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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 9851 of March 18, 2019

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2019

By the President of the United States of America

A Proclamation

On the 198th anniversary of Greek Independence Day, we celebrate the rich history and enduring bond between the United States and Greece. Our strong alliance and unwavering friendship are rooted in mutual respect and a shared commitment to freedom, justice, and democracy.

The common bond between the United States and Greece is rooted in thousands of years of tradition, stretching back to ancient Greece. The lessons of ancient Greek democracies are among the greatest and most enduring ever taught. From them the world came to know and understand the foundational principles of human liberty, self-government, and the rule of law—the very principles that fueled America's own drive for independence and shaped our Republic. Decades after securing our independence, American citizens expressed their appreciation by supporting the people of Greece in their fight for their own freedom.

Today, our Greek-American partnership is robust and gaining momentum. The inaugural United States-Greece Strategic Dialogue, held last December, and the United States-Greece Commercial Dialogue, held last September, highlighted the strength of the bilateral relationship and bolstered confidence in Greece as a regional leader. We applaud the historic 2019 decision of the Greek Parliament to ratify the Prespa Agreement, which resolved the long-standing naming dispute with North Macedonia. This ratification confirmed Greece's role as a partner with an abiding commitment to advancing stability, security, and prosperity in the region. Additionally, the 2018 Thessaloniki International Fair forged opportunities for enhanced collaboration in technology, enterprise, and innovation.

Our common vision for a peaceful and prosperous region is particularly evident in our ongoing defense relationship. The rotation of NATO aircraft and equipment through Thessaloniki and Alexandroupoli, the complex bilateral training events, and the availability of Souda Bay for the naval forces of the United States reflect mutually beneficial cooperation to ensure our mutual strength and security. Our bilateral relationship has also afforded many opportunities to support partnerships and initiatives that address the areas of defense and security, law enforcement and counterterrorism, and energy security and diversification.

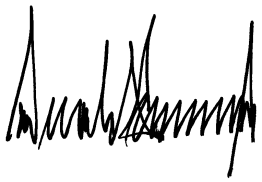
The strong people-to-people ties that undergird our friendship also serve to fortify our alliance. We continue to identify opportunities to increase student and professional exchanges and English language programs. These programs make tremendous contributions to the economic, cultural, and political power of our two great democracies. This summer, we will launch the Future Leaders Exchange (FLEX) Program with Greece to develop the next generation of leaders who will sustain and enhance our strong partnership.

On this day, we honor the shared values that bind our two countries as faithful allies and friends, and we recognize the profound impact Greek-Americans have had on every aspect of our culture. Together, recalling

the spirit of the ancient Greeks, we reaffirm our abiding belief that democratic institutions offer the greatest opportunity to safeguard human rights, dignity, and freedom for all.

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 March 25, 2019, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of March, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-third.



[FR Doc. 2019–05541
3–20–19; 8:45 am]
Billing code 3295–F9–P

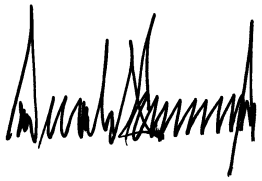
Presidential Documents

Order of March 18, 2019

Sequestration Order for Fiscal Year 2020 Pursuant To Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act (the ''Act''), as amended, 2 U.S.C. 901a, I hereby order that, on October 1, 2019, direct spending budgetary resources for fiscal year 2020 in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of March 18, 2019.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget's report of March 18, 2019, prepared pursuant to section 251A(9) of the Act.



THE WHITE HOUSE,
March 18, 2019.

[FR Doc. 2019–05547
3–20–19; 8:45 am]
Billing code 3295–F9–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0719; Product Identifier 2016–NE–24–AD; Amendment 39–19589; AD 2019–05–07]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–20–01 for certain Honeywell International Inc. (Honeywell) TFE731–20 and TFE731–40 turbofan engines. AD 2017–20–01 required removing the affected fan disk and replacing it with a fan disk eligible for installation. Since we issued AD 2017–20–01, we determined that some turbofan engine models were omitted from the applicability of AD 2017–20–01. This AD adds turbofan engine models to the applicability and removes the Honeywell TFE731–20 turbofan engine model from the applicability. This AD requires removal of affected fan disks and replacement with parts eligible for installation. This AD was prompted by two fan disks found with surface rollovers in the dovetail slot area. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 25, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of November 2, 2017 (82 FR 45173, September 28, 2017).

ADDRESSES: For service information identified in this final rule, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099 (Toll Free U.S.A./Canada); 602–365–3099 (International Direct); website: *www.myaerospace.com*; email: *engine.reliability@honeywell.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0719.

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–2018–0719; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Document Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–20–01, Amendment 39–19058 (82 FR 45173, September 28, 2017), (''AD 2017–20–01''). AD 2017–20–01 applied to Honeywell TFE731–20 and TFE731–40 turbofan engines with fan disk part number (P/N) 3060287–2 and a serial number (S/N) listed in Table 9 of Honeywell Service Bulletin (SB) TFE731–72–5256, Revision 0, dated October 7, 2016. The NPRM published in the **Federal Register** on September 14, 2018 (83 FR 46664). The NPRM was prompted by two fan disks found with surface rollovers in the dovetail slot area. The NPRM proposed to require removing the Honeywell TFE731–20 turbofan engine from the applicability and prohibit the installation of affected fan disks that do not have ''T43374'' marked adjacent to the fan disk P/N or S/N. The NPRM also proposed adding Honeywell TFE731–20R, –20AR, –20BR, and TFE731–40AR, –40BR, and –40R turbofan engines to the applicability. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Correct P/N Typographical Error

Honeywell requested that we correct the P/N from ''P/N 3060267–2'' to ''P/N 3060287–2'' in the ''Actions Since AD 2017–20–01 Was Issued'' paragraph and the Installation Prohibition paragraph.

We agree that we had a typographical error in the ''Actions Since AD 2017–20–01 Was Issued'' paragraph and the Installation Prohibition paragraph of the NPRM. We did not update the ''Actions Since AD 2017–20–01 Was Issued'' paragraph because this language is not included in this final rule. We, however, updated the P/N in the Installation Prohibition paragraph of this AD to ''P/N 3060287–2.''

Request To Update the Location of the Marking

Honeywell requested that we update the location references in the AD of the ''T43374'' marking from the ''engine P/N or S/N'' to the ''fan disk P/N or S/N.''

We agree. Because we want to maintain technical correctness and consistency with the service information, we updated the location of the ''T43374'' marking from ''engine P/N or S/N'' to ''fan disk P/N or S/N'' throughout this AD.

Request To Update Applicability

The European Union Aviation Safety Agency (EASA) requested that we update the applicability to include all Honeywell TFE731 engines for which the affected parts are eligible. EASA reasoned that the consequence of the applicability is that the Installation Prohibition, paragraph (h), of this AD, is not valid for those engines that do not have the affected parts installed. The commenter indicated that only revising

the applicability paragraph will ensure that no spare (or removed) parts are installed on any engine that does not have an affected part installed.

We partially agree. We agree that the applicability paragraph will result in limiting the Installation Prohibition to only those engines that have the affected fan disk installed on the effective date of the AD. To be consistent with the Applicability paragraph, we revised the Installation Prohibition paragraph of this AD to refer only to engines identified in the Applicability paragraph of this AD.

We disagree with rewording the Applicability paragraph of this AD because this paragraph meets the safety requirements of this AD. Further, revising the applicability of this AD would require renoticing the NPRM and therefore delay the effectivity of this AD. We did not change this AD.

Support for the AD

An individual commenter expressed support for the NPRM as written.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Honeywell SB TFE731–72–5256, Revision 0, dated October 7, 2016. The SB identifies affected fan disks by S/N and describes procedures for removing, inspecting, and replacing the affected fan disks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 61 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove fan disk and send to Honeywell for inspection.	8 work-hours × $85 per hour = $680	$0	$680	$41,480
Install reworked or new fan disk	26 work-hours × $85 per hour = $2,210	0	2,210	134,810

We estimate the following costs to do any necessary fan disk replacements that would be required based on the results of the inspection. We estimate that six engines will need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the non-serviceable disk with a new fan disk	1 work-hour × $85 per hour = $85	$50,000	$50,085

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–20–01, Amendment 39–19058 (82 FR 45173, September 28, 2017), and adding the following new AD:

2019–05–07 Honeywell International Inc. (Type Certificate previously held by AlliedSignal Inc.): Amendment 39–19589; Docket No. FAA–2018–0719; Product Identifier 2016–NE–24–AD.

(a) Effective Date

This AD is effective April 25, 2019.

(b) Affected ADs

This AD replaces AD 2017–20–01, Amendment 39–19058 (82 FR 45173, September 28, 2017).

(c) Applicability

This AD applies to all Honeywell International Inc. (Honeywell) TFE731–20R, –20AR, –20BR, and TFE731–40, –40AR, –40BR, and –40R turbofan engines with a fan disk part number (P/N) 3060287–2 and with a serial number (S/N) listed in Table 9 of Honeywell Service Bulletin (SB) TFE731–72–5256, Revision 0, dated October 7, 2016, that do not have ''T43374'' marked adjacent to the fan disk P/N or S/N.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a report of two fan disks found with surface rollovers in the dovetail slot area. We are issuing this AD to prevent uncontained failure of the fan disks. The unsafe condition, if not addressed, could result in uncontained fan disk release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Remove the affected fan disk using the following criteria:

(1) Remove fan disks with 9,000 cycles since new (CSN) or more as of the effective date of this AD, within 100 cycles-in-service (CIS), or at the next engine shop visit, or at next access, whichever occurs first, after the effective date of this AD.

(2) Remove fan disks with between 8,000 and 8,999 CSN, inclusive, as of the effective date of this AD, within 9,100 CSN or within 1,000 CIS, or at the next engine shop visit, or at next access, whichever occurs first, after the effective date of this AD.

(3) Remove fan disks with fewer than 8,000 CSN as of the effective date of this AD, before exceeding 9,000 CSN, or at the next engine shop visit, or at next access, whichever occurs first, after the effective date of this AD.

(4) Replace any removed fan disk with a part eligible for installation.

(h) Installation Prohibition

Do not install an affected fan disk, P/N 3060287–2, unless ''T43374'' is marked adjacent to the fan disk P/N or S/N onto any engine identified in the Applicability paragraph of this AD.

(i) Definitions

(1) For the purposes of this AD, an ''engine shop visit'' is defined as the removal of the tie-shaft nut from the engine.

(2) For the purposes of this AD, ''access'' is defined as the removal of the fan rotor assembly from the engine.

(3) For the purposes of this AD, a ''part eligible for installation'' is:

(i) A fan disk not listed in the Accomplishment Instructions, Table 9, in Honeywell SB TFE731–72–5256, Revision 0, dated October 7, 2016; or

(ii) a fan disk listed in the Accomplishment Instructions, Table 9, in Honeywell SB TFE731–72–5256, Revision 0, dated October 7, 2016, that has been inspected, reworked, and marked with ''T43374'' adjacent to the fan disk P/N or S/N. Guidance on returning affected parts to Honeywell for inspection and rework is found in the Accomplishment Instructions, paragraph 3.D., of Honeywell SB TFE731–72–5256, Revision 0, dated October 7, 2016.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD.

