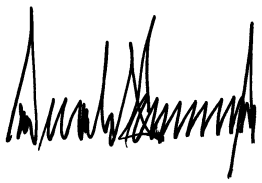
Our country is reeling from the enormity of an opioid epidemic that has resulted in huge numbers of overdose fatalities, an influx of children in foster care, and too many families forever changed by the addiction or death of a loved one. In 2017 alone, it is estimated that we lost approximately 72,000 Americans to an overdose, and approximately 49,000 of those deaths involved an opioid. Fueled by prescription pain medications, heroin, and illicit fentanyl, the severity of the current addiction crisis requires immediate action. We must go beyond simply raising awareness about the harms and risks of illicit drugs, which is one reason why, last October, my Administration declared a nationwide Public Health Emergency to continue comprehensively and proactively fighting the opioid epidemic on every front.

My Administration is committed to helping overcome addiction in our country. This past June, we launched a public awareness campaign directed toward our Nation's vulnerable young people, helping them ''know the truth'' and ''spread the truth'' about the risks of opioid abuse. In August, we awarded a record-breaking $90.9 million to 731 Drug-Free Communities coalitions across all 50 States to help prevent youth drug abuse. We are also encouraging adult individuals and family members to share their personal stories on how this epidemic has affected them through platforms such as *The Crisis Next Door.* Launched by the White House earlier this year, this initiative is helping to remove harmful stigmas surrounding opioid abuse and showing that this crisis can affect anyone from anywhere.

This month, we reaffirm our commitment to helping educate our loved ones on the devastating effects substance abuse can have on our families, our communities, and our Nation. I call on parents, educators, mentors, employers, healthcare professionals, law enforcement officials, faith and community leaders, and Americans to support evidence-based prevention programs. Through our united advocacy and awareness efforts on the horrific dangers of substance abuse, we can cultivate a society focused on health, wellness, and prosperity.

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 Substance Abuse Prevention Month. I call upon all Americans to engage in appropriate programs and activities to promote comprehensive substance abuse prevention efforts within their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21817
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9796 of September 28, 2018

Gold Star Mother's and Family's Day, 2018

By the President of the United States of America

A Proclamation

Courageous Americans of every generation have given their last full measure of devotion in defense of our country and our freedom. The families who stood alongside these heroes have paid a price no family should ever have to pay. Gold Star Mother's and Family's Day is a solemn reminder that these families—the families of our fallen service members—bear the burden of their loss forever.

A century ago, President Woodrow Wilson approved a recommendation by the Women's Committee of National Defenses for mothers to display a gold star on an armband of black cloth to enhance public recognition for the loss of their children in World War I. Since then, millions of families have tragically traded in blue stars for heroes fighting for America for gold stars of the fallen—a badge of honor they wished they would never have to hold.

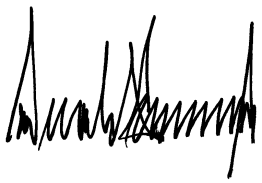
Although they have suffered unimaginable sorrow, Gold Star families have charged forward with inspiring strength and determination, giving selflessly to their communities and our country. They support our men and women in uniform, our wounded warriors, and our veterans. Their unselfish leadership fosters patriotism and encourages us to consider what we can do to be better citizens.

We will never forget those who nobly gave their lives in service to our country. Today, we pay tribute to these brave men and women in uniform by honoring the mothers, fathers, wives, husbands, brothers, sisters, sons, and daughters who have wounds in their hearts that will never be fully healed. We will continue to support them as they supported our country by selflessly sharing their loved ones for the noble cause of freedom. Let us pledge our deep and everlasting respect and gratitude to our Gold Star families.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

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 September 30, 2018, as Gold Star Mother's and Family's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's gratitude and respect for our Gold Star Mothers and Families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21819
Filed 10–3–18; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9797 of September 28, 2018

Child Health Day, 2018

By the President of the United States of America

A Proclamation

On Child Health Day, we renew our commitment to ensuring the health and well-being of our young people, who are the future of our great country. All children deserve to grow up in loving homes with parents or guardians who are dedicated to empowering them to live healthy, safe, and successful lives.

My Administration is actively working to create environments in which families can grow stronger and children can realize their full potential. Earlier this year, I signed into law a 5-year authorization of the Maternal, Infant, and Early Childhood Home Visiting Program, which helps at-risk families get off to a better and healthier start with evidence-based home visiting programs. Home visiting programs help prevent child abuse and neglect, support positive parenting, improve maternal and child health, and promote child development and school readiness. Additionally, through the Be Best initiative, led by First Lady Melania Trump, we are helping to address some of the most prevalent challenges facing children, including destructive online habits, bullying, mental health, and alcohol and drug abuse. Further, we are strengthening our public health and safety response to the opioid crisis. One of the many tragic consequences of opioid addiction is neonatal abstinence syndrome, which poses risks to the long-term health of children.

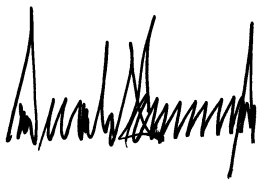
Across our country, more than 15,000 children are diagnosed with pediatric cancer each year. Survival rates for most childhood cancers have improved in recent decades, but serious challenges remain. Children who survive cancer frequently struggle with significant complications later in life. For this reason, I signed into law the Childhood Cancer Survivorship, Treatment, Access, and Research Act of 2018, which will provide more funding to research childhood cancers, explore effective treatments, and help enhance the quality of long-term care for children after active treatment and into remission.

Every child, both born and unborn, possesses inherent dignity. Today, let us rededicate ourselves to our shared goal of building a better future for each one of them. As parents and role models, we have a moral responsibility to nurture and care for our most vulnerable population. Together, we can ensure that our children are healthy, and grow up to be happy and productive adults.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as Child Health Day and has requested that the President issue a proclamation in observance of this day.

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 Monday, October 1, 2018, as Child Health Day. I call upon families, child health professionals, faith-based and community organizations, and governments to help ensure that America's children stay safe and healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, 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.



[FR Doc. 2018–21820
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Billing code 3295–F9–P

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Federal Register

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Thursday, October 4, 2018

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