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

(k) Related Information

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

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on November 2, 2017.

(i) Honeywell Service Bulletin TFE731–72–5256, Revision 0, dated October 7, 2016.

(ii) [Reserved].

(4) For Honeywell service information identified in this AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099 (Toll-Free U.S.A./Canada); 602–365–3099 (International Direct); website: *www.myaerospace.com*; email: *engine.reliability@honeywell.com.*

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

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

Issued in Burlington, Massachusetts, on March 14, 2019.

Karen M. Grant,

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

[FR Doc. 2019–05178 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1009; Product Identifier 2018–NM–147–AD; Amendment 39–19595; AD 2019–05–13]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal of Airworthiness Directives (ADs).

SUMMARY: We are removing AD 2007–22–05 and AD 2013–13–13 (referred to after this as ''the affected ADs''), which applied to Airbus SAS Model A300–600 and A310 series airplanes. The affected

ADs required certain actions to address various unsafe conditions. The affected ADs are no longer necessary because we have since issued other ADs to address these unsafe conditions. Accordingly, we are removing the affected ADs.

DATES: This AD is effective March 21, 2019.

ADDRESSES:

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–2018–1009; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus SAS Model A300–600 and A310 series airplanes, identified in the following affected ADs. The NPRM published in the **Federal Register** on December 28, 2018 (83 FR 67156). The NPRM was prompted by a determination that the affected ADs are no longer necessary because we have since issued other ADs to address the various unsafe conditions. The NPRM proposed to remove the affected ADs. We are issuing this AD to remove the affected ADs, which have been terminated by other ADs.

AFFECTED ADS AND THE AD(S) THAT TERMINATES THE AFFECTED ADS

Affected AD	Affected models	AD(s) that terminates the affected AD
AD 2007–22–05, Amendment 39–15241 (72 FR 60236, October 24, 2007).	A300–600 series airplanes	AD 2018–01–07, Amendment 39–19148 (83 FR 2042, January 16, 2018) (''AD 2018–01–07'').
AD 2013–13–13, Amendment 39–17501 (79 FR 48957, August 19, 2014).	A300–600 and A310 series airplanes	AD 2017–21–08, Amendment 39–19079 (82 FR 48904, October 23, 2017); and AD 2018–01–07.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

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

Costs of Compliance

This AD adds no cost. This AD removes the affected ADs from 14 CFR part 39; therefore, operators are no longer required to show compliance with the affected ADs.

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.

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing AD 2007–22–05, Amendment 39–15241 (72 FR 60236, October 24,

2007) and AD 2013–13–13, Amendment 39–17501 (79 FR 48957, August 19, 2014); and adding the following new AD:

2019–05–13 Airbus SAS: Amendment 39–19595; Docket No. FAA–2018–1009; Product Identifier 2018–NM–147–AD.

(a) Effective Date

This AD is effective March 21, 2019.

(b) Affected ADs

This AD removes AD 2007–22–05, Amendment 39–15241 (72 FR 60236, October 24, 2007) and AD 2013–13–13, Amendment 39–17501 (79 FR 48957, August 19, 2014).

(c) Applicability

This AD applies to Model A300–600 and A310 series airplanes.

(d) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

Issued in Des Moines, Washington, on March 13, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–05278 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0232; Airspace Docket No. 17–ANM–33]

RIN 2120–AA66

Amendment and Establishment of Multiple Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies six United States Area Navigation (RNAV) routes (Q–88, Q–90, Q–114, Q–126, Q–136, and Q–150) and establishes one RNAV route (Q–92) in the western United States. The routes support standard instrument departures (SIDs) and standard terminal arrival routes (STARs) for Denver International Airport. Additionally, the routes promote operational efficiencies for users and provide connectivity to current and proposed RNAV enroute procedures while enhancing capacity for adjacent airports.

DATES: Effective date 0901 UTC, June 20, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA, Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*.

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

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

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it supports amending the air traffic service route structure in the western United States to maintain the efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** for Docket No. FAA–2018–0232 (83 FR 22891; May 17, 2018), and corrected on May 24, 2018 (83 FR 24047), to amend six United States Area Navigation (RNAV) routes (Q–88, Q–90, Q–114, Q–126, Q–136, and Q–150) and establish one RNAV route (Q–92) in the western United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by amending United States RNAV routes Q–88, Q–90, Q–114, Q–126, Q–136, Q–150; and establishing United States RNAV routes Q–92. The route changes are outlined below.

Q–88: Q–88 extends from the HAKMN, NV, waypoint (WP) to the CHESZ, UT, WP. This action extends the route from the HAKMN, NV, WP to the DKOTA, SD, WP. The amended route connects airports in the northeastern United States (U.S.) and Canada with Los Angeles and Las Vegas and provides Denver International Airport departures to the north a routing to Minneapolis.

Q–90: Q–90 is amended from the DNERO, CA, WP to the WELKY, IA, WP. The amended route connects to Chicago O'Hare Airport. Additionally, the route provides an alternate south departure route from Denver International Airport to the Los Angeles, CA, basin satellite airports.

Q–92: Q–92 is established to support departures from Denver International Airport bound for airports in the midwest and east coast.

Q–114: Q–114 is amended from the NATEE, NV, WP to the LEONG, IA, WP. The route connects Chicago area airports to the Los Angeles basin airports. Additionally, the route supports Denver International Airport west departures to the Los Angeles, CA, basin satellite airports.

Q–126: Q–126 is amended from the TIPRE, CA, WP to the BRAFF, CO, WP. The route links airports on the U.S. west coast to airports in the Midwest. Q–126 adds utility by supporting Denver International Airport arrival traffic from the west. Additional waypoints were added to the airway to provide for oxygen escape routes.

Q–136: Q–136 is amended from the Coaldale, NV, VORTAC to the BAACN, IA, WP. The route links airports on the U.S. west coast to airports in the Midwest. Q–136 supports Denver International Airport west departures to the San Francisco Bay area and departures to the Midwest and east coast airports. Additional waypoints were added to the airway to provide for oxygen escape routes.

Q–150: Q–150 is amended from the STEVS, WA, WP to the EXHAS, KS, WP. The route supports overflight traffic between Seattle area airports and Dallas/Ft. Worth, Houston, as well as Calgary and Edmonton airports in Canada. Q–150 supports Denver departures enroute to Boise, ID; Portland, OR; and Seattle, WA.

United States Area Navigation Routes are published in paragraph 2006, 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 RNAV route listed in this document will be subsequently published in the Order.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying six RNAV routes (Q–88, Q–90, Q–114, Q–126, Q–136, and Q–150) and establishing one RNAV route (Q–92) qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F—Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes

Q–88 HAKMN, NV to DKOTA, SD [Amended]

HAKMN, NV	WP	(Lat. 35°30′28.31″ N, long. 115°04′47.04″ W)
LAKRR, NV	WP	(Lat. 36°05′07.72″ N, long. 114°17′09.16″ W)
PROMT, UT	WP	(Lat. 37°30′06.70″ N, long. 111°52′12.94″ W)
ZAKRY, CO	WP	(Lat. 39°22′47.16″ N, long. 107°12′15.76″ W)
CHUWY, NE	WP	(Lat. 41°30′42.77″ N, long. 102°52′39.47″ W)
VIVID, SD	FIX	(Lat. 43°51′37.63″ N, long. 099°59′15.44″ W)
DKOTA, SD	WP	(Lat. 45°22′17.00″ N, long. 097°37′27.00″ W)

* * * * * * *

Q–90 DNERO, CA to WELKY, IA [Amended]

DNERO, CA	WP	(Lat. 35°02′07.14″ N, long. 114°54′16.39″ W)
YAMHA, CO	WP	(Lat. 37°04′15.31″ N, long. 108°51′39.33″ W)
DAAYE, CO	WP	(Lat. 38°00′40.43″ N, long. 105°46′44.19″ W)
WELKY, IA	WP	(Lat. 40°38′57.01″ N, long. 093°33′40.60″ W)

* * * * * * *

Q–92 CHUWY, NE to JORDY, IA [New]

CHUWY, NE	WP	(Lat. 41°30′42.77″ N, long. 102°52′39.47″ W)
KUTCH, NE	WP	(Lat. 41°48′23.73″ N, long. 101°01′44.06″ W)
MAASI, NE	WP	(Lat. 41°59′36.09″ N, long. 097°34′21.90″ W)
JORDY, IA	FIX	(Lat. 42°05′11.53″ N, long. 093°31′32.82″ W)

* * * * * * *

Q–114 NATEE, NV to LEONG, IA [Amended]

NATEE, NV	WP	(Lat. 35°37′14.00″ N, long. 115°22′26.00″ W)
BAWER, UT	WP	(Lat. 37°38′06.68″ N, long. 112°16′45.89″ W)
AVVVS, CO	FIX	(Lat. 40°02′07.82″ N, long. 104°46′03.16″ W)
AYOLE, NE	WP	(Lat. 41°08′59.40″ N, long. 100°43′20.63″ W)
LEONG, IA	WP	(Lat. 41°24′02.01″ N, long. 093°44′57.66″ W)

* * * * * * *

Q–126 TIPRE, CA to BRAFF, CO [Amended]

TIPRE, CA	WP	(Lat. 38°12′21.00″ N, long. 121°02′09.00″ W)
INSLO, NV	WP	(Lat. 38°40′44.90″ N, long. 117°17′53.20″ W)

LBATO, UT	WP	(Lat. 39°47′17.82″ N, long. 110°04′48.60″ W)
BASNN, CO	WP	(Lat. 39°55′53.98″ N, long. 109°00′50.73″ W)
BRAFF, CO	WP	(Lat. 40°08′35.62″ N, long. 104°23′26.75″ W)

* * * * * * *

Q–136 COALDALE, NV (OAL) to BAACN, IA [Amended]

COALDALE, NV (OAL)	VORTAC	(Lat.38°00′11.74″ N, long. 117°46′13.60″ W)
RUMPS, NV	WP	(Lat. 38°07′10.00″ N, long. 117°16′15.00″ W)
KATTS, NV	WP	(Lat. 38°20′00.00″ N, long. 116°20′00.00″ W)
WEEMN, UT	WP	(Lat. 39°21′57.00″ N, long. 109°58′02.80″ W)
COUGH, CO	WP	(Lat. 39°53′45.04″ N, long. 105°14′56.79″ W)
ZIRKL, NE	WP	(Lat. 40°07′56.94″ N, long. 101°22′17.29″ W)
BAACN, IA	WP	(Lat. 40°58′29.04″ N, long. 093°47′25.79″ W)

* * * * * * *

Q–150 STEVS, WA to EXHAS, KS [Amended]

STEVS, WA	WP	(Lat. 47°14′54.49″ N, long. 120°32′09.93″ W)
GANNE, WY	WP	(Lat. 43°18′37.17″ N, long. 109°30′23.85″ W)
DUUZE, KS	WP	(Lat. 38°51′00.00″ N, long. 101°42′00.00″ W)
EXHAS, KS	WP	(Lat. 38°20′04.70″ N, long. 101°09′35.23″ W)

Issued in Washington, DC, on March 11, 2019.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2019–04786 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by the Commission's regulations, the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

DATES: This final rule is effective March 21, 2019 and establishes cost limits applicable from January 1, 2019 through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Richard W. Foley, Chief, Certificates Branch 1, Division of Pipeline Certificates, (202) 502–8955.

SUPPLEMENTARY INFORMATION: Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the ''limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year.''

Pursuant to § 375.308(x)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2019, as published in Table I of § 157.208(d) and Table II of 157.215(a), are hereby issued.

Effective Date

This final rule is effective March 21, 2019. The provisions of 5 U.S.C. 804 regarding Congressional review of Final Rules does not apply to the Final Rule because the rule concerns agency procedure and practice and will not substantially affect the rights or obligations of non-agency parties. The Final Rule merely updates amounts published in the Code of Federal Regulations to reflect the Department of Commerce's latest annual determination of the Gross Domestic Product (GDP) implicit price deflator, a mathematical updating required by the Commission's existing regulations.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

Issued: March 14, 2019

Terry L. Turpin,

Director, Office of Energy Projects.

Accordingly, 18 CFR part 157 is amended as follows:

PART 157—[AMENDED]

■ 1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

■ 2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I TO PART 157

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000

TABLE I TO PART 157—Continued

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
2004	7,800,000	21,600,000
2005	8,000,000	22,000,000
2006	9,600,000	27,400,000
2007	9,900,000	28,200,000
2008	10,200,000	29,000,000
2009	10,400,000	29,600,000
2010	10,500,000	29,900,000
2011	10,600,000	30,200,000
2012	10,800,000	30,800,000
2013	11,000,000	31,400,000
2014	11,200,000	31,900,000
2015	11,400,000	32,400,000
2016	11,600,000	32,800,000
2017	11,800,000	33,200,000
2018	12,000,000	33,800,000
2019	12,300,000	34,600,000

* * * * *

■ 3. Table II in § 157.215(a)(5) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II TO PART 157

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000
2002	4,850,000
2003	4,900,000
2004	5,000,000
2005	5,100,000
2006	5,250,000
2007	5,400,000
2008	5,550,000
2009	5,600,000
2010	5,700,000
2011	5,750,000
2012	5,850,000
2013	6,000,000
2014	6,100,000
2015	6,200,000
2016	6,300,000
2017	6,400,000
2018	6,500,000
2019	6,600,000

* * * * *

[FR Doc. 2019–05336 Filed 3–20–19; 8:45 am]

BILLING CODE 6717–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046–AB12

2019 Adjustment of the Penalty for Violation of Notice Posting Requirements

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990, this final rule adjusts for inflation the civil monetary penalty for violation of the notice-posting requirements in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act.

DATES: This final rule is effective April 22, 2019.

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, (202) 663–4681, or Savannah Marion Felton, General Attorney, (202) 663–4909, Office of Legal Counsel, 131 M St. NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or 1–800–669–6820 (TTY), or to the Publications Information Center at 1–800–669–3362 (toll free).

SUPPLEMENTARY INFORMATION:

I. Background

Under section 711 of the Civil Rights Act of 1964 (Title VII), which is incorporated by reference in section 105 of the Americans with Disabilities Act (ADA) and section 207 of the Genetic Information Non-Discrimination Act (GINA), and 29 CFR 1601.30(a), every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program covered by Title VII, ADA, or GINA must post notices describing the pertinent provisions of Title VII, ADA, or GINA. Such notices must be posted in prominent and accessible places where notices to employees, applicants, and members are customarily maintained.

The EEOC first adjusted the civil monetary penalty for violations of the notice posting requirements in 1997 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA Act), 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, Sec. 31001(s)(1), 110 Stat. 1373. A final rule was published in the **Federal Register** on May 16, 1997, at 62 FR 26934, which raised the maximum penalty per violation from $100 to $110. The EEOC's second adjustment, made pursuant to the FCPIA Act, as amended by the DCIA, was published in the **Federal Register** on March 19, 2014, at 79 FR 15220 and raised the maximum penalty per violation from $110 to $210.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, Sec. 701(b), 129 Stat. 599, further amended the FCPIA Act, to require each federal agency, not later than July 1, 2016, and not later than January 15 of every year thereafter, to issue regulations adjusting for inflation the maximum civil penalty that may be imposed pursuant to each agency's statutes. The EEOC's initial adjustment made pursuant to the 2015 Act was published in the **Federal Register** on June 2, 2016, at 81 FR 35269 and raised the maximum penalty per violation from $210 to $525. The EEOC's second adjustment made pursuant to the 2015 Act was published in the **Federal Register** on January 31, 2017, at 82 FR 8812 and raised the maximum penalty per violation from $525 to $534. EEOC's third adjustment made pursuant to the 2015 Act was published in the **Federal Register** on January 18, 2018 at 83 FR 2537 and raised the maximum penalty per violation from $534 to $545.

The purpose of the annual adjustment for inflation is to maintain the remedial impact of civil monetary penalties and promote compliance with the law. These periodic adjustments to the penalty are to be calculated pursuant to the inflation adjustment formula provided in section 5(b) of the 2015 Act and, in accordance with section 6 of the 2015 Act, the adjusted penalty will apply only to penalties assessed after the effective date of the adjustment. Generally, the periodic inflation adjustment to a civil monetary penalty under the 2015 Act will be based on the percentage change between the Consumer Price Index for all Urban

Consumers (CPI–U) for the month of October preceding the date of adjustment and the prior year's October CPI–U.

II. Calculation

The adjustment set forth in this final rule was calculated by comparing the CPI–U for October 2018 with the CPI–U for October 2017, resulting in an inflation adjustment factor of 1.02522. The first step of the calculation is to multiply the inflation adjustment factor (1.02522) by the most recent civil penalty amount ($545) to calculate the inflation-adjusted penalty level ($558.7449). The second step is to round this inflation-adjusted penalty to the nearest dollar ($559). Accordingly, we are adjusting the maximum penalty per violation specified in 29 CFR 1601.30(a) from $545 to $559.

III. Regulatory Procedures

Administrative Procedure Act

The Administrative Procedure Act (APA) provides an exception to the notice and comment procedures where an agency finds good cause for dispensing with such procedures, on the basis that they are impracticable, unnecessary, or contrary to the public interest. EEOC finds that under 5 U.S.C. 553(b)(3)(B) good cause exists to not utilize notice of proposed rulemaking and public comment procedures for this rule because this adjustment of the civil monetary penalty is required by the 2015 Act, the formula for calculating the adjustment to the penalty is prescribed by statute, and the Commission has no discretion in determining the amount of the published adjustment. Accordingly, the EEOC is issuing this revised regulation as a final rule without notice and comment.

Executive Orders 13563, 12866, and 13771

In promulgating this final rule, EEOC has adhered to the regulatory philosophy and applicable principles set forth in Executive Order 13563. Pursuant to Executive Order 12866, the EEOC has coordinated with the Office of Management and Budget (OMB). Under section 3(f) of Executive Order 12866, the EEOC and OMB have determined that this final rule will not have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The great majority of employers and entities covered by these regulations comply with the posting requirement, and, as a result, the aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who fail to post required notices in violation of the regulation and statue. The rule only increases the penalty by $14 for each separate offense, nowhere near the $100 million figure that would amount to a significant regulatory action.[1] This rule is not an Executive Order 13771 regulatory action because the rule is not significant under Executive Order 12866.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. This final rule contains no new information collection requirements, and therefore, will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) only requires a regulatory flexibility analysis when notice and comment is required by the Administrative Procedure Act or some other statute. As stated above, notice and comment is not required for this rule. For that reason, the requirements of the Regulatory Flexibility Act do not apply.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one 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.

Congressional Review Act

The Congressional Review Act (CRA) requires 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. EEOC 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 the effective date of the rule. Under the CRA, 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 the CRA at 5 U.S.C. 804(2).

[1] In the last ten years, the highest number of charges alleging notice posting violations occurred in 2010. In that year, only 114 charges of the 90,837 Title VII, ADA, and GINA charges (or .13%) contained a notice posting violation.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure.

Dated: March 18, 2019.

Carol R. Miaskoff,

Associate Legal Counsel, Equal Employment Opportunity Commission.

Accordingly, the Equal Employment Opportunity Commission amends 29 CFR part 1601 as follows:

PART 1601—PROCEDURAL REGULATIONS

■ 1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117; 42 U.S.C. 2000ff to 2000ff–11.

■ 2. Section 1601.30 is amended by revising paragraph (b) to read as follows:

1601.30 Notices to be posted.

* * * * *

(b) Section 711(b) of Title VII and the Federal Civil Penalties Inflation Adjustment Act, as amended, make failure to comply with this section punishable by a fine of not more than $559 for each separate offense.

[FR Doc. 2019–05386 Filed 3–20–19; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0729]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Fort Pierce, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Fort Pierce North Causeway A1A Bridge (Banty Sanders) across the Atlantic Intracoastal Waterway (AICW), mile 964.8 at Fort Pierce, St. Lucie County, FL. This deviation will be a second test of a change to the drawbridge operation

schedule to determine whether a permanent change to the schedule is needed. This test deviation will modify the existing deviation to allow the bridge scheduled openings.

DATES: This deviation is effective without actual notice from March 21, 2019 through August 26, 2019 at 7 a.m. For the purposes of enforcement, actual notice will be used from February 28, 2019 at 7 a.m., until March 21, 2019.

Comments and related material must reach the Coast Guard on or before June 1, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0729 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email LT Samuel Rodriguez-Gonzalez, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305–535–4307, email *Samuel.Rodriguez-Gonzalez@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

On August 30, 2018, the Coast Guard published a Test Deviation entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Fort Pierce, FL'' in the **Federal Register** (83 FR 44233). We received 113 comments.

The Florida Department of Transportation (FDOT) owns the Fort Pierce North Causeway A1A Bridge (Banty Sanders) across the AICW, mile 964.8 in Fort Pierce, St. Lucie County, FL. The bridge has a vertical clearance of 26 feet at mean high water in the closed position and a horizontal clearance of 90 feet. The bridge currently operates under 33 CFR 117.5.

The duration of the initial test deviation was 180 days. During the initial test, the majority of comments received were in support of scheduled openings. However, most felt that the bridge was still opening too frequently. A review of the bridge tender logs did not support the claim that the bridge was opening too frequently. The logs did show, however, that openings tended to be twice per hour as opposed to three times per hour. In addition, the majority of comments recommended scheduled openings during the evening and on weekends.

In order to meet the reasonable needs of navigation, while benefiting vehicle transportation, the Coast Guard is publishing this alternate temporary deviation to the proposed schedule change to determine whether a permanent change to the schedule is appropriate to better balance the needs of marine and vehicle traffic.

Under this temporary deviation, in effect from 7 a.m. on February 28, 2019 to 7 a.m. on August 26, 2019, the draw shall open on the hour and half-hour. Vessels in distress, public vessels of the United States, and tugs with tows must be passed at any time.

This waterway is utilized by vessels of the United States, commercial vessels, as well as recreational vessels. There is no alternate route for vessels desiring to travel north in the AICW. Vessels that may pass through the bridge without a requested opening may do so at any time.

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.

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacynotice.*

Documents mentioned in this notification as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: March 18, 2019.

Barry Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2019–05413 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0145]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone-Tulip Time Festival Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone on Lake Macatawa in Holland, MI for the Tulip Time Festival Fireworks on May 11, 2019 to provide for the safety of life on navigable waterways during this fireworks display. This action is necessary and intended to protect the safety of life and property on navigable waters prior to, during, and immediately after a fireworks display. During the enforcement period listed below vessels and persons are prohibited from transiting through, mooring, or anchoring within the safety zone unless authorized by the Captain of the Port Lake Michigan or a designated representative. The operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 165.929(c)(1) will be enforced from 9:30 p.m. through 10:30 p.m. on May 11, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email marine event coordinator MSTC Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone (414) 747–7148, email *D09-*

SMB-SECLakeMichigan-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Safety Zone; Tulip Time Festival Fireworks listed as (c)(1) in Table 165.929 of 33 CFR 165.929 on May 11, 2019 from 9:30 p.m. through 10:30 p.m. This safety zone will encompass all of Lake Macatawa within the arc of a circle with a 1,000-foot radius from a center point launch position at 42°47.496′ N, 086°07.348′ W (NAD 83). This action is being taken to provide for the safety of life and property on navigable waterways prior to, during, and immediately after this fireworks display.

Pursuant to 33 CFR 165.930, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Lake Michigan via channel 16, VHF–FM. If you are the operator of a vessel in the regulated area during the enforcement period you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

This notice of enforcement is issued under the authority of 33 CFR 165.929 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners. The Captain of the Port Lake Michigan or his or her designated on-scene representative may be contacted via VHF Channel 16 or at (414) 747–7182.

Dated: March 15, 2019.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2019–05357 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1119]

RIN 1625–AA00

Safety Zone; Commandant's State of the Coast Guard Address, San Pedro, California

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary safety zone in the Port of Los Angeles around a portion of Reservation Point on U. S. Coast Guard Base Los Angeles—Long Beach, in support of the U. S. Coast Guard aviation and waterborne asset demonstration for the Commandant's State of the Coast Guard Address. This action is necessary to protect for the safety of life on these navigable waters in the area of the Coast Guard asset demonstration. Entry of persons or vessels into this temporary safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP), Los Angeles—Long Beach, or her designated representative.

DATES: This rule is effective from 12:01 a.m. through 11:59 p.m. on March 21, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–1119 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Waterways Management, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 521–3860, or email *D11-SMB-SectorLALB-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Publishing an NPRM would be impracticable because there is not enough time for Notice and Comment procedures before the event. The date for the State of the Coast Guard event was not set until February 15, 2019, and the Coast Guard's normal Security Zone and Safety Zone processes were interrupted by the extended government shutdown in the beginning of 2019.

We are issuing this rule, and under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**, as delaying the effective date of this rule would be impracticable and potentially threaten the Coast Guards ability to enforce safety measures in to protect for the safety of life in these navigable waters in the area of the Coast Guard asset demonstration.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port (COTP), Los Angeles—Long Beach has determined that potential hazards associated with navigation safety that arise because of the potentially hazardous conditions associated with event safety due to the expected high-speed maneuvers from waterborne vessels and aircraft Search and Rescue demonstration related to this event along the main shipping channel of the nation's most economically vital port complex. For these reasons, the Coast Guard believes that a safety zone is necessary to ensure the safety of, and reduce the risk to, the public, and the participants of the event in the Port of Los Angeles.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on March 21, 2019, encompassing all navigable waters from the surface to the sea floor within 500-foot radius in approximate position: 33°43.241′ N, 118°15.942′ W. All coordinates displayed are referenced by North American Datum of 1983, World Geodetic System, 1984. This temporary safety zone will only be enforced between 7:00 a.m. PST and 5:00 p.m. PST March 21, 2019. During the enforcement period, vessels are prohibited from entering into, transiting through, or remaining within the designated area unless authorized by the Captain of the Port or her designated representative. Sector Los Angeles—Long Beach may be contacted on VHF–FM Channel 16 or (310) 521–3801. The general boating public will be notified prior to the enforcement of the temporary safety zone via Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits including potential economic, environmental, public health and safety effects, distributive impacts, and equity. E.O.13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), 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.''

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. This regulatory action determination is based on the size, location, and duration of the safety zone. The size of the zone is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. The zone will be in place during the scheduled Commandant's State of the Coast Guard Address at U. S. Coast Guard base Los Angeles—Long Beach, which will be conducted in the vicinity of Reservation Point, San Pedro, CA. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. An environmental analysis checklist supporting this determination and Record of Environmental Consideration (REC) are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165. T11–1119 to read as follows:

§ 165. T11–966 Safety Zone; Commandant's State of the Coast Guard Address, San Pedro, California.

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor within 500-foot radius in approximate position: 33°43.241′ N, 118°15.942′ W. All coordinates displayed are referenced by North American Datum of 1983, World Geodetic System, 1984.

(b) *Definitions.* For the purposes of this section:

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, hail Coast Guard Sector Los Angeles—Long Beach on VHF–FM Channel 16 or call at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from 12:01 a.m. through 11:59 p.m. on March 21, 2019. No vessel or person would be permitted to operate in the safety zone without obtaining permission from the COTP or her designated representative. This temporary safety zone will only be enforced between 7:00 a.m. PST and 5:00 p.m. PST March 21, 2019. The general boating public will be notified prior to the enforcement of the temporary moving safety zone via Broadcast Notice to Mariners.

M.L. Rochester,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles Long Beach.

[FR Doc. 2019–05366 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0109]

RIN 1625–AA00

Safety Zone; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Delaware Bay and River to restrict and protect vessel traffic during the transit of Post-Panamax gantry cranes to and from the Port of Philadelphia. This action is intended to protect mariners and vessels from the hazards associated with the transportation of these large cranes. Entry of vessels or persons into this zone would be prohibited unless a vessel meets the stated requirements or is specifically authorized by the Captain of the Port Delaware Bay. This rule compliments a safety zone found in docket number USCG–2019–0122 addressing safety risks while the vessel carrying the cranes is moored at the Port of Philadelphia.

DATES: This rule is effective without actual notice from March 21, 2019 through May 7, 2019. For the purposes of enforcement, actual notice will be used from March 15, 2019, through March 21, 2019. This rule may be cancelled earlier if the project is completed before May 7, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0109 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Petty Officer Thomas Welker, U.S. Coast Guard Sector Delaware Bay, Waterways Management Branch; telephone (215) 271–4814, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The M/V ZHEN HUA 25 is transporting three post-Panamax gantry cranes to ports within the United States. These large cranes extend beyond the width of M/V ZHEN HUA 25 on both sides of the vessel and create a navigational hazard to vessels operating within a certain proximity. The cranes are fastened in manner to facilitate passage through open ocean. Upon arrival with the Delaware River, M/V ZHEN HUA 25 will transit to anchorage and begin an approximately four day process of removing the sea fastenings. The M/V ZHEN HUA 25 will then proceed, conditions permitting, to berth at the Port of Philadelphia Greenwich Terminal. The vessel will deliver two of the three cranes then proceed outbound to Wilmington, NC, with one gantry crane remaining onboard.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable and contrary to the public interest. There is insufficient time to allow for a reasonable comment period prior to the anticipated arrival of M/V ZHEN HUA 25 to the Delaware Bay Captain of the Port zone. The rule must be in force by March 15, 2019, to serve its purpose of ensuring the safety of waterway users and the general public from hazards associated with the transport of post-Panamax gantry cranes within the Delaware Bay Captain of the Port Zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because

immediate action is needed to mitigate the potential safety hazards associated with transportation of post-Panamax gantry cranes.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that there are potential hazards associated with the transportation of post-Panamax gantry cranes. The COTP Delaware Bay has determined that the potential hazards will be a safety concern for anyone within a 200-yard radius of the vessel unless moored at Greenwich Terminal in Philadelphia, Pennsylvania.

IV. Discussion of the Rule

The safety zone includes all navigable waters within 200 yards of M/V ZHEN HUA 25 unless moored at Greenwich Terminal in Philadelphia, Pennsylvania. Enforcement of the safety zone will begin when the M/V ZHEN HUA 25 arrives at the Delaware Bay Captain of the Port zone and continue, unless the vessel is moored, until departure from the Delaware Bay Captain of the Port zone. The anticipated date of arrival for the M/V ZHEN HUA 25 is March 15, 2019. However, inclement weather and other unforeseen circumstances may necessitate a change in the date of transit upriver. Sector Delaware Bay will notify the maritime community of the date of transit, at a minimum, via marine safety information bulletin and broadcast notice to mariners.

To ensure a safe transit within the Delaware Bay Captain of the Port zone, the vessel may stop in a designated anchorage area, as set forth in 33 CFR 110.157, for a short time if needed due to weather and tidal requirements. The safety zone will remain in place during the time the vessel spends anchored. Vessels may be able to transit through the safety zone while the M/V ZHEN HUA 25 is anchored in a designated anchorage area if they meet the following requirements: Transit through the safety zone at the minimum safe speed to reduce wake and maintain steerage, and, except for towing vessels designated as assist tugs and operating in such capacity, do not overtake, meet, or otherwise pass any other unmoored or unanchored vessel while transiting through the safety zone. Vessels which do not meet all of the requirements listed above are prohibited from entering or transiting the safety zone without prior approval of the COTP Delaware Bay. Additionally, vessels must ask permission to enter or transit the safety zone any time the M/V ZHEN HUA 25 is underway. Vessels requesting to enter or transit the safety zone may contact the Sector Delaware Bay Command Center via VHF–FM channel 16. The Coast Guard anticipates that most vessels will be able to freely transit around the safety zone and will not need to seek permission to enter the zone while the M/V ZHEN HUA 25 is underway.

There will be a pre-designated safety vessel escorting the ZHEN HUA 25 while it is underway to monitor the flow of traffic and inform mariners that the gantry crane transit is in progress.

The Coast Guard is establishing a second safety zone through a separate rulemaking found in Docket number USCG–2019–0122, published elsewhere in this issue of the **Federal Register**, to ensure the safety of vessels and persons transiting the area during offloading operations once the vessel is moored at the terminal.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the short duration and traffic management of the safety zone. The safety zone will allow for vessels to transit through the safety zone with permission while the M/V ZHEN HUA 25 is underway or in a designated anchorage without permission if certain requirements are met. The Coast Guard anticipates that most vessels will be able to freely transit around the safety zone and will not need to seek permission to enter the zone while the M/V ZHEN HUA 25 is underway. For these reasons, the impact on waterway traffic is expected to be minimal.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a moving safety zone lasting only the duration of transit of a vessel carrying post-Panamax gantry cranes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0109 to read as follows:

§ 165.T05–0109 Safety Zone, Delaware River, Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All navigable waters within 200 yards of the M/V ZHEN HUA 25 while the vessel is underway or anchored within Delaware Bay or River.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Delaware Bay (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general safety zones regulations in subpart C of this part and except for as described in paragraph (c)(3) of this section, vessels may not enter, remain in, or transit the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, unless moored or anchored outside the main navigational channel, contact the COTP or the COTP's representative via VHF–FM Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) Vessels may transit the safety zone described in paragraph (a) of this section without permission from the COTP if all of the following criteria are met:

(i) The M/V ZHEN HUA 25 is anchored in a designated anchorage as defined in 33 CFR 110.157.

(ii) Vessels maintain the minimum safe speed to reduce wake and maintain steerage.

(iii) Except towing vessels designated as assist tugs and operating in such capacity, no vessel may meet, overtake or otherwise pass another unmoored or unanchored vessel within the safety zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* (1) Enforcement of the safety zone will begin when the M/V ZHEN HUA 25 enters the Delaware Bay Captain of the Port zone until midnight on May 7, 2019 unless the project is completed earlier.

(2) This safety zone will not be enforced from the time arrival mooring operations are completed to the time departure mooring operations begin.

(3) The anticipated date of arrival for the M/V ZHEN HUA 25 to the Delaware Bay Captain of the Port zone is March 15, 2019.

Dated: March 15, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–05367 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0169]

RIN 1625–AA00

Safety Zone; Missouri River, Miles 360–450, Kansas City, MO to St. Joseph, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Missouri River from mile marker (MM) 360 to MM 450 between Kansas City, MO and St. Joseph, MO. This action is necessary to provide for the safety of persons, vessels, and the marine environment on these navigable waters as a result of increasing flood conditions on the river that is threatening to overtop levees. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective without actual notice from March 21, 2019 until April 1, 2019. For the purposes of enforcement, actual notice will be provided from 5 p.m. on March 15, 2019 until March 21, 2019. This rule may be cancelled earlier if the project is completed before April 1, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0169 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
USACE United States Army Corps of Engineers
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. It is impracticable because we must establish this safety zone immediately and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delaying this rule would be contrary to public interest because immediate action is necessary to respond to the potential safety hazards associated with floodwaters threatening to overtop levees along the river.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with flood waters threaten to overtop levees along the river. The USACE Kansas City District has expressed concern that vessel traffic in the affected area could cause damage to the levees resulting in overtopping or failure. This rule is necessary to ensure the safety of persons, vessels, and the marine environment on these navigable waters due to the flood impacts to USACE levees.

IV. Discussion of the Rule

On March 15, 2019, the USACE Kansas City District contacted the Coast Guard to report an increase in flood waters approaching the tops of levees along the Missouri River between Mile Marker (MM) 360 and MM 450 and requested a river closure to ensure the safety of persons, vessels, and the marine environment that would result if floodwaters overtop the levees. This rule establishes a temporary safety zone from March 15, 2019 until April 1, 2019, or until cancelled by the COTP, whichever occurs first. The safety zone will cover all navigable waters of the Missouri River from MM 360 to MM 450, unless reduced in scope by the COTP as flood conditions warrant.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size of the safety zone as flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the emergency nature of the action and after consultation with representatives of the shipping industries that use this reach of river indicate that the many shipping companies have already made arrangements to avoid this area. Moreover, the Coast Guard will issue a BNM via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in

understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone prohibiting entry on a ninety mile stretch of the Missouri River that is experiencing significant flooding that is impacting levees. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination will be made available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034; 46 U.S.C. 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0169 to read as follows:

§ 165.T08–0169 Safety Zone; Missouri River, Miles 360–450, Kansas City, MO to St. Joseph, MO.

(a) *Location.* The following area is a safety zone: all navigable waters of the Missouri River from mile marker (MM) 360 to MM 450. This section will be enforced on all navigable waters of the Missouri River from MM 360 to MM 450, unless reduced in scope by the Captain of the Port Sector Upper Mississippi River (COTP) as flood conditions warrant.

(b) *Effective period.* This rule is effective without actual notice from March 21, 2019 until April 1, 2019. For the purposes of enforcement, actual notice will be provided from 5 p.m. on March 15, 2019 until March 21, 2019. This rule may be cancelled earlier if the project is completed before April 1, 2019.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size of the safety zone as flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: March 15, 2019.

R. M. Scott,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2019–05372 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0448]

RIN 1625–AA87

Security Zone; Potomac River, Montgomery County, MD

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule modifies the existing security zone that covers waters of the Potomac River next to Trump National Golf Club at Potomac Falls, VA. The security zone prevents waterside threats and incidents while persons protected by the Secret Service are at the club. This rule reduces the overall length of the existing security zone and creates a 250-yard-wide transit lane that provides passage for vessels through the zone near the Maryland shoreline with permission of the Captain of the Port (COTP) or designated representative. This rule continues to prohibit vessels and people from entering the security zone unless specifically exempt under the provisions in this rule or granted specific permission from the COTP Maryland-National Capital Region or designated representative. It also governs activities of vessels and persons already in the security zone when activated. The security zone enhances the safety and security of persons while minimizing, to the extent possible, the impact on commerce and legitimate waterway use. We invite your comments on this rulemaking.

DATES: This rule is effective March 21, 2019. Comments and related material must be received by the Coast Guard on or before June 19, 2019.

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG–2017–0448. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking. You may submit comments, identified by docket number, using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Mr. Ronald L. Houck, at Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM Broadcast Notice to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
IFR Interim final rule
MD–DNR Maryland Department of Natural Resources
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code
USSS United States Secret Service

II. Basis and Purpose, and Regulatory History

The Ports and Waterways Safety Act, as amended, provides the Coast Guard the authority to establish water or waterfront safety zones, or other measures, for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area, 46 U.S.C. 70011(b)(3). On several occasions between March 24, 2017, and July 10, 2017, the USSS requested that the U.S. Coast Guard close the Potomac River during events held at the Trump National Golf Club at Potomac Falls, VA, to protect persons protected by the USSS, hereafter referred to as ''USSS protectees.'' The Coast Guard did not have sufficient notice of these events to provide opportunity for public comment prior to these rules taking effect, and advance public notice of specific events could thwart the purpose of the security zone. As required by 5 U.S.C. 553, the Administrative Procedure Act, the Coast Guard found that good cause existed for not providing the normal notice and comment procedure.

Given the frequency of the past need for a security zone at this location and the likelihood for similar events to continue in the foreseeable future, the Coast Guard determined that a permanent security zone would be the preferable course of action. We would be able to provide advance notification to the public that a security zone may be enforced in the future at this location and provide the public with an opportunity to provide feedback to the agency—neither of which we had been able to do before. The Coast Guard published an IFR, ''Security Zone; Potomac River, Montgomery County, MD'' on July 10, 2017 (82 FR 31719). The rule was written with the same geographic scope and operating requirements as the previous temporary rulemakings, to be activated and enforced at the request of the USSS. The rule was made immediately effective to prevent the need for additional temporary final rules, but provided the public a 30-day comment period.

In response to the IFR, the Coast Guard received 636 submissions to the docket. After reviewing the public input, the COTP Maryland-National Capital Region is modifying the security zone established by the IFR. The legal authority for this rule is 46 U.S.C. 70034, as delegated by Department of Homeland Security Delegation No. 0170.1, section II, paragraph 70, from the Secretary of Homeland Security to the Commandant of the United States Coast Guard and further redelegated by 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5 to the Captains of the Port. This rule safeguards the lives of persons protected by the Secret Service, and of the general public, by enhancing the safety and security of navigable waters of the United States during heightened security events at the Trump National Golf Club.

Because this rule relieves a restriction, 5 U.S.C. 553(d)(1) of the Administrative Procedure Act allows this rule to take effect less than 30 days after publication in the **Federal Register**. This rule relieves the restrictions imposed by the original IFR that created this security zone. The Coast Guard is reducing the size of the zone both on the upriver portion of the security zone near Sharpshin Island and on the downriver portion of the security zone near the dam at Seneca Breaks. This reduction in length will allow increased river access from Algonkian Park west of the Trump National Golf Club. East of the golf course, the reduction in length will allow waterway users to transit across the river just upstream from the Seneca Breaks, allowing water access to the George Washington (GW) Canal and Patowmack Canal, which is popular for paddling.

III. Discussion of Comments

We received 636 comments on our interim rule published July 10, 2017. The Coast Guard considered all of these comments and has made revisions to the security zone in response. The comments received are available for public inspection at *www.regulations.gov* under docket USCG–2017–0448. In addition to changes made in response to the comments, we also made small editorial revisions for grammar and to clarify language that was potentially unclear.

Unless specifically described in the preamble to this rule, such revisions were not intended to change the meaning of the language that was revised.

1. Who is affected by the security zone?

A large number of commenters expressed concern about the rule's impacts on the wide variety of people who regularly use the portion of the river within the security zone. Commenters stated veterans, specifically disabled veterans, would be impacted because rehabilitative kayak/canoe training and classes are held near Riley's Lock (Lock 24) and Violette's Lock (Lock 23), both located on the Maryland side of the river across from the Trump National Golf Club. We were also informed that professional athletic teams use this part of the river for training. Many commenters were concerned about impact on the two summer camps for local youth that operate on the Maryland side across from Trump National Golf Club. Camp attendees for both camps access the Potomac River at Riley's Lock for kayaking, canoeing, and sailing lessons. Commenters also stated that the security zone impacts recreational boaters, jet skiers, swimmers, hunters, fishermen and family paddlers that wish to access this popular portion of the river, from either Algonkian or Seneca Regional Parks located on the Virginia side, as well as the Riley's and Violette's Locks access points on the Maryland side. The Coast Guard appreciates all of the commenters who took time to provide feedback on this security zone. Through the review of the comments, the Coast Guard learned more about how people use this busy stretch of the Potomac River.

One commenter requested to know whether activating this zone would affect bikers and hikers on the C&O Canal towpath, which follows along the Maryland shoreline. This zone covers navigable waters of the Potomac River, shoreline to shoreline; it does not extend shoreward and will not affect bikers and hikers on the C&O towpath.

2. Did the Coast Guard need to publish a notice of proposed rulemaking before publishing the July 2017 Interim Final Rule?

We received comments stating that the Coast Guard did not have the authority to issue the July 2017 IFR without prior notice and comment. As discussed in the July 2017 IFR, section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)) allows an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are impracticable, unnecessary, or contrary to the public interest. The Coast Guard found that good cause existed for not publishing an NPRM and discussed those findings in the IFR. The Coast Guard found that issuing an NPRM was impracticable and contrary to the public interest because immediate action was necessary to provide waterway and waterside security and protection. If the Coast Guard waited the requisite 30 days for public comment, this would have put USSS protectees at the Trump National Golf Club and the nearby public at risk. However, the Coast Guard recognizes the importance of public comment and allowed for a 30 day, post-effective comment period on the IFR.

3. Will the Coast Guard extend the comment period on the interim final rule or hold a public meeting?

We received two requests for extension of the comment period on the IFR and one request for a public meeting. The Coast Guard has made the decision not to extend the comment period on the July 2017 IFR. The Administrative Procedure Act does not specify the number of days that an agency must provide for public comment. And, based on the number and quality of the responses that we received, we believe that the 30-day comment period provided adequate opportunity for interested members of the public to review the July 2017 IFR and provide us with currently available information that would enhance our knowledge about the rule, including impacts. The Coast Guard carefully reviewed each of the comments we received on the July 2017 IFR and has addressed those concerns in this second interim final rule. But, to ensure that all concerns of the public have been brought to our attention, the Coast Guard is providing for a 90-day public comment period with this second interim rule. The Coast Guard believes this provides sufficient opportunity for public feedback without the need for public meetings.

4. Do the size or location of the zone need to be adjusted?

A number of comments questioned the size and location of the security zone. Many commenters stated that the security zone needlessly interfered with the public's access to the river. Commenters suggested that the Coast Guard could reduce the size of the zone while still maintaining security. Local paddling clubs, people associated with the camps, and recreational kayakers requested we find a way to share the river when the security zone is being enforced. A common theme was requesting a way for paddlers to enter the water on the Maryland side and access the GW Canal on the Virginia side. Many commenters felt that the zone could potentially force waterway users close to the dam. The president of a local recreational boating association asked for a 100-foot lane immediately west of Seneca Breaks, so that paddlers can safely cross upriver from the dam, as well as access to the Maryland side of the river. Additionally, some comments expressed concern over what would happen if a paddler launched and went downriver, only to find out upon return to that launch site that the security zone was activated. Commenters stated that this would leave a paddler stranded if the paddler could not access the paddler's launch point and could pose a safety risk to the paddler.

After reviewing the concerns raised by the commenters, we revised the security zone to create a 250 yard wide transit lane parallel to the Maryland shoreline that may be accessed with permission from the COTP or designated representative. While this means waterway users accessing the Potomac River from Riley's Lock will immediately enter the security zone when entering the river, the transit lane provides the opportunity for them to access the Potomac River once granted permission from the COTP or the COTP's representative. We moved the eastern edge of the security zone approximately 600 yards west. This provides approximately 170 yards of clearance between Seneca Falls and the edge of the zone. This also means waterway users launching from Violette's Lock have almost 400 yards to travel before reaching the edge of the zone instead of entering the zone almost immediately as they enter the Potomac River. We moved the western edge of the zone approximately 500 yards east. This means waterway users launching from Algonkian Regional Park boat ramp may travel three quarters of a mile due east before reaching the western edge of the zone. These modifications, together, should allow waterway users to launch from three nearby launch sites (Algonkian Park, Riley's Lock, and Violette's Lock), transit through the security zone on the Maryland side to access Seneca Falls and the George Washington Canal, and then return to their launch site.

We received comments about the size of this security zone as compared to other zones in the area that provide protective measures. Many commenters said that this security zone was much

larger and more restrictive than those other zones. The list of zones referenced by commenters includes: Ronald Reagan Washington National Airport, White House ''campaign style rallies,'' Camp David, Dahlgren Naval Surface Warfare Center, and naval vessels. Of these, the Coast Guard is not the issuing authority for zones that implement security measures around Ronald Reagan Washington National Airport, the White House, Camp David, or Dahlgren Naval Surface Warfare Center. The Coast Guard has issued temporary security zones for high profile events adjacent to waters of the United States, like the Democratic and Republican National Conventions. The Coast Guard designed each of these zone's size and restrictions based on the unique factors each venue presented. Regarding naval vessels, the Coast Guard issues Naval Vessel Protective Zones considering both Coast Guard and naval vessel capabilities. There are other Coast Guard-issued security zones on different portions of the Potomac River, which vary in size, duration, and restrictions based on the unique factors each location and event presents (33 CFR 165.508). While all of these comments bring up other locations and circumstances where security can be an issue, they do not address the specific technical security needs for protecting USSS protectees on this particular waterfront property. The Coast Guard did not make any changes to the zone's size following its analysis of other security zones near this location.

One comment asked about why the Coast Guard is setting up a shore-to-shore security zone when, previously, USSS was only keeping boaters away from the shore. The temporary rules issued prior to the July 2017 IFR established shore-to-shore security zones which allowed the public to request permission to transit from the COTP's representative. The July 2017 IFR also provided the opportunity to request permission to enter and transit the zone in paragraph (c)(2).

5. Does the security zone make the public less safe?

Some commenters believed the zone would decrease the public's safety. While many of the comments were general in nature and did not provide specifics, some stated that they felt unsafe because of fear that the eastern edge of the security zone forced waterway users into Seneca Falls. One commenter suggested that the Coast Guard provide a 300-foot wide corridor parallel to the falls.

The security zone does not negatively impact public safety. The Coast Guard's establishment of the security zone allows enforcing agencies more time to respond to threats and take the lowest level of enforcement needed to protect USSS protectees. As previously discussed in the ''size and location'' section above, in an abundance of caution, the Coast Guard is moving the zone's eastern edge 500 yards west to provide ample room for waterway users to launch from Violette's Lock and cross from the Maryland side to the Virginia side of the river. But, the Coast Guard does not believe that the original coordinates of the safety zone put the public at risk. Under the original IFR people could transit the zone parallel to the falls, provided they first received permission from the COTP or the COTP's representative and followed transit instructions.

6. Is a security zone needed?

Many comments questioned whether there was a need for the security zone given that this segment of the river is almost exclusively used by kayaks, canoes, and paddleboards. Commenters stated the rocky, shallow bottom, debris, and ever changing water conditions would make it very difficult for someone unfamiliar with the area to approach the golf course at a high rate of speed without being overtaken or neutralized. Several comments suggested that the riverfront cliff in front of the Trump National Golf Club could be easily protected with security personnel on the shoreline due to its height. Others commented that there is a clear line of sight across the Potomac River, and that a Coast Guard security zone does not add to the security of the area since USSS protectees will be in plain sight of the opposite bank with or without the security zone.

The Coast Guard has authority to take action on the river and, in consultation with USSS, has deemed a security zone the most effective way to control access to the shores of the Trump National Golf Club. The Coast Guard recognizes that anyone can use any waterborne vessel, including paddle craft, to operate with malicious intent against USSS protectees. Therefore, the agency has concluded the security zone is necessary. To accommodate waterway users, the Coast Guard is adding a transit lane that allows use of this segment of the river while the Coast Guard, along with the USSS, maintains appropriate levels of security.

7. Has the Coast Guard considered alternatives?

Several commenters requested that the Coast Guard consider alternatives to rulemaking.

Physical barriers. Some non-Coast Guard alternatives proposed by commenters included having the Trump National Golf Club establish visible barriers on shore to provide security or replant vegetation along the shoreline to provide a barrier. Another commenter suggested the Coast Guard put up physical barriers to provide security. The Coast Guard cannot require land owners to alter their property as an alternative to creating and enforcing a security zone. Such alterations would need to be at the landowner's discretion. And, providing physical barriers is not a method the Coast Guard uses to mitigate ports and waterways security concerns.

Land-based security. One commenter suggested having land-based security on the golf course, either private security or federal law enforcement. The USSS in consultation with the Coast Guard has determined that waterborne security is required when USSS protectees are present at Trump National Golf Club.

Skipping holes. Other commenters suggested that USS protectees skip the golf holes that are closest to the river's edge. The Coast Guard does not direct movements of USSS protectees on the golf course.

Random searches. One commenter requested that instead of a security zone, the Coast Guard patrol and conduct random searches. Random searches would not provide an adequate level of security that is required for these events.

Assistance from community members. One comment requested that the Coast Guard develop a partnership with the local paddling community and request assistance from paddlers in securing the waterway. Only the Coast Guard has authority to enforce a security zone.

Inspections. One comment asked if the Coast Guard could conduct security inspections at ''popular launch sites'' instead, and also provide a permit or pass that allows that paddler to use that segment of the river. Such an inspection process does not currently exist, and if implemented, would not account for paddlers already on this segment of the river. The COTP, in consultation with the USSS, has determined that a security zone is the most effective means to mitigate security concerns at the Trump National Golf Club.

8. Has the Coast Guard considered only applying the security zone to specific people or vessels?

There were numerous comments requesting that the security zone not apply to human powered kayaks, canoes, or paddleboards, and only to motorized watercraft. Commenters

argued that paddle craft are slow, easily tracked, and easily overtaken for security boardings. Other commenters requested that the security zone only apply to vessels above a certain speed, allowing kayaks and canoes to operate without restriction. A few proposals requested that permits be available to provide ongoing exemptions to future security zones. These permits would apply to local businesses and groups that are deemed not threatening and rely heavily on this particular segment of the river.

These recommendations would undermine the security measures this rule intends to provide. An exemption for paddle craft would allow persons with harmful intent immediate access to the Trump National Golf Club shoreline while USSS protectees were present. Organizations exempted by permit could be exploited, similarly allowing persons with harmful intent access to the shoreline. Instead, the Coast Guard will continue maintaining a shoreline-to-shoreline security zone activated when USSS protectees are present and will continue to allow vessels to use the transit lane as conditions permit. This helps the Coast Guard manage waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels.

9. Does the Coast Guard have authority to create a security zone in Maryland state waters?

Many comments questioned the Coast Guard's authority to establish a security zone in Maryland State waters. The Coast Guard's legal authority to establish security zone regulations comes from 33 U.S.C.1221. A discussion of the geographic application of security zones is provided in regulation in 33 CFR 165.9(c), and explains that security zones may be established in ''waters subject to the jurisdiction of the United States,'' defined in 33 CFR 2.38. This definition incorporates ''navigable waters of the United States'' as defined in 33 CFR 2.36, which are further described to include: (1) Territorial seas of the United States; (2) internal waters of the United States that are subject to tidal influence; and (3) internal waters not subject to tidal influence that: are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce. This portion of the Potomac River is a navigable waterway of the United States and meets the definition described in 33 CFR 2.36(a)(3)(i). Because this portion of the river is a navigable waterway, the Coast Guard has authority stemming from 33 U.S.C. 1221 to issue a security zone on these waters.

10. For whom will the security zone be activated?

The July 2017 IFR said that the safety zone was for the protection of ''high ranking government officials.'' Several comments requested clarification about who is considered a ''high ranking government official.'' Commenters were concerned about the frequency of enforcement if ''high ranking government officials'' covered a very large group of individuals. Some commenters wanted the security zone to be activated only for the President of the United States, while others thought the zone should be able to be activated only for the Vice President of the United States, Speaker of the House, and other members of Congress in addition to the President. Many commenters were concerned that President Trump's business partners or other non-governmental persons would trigger the security zone's activation.

The Coast Guard will only activate the security zone when requested by the USSS for the protection of those who qualify for USSS protection. The list of personnel who qualify for USSS protection is found in 18 U.S.C 3056(a). This list includes the President of the United States, Vice President of the United States, President-elect and Vice President-elect, immediate families of those individuals, former Presidents and Vice Presidents, major United States Presidential candidates, and visiting heads of state or foreign governments. The Coast Guard has amended the regulatory text to clarify this for the public.

11. Can the Coast Guard close a public waterway for private recreational activities?

Many commenters argued that the right of USSS protectees to use private land for recreational activities does not take precedence over the right of taxpayers to use publicly owned land and waterways. Comments stated that a golf game for USSS protectees would limit a wide range of rehabilitative, recreational, educational and conservation activities for many citizens and stakeholders. Other comments expressed frustration that the interests and activities of the public were not taken in to consideration when the location and size of the security zone was established. Comments pointed out that there are few areas on the Potomac River that offer such varied public access and usage opportunities as the area initially covered by the security zone, and that there are other options for USSS protectees to play golf.

The Coast Guard cannot change the location and travel choices of USSS protectees. The USSS is tasked with providing the highest level of security for certain individuals, and has requested the Coast Guard's assistance in this location. The need for and level of security does not change based on the activities of protected individuals. Shortening the size of the security zone and adding the transit lane along the Maryland shore provides an opportunity for the public to enjoy the river while USSS protectees participate safely in their chosen activities.

Many commenters stated that taxpayer money should not be used to obtain security services for a private business or to engage in activities that would unfairly benefit a private entity. The security zone is not intended to support a private business. It will only be activated as needed to protect USSS protectees, not the Trump National Golf Club generally.

12. How long will the security zone be in effect?

Many commenters requested clarification on how long the security zone would be in effect, including whether the security zone would be terminated after the current President's term. After reviewing any comments received on this second IFR, the Coast Guard will issue a final rule addressing any new comments that we receive during the comment period. The security zone will remain in place until the Coast Guard conducts a future rulemaking to withdraw it. But, the security zone will only be enforced at the request of USSS.

13. How frequently and for how long will the security zone be enforced when activated?

Many commenters requested clarification about how frequently the zone would be activated and the length of enforcement. Several comments asked about whether the security zone could ever be enforced for a multi-day event. Additionally, other comments asked if the security zone could be activated only when recreational river users were less likely to be present, such as from Monday through Friday. One commenter requested that the security zone be activated no more than 3 times each year.

The Coast Guard will activate this security zone in consultation with the USSS whenever deemed needed to protect USSS protectees. There is a possibility that the security zone could

be enforced multiple days at a time. But, to date, the USSS has not requested multi-day enforcement.

14. Who enforces the security zone?

Many comments indicated confusion over how and by whom the security zone would be enforced. Some stated that the MD–DNR has enforcement jurisdiction over the security zone and would be able to make changes to the size of the security zone. This is not correct. While the CG may be assisted by Federal, State, and local law enforcement agencies in the patrol and enforcement of the security zone, only the CG is authorized to establish or modify the size of the zone. MD–DNR is a vital partner, present while the zone is being enforced. Currently, the Coast Guard partners with MD–DNR, placing Coast Guard personnel on MD–DNR vessels to provide on-scene enforcement capabilities.

15. How will the public know when the zone is going to be enforced?

Many comments requested advance notice of when the security zone is going to be enforced. Specific suggestions included advance notice durations of two weeks, two days, and twenty-four hours. Several other comments requested a website, application development, or text notification. Many comments requested signs be posted at popular launch sites, indicating in advance that the security zone is activated. Some requested a dedicated telephone line with a pre-recorded message. Some comments asked if local paddling clubs could be notified when the security zone is activated.

The Coast Guard can only provide minimal advance notice of activation. Announcing the arrival of USSS protectees, even twenty-four hours in advance, would put their security at risk. The USSS will request enforcement of the security zone when required. The Coast Guard will provide the public with notice of enforcement of the security zone by Broadcast Notice to Mariners (BNM), updated information at *www.news.uscg.mil/Baltimore/* and by a recorded message at telephone number (410) 576–2675. Local businesses, recreational boaters, and recreational associations should check the website and phone message prior to making plans that may be impacted by enforcement of the security zone, but should keep in mind that enforcement could begin at any time at the request of USSS. The Coast Guard does not intend to use shore-based signage as a means to notify the public of security zone enforcement.

It was of great concern to many commenters that they would not know when the security zone was activated, particularly if the only means of communication is by means of Marine Band Radio, VHF–FM. And, some comments stated that paddlers do not carry cellular telephones on the river. For river users who do not carry a Marine Band Radio, a telephone, or have other means of access to the internet while on the river, the COTP or designated representative will be on scene to provide notification. At the time of enforcement, the Coast Guard will provide instructions to persons and vessels in the security zone on how to depart the zone. Vessels may request permission to remain in the zone from the COTP or designated representative.

Commenters asked if the use of installed air horns, loud hailers, flags or special lights at the Trump National Golf Club could be used to indicate when the security zone is activated. The designated representative of the COTP on scene will decide on the most appropriate and feasible method of communication; however, the Coast Guard cannot require land owners to alter their private property. Commenters also asked about paddlers with hearing impairments and those speaking different languages. The Coast Guard will use visual signals or other alternative means of non-verbal communication as needed for these paddlers. A designated representative of the COTP on scene will ensure that all vessels and people within the security zone recognize that the security zone is activated, and that they must either immediately depart the security zone or transit through it in accordance with directions from the COTP or designated representative. It was also requested that temporary buoys be established to mark a transit lane. The Coast Guard does not intend to use buoys, however, the COTP's designated representative on scene will inform waterway users how to proceed while within the security zone.

16. Does this security zone impact First Amendment rights?

Some commenters argued that the security zone impacts First Amendment rights, specifically freedom to assemble and freedom of speech. Many commenters felt that the security zone was not promulgated to keep USSS protectees secure, but to keep protestors away from the Trump National Golf Club. The commenters stated that the Potomac River was a public forum and that kayakers had a right to peaceably assemble there and petition the Government.

The Coast Guard agrees that First Amendment considerations must be evaluated during the rulemaking process. The Coast Guard believes that this zone is narrowly tailored and minimizes intrusion into the rights of protestors while providing necessary security measures for USSS protectees. As stated in the ''Protest Activities'' section of the Regulatory Analysis portion of both the July 2017 IFR and this current action, the Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

17. Does the security zone result in the taking of private property?

We received some comments arguing that the security zone violates the Fifth Amendment. Specifically, comments argued that the Coast Guard was taking private property because the security zone overlaps part of Sharpshin Island, which is owned by the Potomac Conservancy. This would not amount to a regulatory taking because the Coast Guard's actions did not permanently diminish the value of the property, did not physically invade the property and did not permanently eliminate the economic value of the property. However, this second interim rule shortens the area of the security zone, so that the island is not located within the security zone.

18. What are the economic impacts on local businesses and waterway uses?

Commenters raised concerns about possible economic impact of the security zone on local businesses and waterway users. Commenters stated that the many different waterway users contribute significantly to the local economy—local retailers, restaurants and river related businesses depend on these patrons. Comments also stated that the Coast Guard is privileging a private business, the Trump National Golf Club, by allowing for their financial gain while closing the river to many smaller businesses and organizations that could also make a profit off tourists and the public. There was significant concern in many comments that without advanced notice of the security zone, paddlers and other vessel operators would undergo a financial burden after traveling to their planned destination only to find that the river is closed. Changing plans last minute would cost time, fuel, and possibly other incidentals while groups or individuals

assess and analyze options and then travel to other kayaking locations. Commenters stated several times that there are no other local kayaking spots that offer such diverse opportunities for many different levels of paddlers. Whitewater race coordinators were also concerned that there would be a significant economic impact if a planned event has to be cancelled or rescheduled because of activation of the security zone. Comments stated that lack of advance notice precludes river-related businesses from making alternative arrangements for sailing classes, kayak lessons, planned group outings, or major events.

The Coast Guard views this current security zone rulemaking as distinct from other existing or potential protective security regulations at other locations. The shortening of the security zone and the addition of the transit lane is intended to allow for many of the above mentioned river related activities to continue even when the security zone is activated. In other words it was designed to minimize to the extent possible, the impact on commerce and legitimate waterway use. The security zone does not negatively impact public safety. More importantly the Coast Guard's establishment of the security zone allows enforcing agencies more time to respond to threats and take the lowest level of enforcement needed to protect USSS protectees. Ultimately the Coast Guard deems the benefits and need for this security zone to provide protection the pertinent protectees to exceed the indirect impacts on the entities the commenters noted.

One comment also specified that use of the Trump National Golf Club Bedminster in Bedminster, New Jersey, has damaged the local economy, because in that situation, hot air balloons and small airports have to cancel reservations when the President and other high level government officials use the golf course. The Coast Guard views this current security zone rulemaking as distinct from other existing or potential protective security regulations at other locations or by other agencies; economic impacts are considered on a case-by-case basis.

Another comment stated that the security zone would limit access to Camp Calleva's private property. The shortening of the security zone and the addition of the transit lane is intended to allow for many of the above mentioned river related activities to continue even when the security zone is activated. These modifications are intended to reduce the economic impact that the security zone will have on river-based businesses, local residents, and paddlers coming to this segment of the Potomac River.

19. What are the impacts to small entities?

Many small entities have already been mentioned, but this section addresses more specific concerns relating to the security zone's impact on them. The Director of Camp Calleva gave detailed comments addressing the camp's status as a 501(c)(3) educational non-profit organization that provide summer camp, field trips, and other programming for youth and adults in the area. The director stated that if the camp could not obtain access to the river at Riley's Lock, there would be a daily economic impact of $14,000 Monday-Friday for each cancelled day of children's camps and $2,800 on Sunday for other classes offered. It was also stated that there are many difficulties associated with moving the camp's operations, because of the amount of equipment and watercraft. Also, retraining the employees for different activities or areas, as well as learning new outdoor skills in order to change programming, would be difficult and cost time and money. One comment noted that most day camps are only 5 days long, so if a child misses one day on the water during a paddling camp, they will be missing 20% of what they paid for and camp staff would have to fill these days with alternate activities. Using the new transit lane, camp operations may continue within 250 yards of the Maryland shore when the security zone is activated, pending permission from the COTP's designated representative. Comments mentioned transportation to Calleva Camp at Riley's Lock location from the Virginia side includes a canoe trip from the Trump National Golf Club for some attendees and that if the security zone goes into effect, children using this mode of transportation would have to find another route to camp. This is true. Persons intending to travel to Camp Calleva from a canoe that departs from Trump National Golf Club will have to commute to camp through another means when the security zone is activated. At the time of this publication, the Calleva Camp website states that they provide bus transportation to camp at Riley's Lock from 17 locations, including one in McLean, VA, which is roughly 25 minutes from Trump National Golf Club.

Another small entity that would be effected by the security zone is Valley Mill Camp that operates on a lake and 60 acres of forested land in Germantown, MD. Valley Mill also offers canoeing and kayaking programs on the Potomac River. According to their website, river trips leave camp daily and access the Potomac from the Maryland side. Valley Mill's paddling programs will be able to use the security zone's transit lane pending permission from the COTP's representative. Another small entity that commented about the security zone's impact was Swift water Rescue Instructors. They state that volunteer instructors access the Potomac through either Riley's or Violette's Locks, and cross the Potomac just upriver from the Seneca Breaks with their students to access the old Patowmack Canal, where there is a historic set of rapids ideal for training all levels of paddlers in rescue methods. The transit lane and shortened security zone will allow Swift water Rescue Operations to continue, even when the security zone is activated, pending permission from the COTP's representative.

Another small entity, sailing instructors, stated that they conduct lessons on this segment of the river and that closing the river entirely would put them out of business. Using the transit lane will allow for sailing lessons to continue across from Trump National Golf Club with permission from the COTP's designated representative when the security zone is activated.

Finally, the Program Manager at Riverbend Park, a Fairfax County Park Authority Park in Great Falls, VA, commented that they use Algonkian Regional Park, on the Virginia side upstream from Trump National Golf Club, as a launch site for an 8-mile paddling trip back to Riverbend Park. The shortened security zone and transit lane on the Maryland side of the river would allow paddlers that enter at Algonkian Regional Park to cross the Potomac from the Virginia side when the security zone is activated and access the transit lane on the Maryland side of the river, pending permission from the COTP's representative. Then paddlers could cross back to the Virginia side near Seneca Breaks to continue the trip back to Riverbend Park.

In conclusion, the Coast Guard has reduced the length of the security zone on the Potomac River, and added in a transit lane in order to accommodate the above small entities and their operations that depend heavily on access to the Potomac River.

20. Was there an error in the original coordinates?

Some comments pointed out that the original coordinates submitted for the corners of the security zone were incorrect. The Coast Guard agrees that the latitude was erroneously entered as

degrees West, instead of degrees North. This second interim rule makes that correction.

21. Does the Coast Guard have to display firearms?

One commenter recommended against law enforcement agencies displaying firearms as to not alarm the many children that operate in this part of the river. The Coast Guard appreciates this comment's concern and will operate as agency policy and security needs dictate.

22. What if signs were placed in the river?

One commenter stated that if structures would be erected on the Potomac River pursuant to demarking or providing other information about the security zone, then U.S. Army Corps of Engineers should be consulted to conduct Section 10 Clean Water Act review. Currently, there is no intention of installing fixed structures. If such structures are deemed necessary in the future, the Coast Guard would follow its processes for establishing aids to navigation.

23. Is the Coast Guard complying with Executive Order 13771?

One commenter asked which two regulations were being removed to add this one. Per Executive Order 13771 of January 30, 2017, ''Reducing Regulation and Controlling Regulatory Costs'' agencies should identify two regulations to be eliminated for every new one issued. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) 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.'' The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017).

IV. Discussion of the Rule

In the first interim rule, the security zone included all navigable waters of the Potomac River, from shoreline to shoreline, within an area bounded on the east by a line connecting the following points: latitude 39°04′02″ W, longitude 077°19′48″ W, thence south to latitude 39°03′39″ W, longitude 077°20′02″ W, and bounded on the west by longitude 077°22′06″ W, located between Pond Island and Sharpshin Island, in Montgomery County, MD. This second interim rule amends the security zone at 33 CFR 165.557 to include all navigable waters of the Potomac River, from shoreline to shoreline, within an area bounded on the west by a line connecting the following points: latitude 39°03′44.7″ N, longitude 077°21′47″ W, thence north to latitude 39°04′03″ N, longitude 077°21′47″ W, and bounded on the east by a line connecting the following points: latitude 39°04′04″ N, longitude 077°19′58″ W, thence south to latitude 39°03′41.35″ N, longitude 077°20′05.30″ W. Although the length of the security zone is decreased at both the eastern and western ends, creating a waterside area for recreational egress and access, the width of the security zone is unchanged, remaining from shoreline to shoreline. This rule provides additional information about an area within the security zone along the Maryland shoreline, designated the ''Transit lane,'' including a definition and the restrictions that apply within the lane to waterway users. However, permission for waterways users to operate within this lane will be determined by the COTP, or designated representative. The public can learn the status of the security zone via an information release for the public via website *www.news.uscg.mil/Baltimore/* and a recorded message at telephone number (410) 576–2675

Entry into the security zone is prohibited, unless public use of the transit lane is specifically authorized by the COTP Maryland-National Capital Region or a designated representative. Except for public vessels, this rule will require all vessels in the designated security zone to immediately depart the security zone. Federal, State, and local agencies may assist the Coast Guard in the enforcement of this rule. The duration of the zone is intended to ensure the security of USSS protectees while at Trump National Golf Club. The COTP Maryland-National Capital Region will notify waterway users and the boating community of the security zone, via Broadcast Notice to Mariners (BNM), an information release at the website: *www.news.uscg.mil/Baltimore/* and a recorded message at telephone number (410) 576–2675.

V. Regulatory Analyses

Coast Guard developed this interim final rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below Coast Guard summarizes its analyses based on a number of these statutes and E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) 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.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. This rule is considered to be an Executive Order 13771 non-significant regulatory action. See OMB's Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory evaluation follows.

A combined regulatory evaluation and Regulatory Flexibility Analysis follows and provides an evaluation of the economic impacts associated with this rule. In this interim final rule, USCG revised the security zone to include a dedicated transit lane. The public can move through the area using the dedicated transit lane during the enforcement of the security zone, with permission from the COTP or COTP's designated representative as proscribed by the interim final rule. This interim final rule also includes changes to the geographic boundaries of the security zone from the boundaries in the interim final rule of July 10, 2017. The following

table provides a summary of the rule's costs and qualitative benefits.

TABLE 1—SUMMARY OF THE RULE'S IMPACTS

Category	Summary
Potentially Affected Population	Operators and attendees of summer camps; operators of kayak and watercraft instruction schools; recreational boaters including canoeists, kayakers and, stand up paddle boarders (SUPs); fishermen; waterfowl hunters;[1] nonprofit organizations; exercisers, as well as federal agencies such as Coast Guard and the Secret Service. The rule also may indirectly impact some federal agencies. State[2] and local law enforcement and recreational/park authorities in the area may have interests.
Costs/Cost Savings	* Does not impose additional direct costs on the public or to the USCG. * Reduces impacts or creates leisure time savings on entities impacted by the 2017 IFR.
Unquantified Benefits	* Reinforces an established Presidential Security Zone. * Helps secure area to meet objectives of the USSS.

Affected Population

Data is not collected by USCG on the vessels and individuals that use this area of the Potomac River. Based on comments to the Coast Guard's original interim final rule (dated July 10, 2017), USCG estimates that this rule affects recreational boaters including kayakers, personal water crafts (PWCs) operators,[3] stand up paddle boarders (SUPs); persons using the area for exercise activities; fishermen; commercial vessel operators; and political protesters. This interim final rule impacts the Coast Guard and the U.S. Secret Service (USSS) directly; other Federal governmental agencies may be impacted indirectly by this rulemaking. No governmental jurisdictions at the State, Tribal or municipal level will be impacted directly by this interim final rule

Exact numbers are not available, but the Coast Guard estimates the total size of the population affected by this interim final rule to be in the hundreds. USCG attempted to collect further data by using USGS's[4] satellite technology. The technology was not accurate enough to do a count of individuals such as swimmers or inner tube users. Likewise, the technology was not precise enough to do a count of a vessel as small as a kayak or SUP. The comments suggested these counts ranged from ''a dozen'' to ''thousands.'' The most often cited of these estimates was ''hundreds.''

USCG also sought an estimate from its personnel who manage the enforcements of the security zone. Data are not collected normally by USCG on the number of vessels and individuals that use this area. But, USCG onsite personnel estimate of up to six recreational vessels and up to 25 kayakers transiting during the enforcement of the security zone.

Costs

This interim final rule modifies the existing security zone established by the IFR, ''Security Zone; Potomac River, Montgomery County, MD'' on July 10, 2017 (82 FR 31719). The security zone covers waters of the Potomac River next to Trump National Golf Club at Potomac Falls, VA, and prevents waterside threats and incidents while persons protected by the Secret Service are at the club. The modification due to this interim final rule reduces the overall length of the existing security zone and formalizes a 250-yard-wide transit lane that provides passage for vessels through the zone near the Maryland shoreline with permission of the COTP or designated representative. It continues to prohibit vessels and people from entering the security zone unless specifically exempt under the provisions in this rule or granted specific permission from the COTP Maryland-National Capital Region or designated representative. This interim final rule also governs activities of vessels and persons already in the security zone when activated. The modification of this rule will not require any entity to take action beyond what was already required under the 2017 interim final rule. As a result, this interim final rule does not impose additional direct costs on the public or to the USCG. A description of the purpose of the rule's provisions follows.

Section 165.557(a) establishes the definitions to be used to understand the provisions of the regulations. These definitions do not add direct cost to the public or Government. The definition of vessel establishes the applicability of these regulations on a multitude of watercraft including but not limited to kayaks, stand up paddleboards and inner tubes. Therefore, users of these types of vessels would be applicable to the provisions of the interim final rule.

Section 165.557(b) describes where the security zone is located. The location of the security zone does not cause costs to be incurred by the public nor the Government. In § 165.557(b), this interim final rule establishes where the Potomac River security zone is and, thereby, declares that area to be a security zone which is defined by the regulations. Actions that are necessitated when a security zone is declared are specified in existing regulations. Under 33 CFR 165.7(a), when the establishment of these limited access areas occurs, notification may be made by marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, and on-scene oral notice, as well as publication in the **Federal Register**. These requirements are akin to but in addition to the authorization requirements specified in this interim final rule; under § 165.557(c)(1), entry into or remaining in the security zone is prohibited unless authorized by the COTP or a designated representative in consultation with the USSS when the security zone is being enforced. Section 165.557(d) requires that the COTP provide notice of enforcement of security zone by Broadcast Notice to Mariners (BNM), information release at the website and pre-recorded message at

[1] Based on public comments, USCG has developed this list of parties in the potentially affected population; these may be groups that are affected either directly or indirectly. Please see comments including USCG–2017–0448–0036, USCG–2017–0448–0026, USCG–2017–0448–0163, USCG–2017–0448–0453, USCG–2017–0448–0481, USCG–2017–0448–0330, USCG–2017–0448–0332, USCG–2017–0448–0385, USCG–2017–0448–0335, USCG–2017–0448–0479 USCG–2017–0448–0537, USCG–2017–0448–0541, USCG–2017–0448–0579 and USCG–2017–0448–0079.

[2] The Potomac River falls in the State of Maryland. Maryland law enforcement personnel and vessels (*http://dnr.maryland.gov/nrp/Pages/default.aspx*) of the Maryland Natural Resources Police (MNRP) have participated in past security zone enforcements. A CG officer will deploy on a MNRP boat during an enforcement.

[3] Predominately this includes jet ski users.

[4] U.S. Geological Survey maintains a repository of archived and live satellite imagery. USCG had contact with U.S. Geological Survey's Science Information Services via email in June 2018 on this issue.

telephone number as well as on-scene notice.

Although this interim final rule does result in actions being taken by the Coast Guard and USSS directly it does not result in any new costs or burdens. The impact that this interim final rule will have on these two federal agencies is considered part of their mission and responsibility, and thus part of their current responsibilities to the public and other Federal entities.

Benefits

Upon request by the USSS to close down this section of the river to ensure the safety of individuals under USSS protection, USCG created a security zone in certain waters of the Potomac River adjacent to Trump National Golf Course Club at Potomac Falls, Virginia. This security zone is necessary to prevent waterside threats and incidents for events held at Trump National Golf Clubhouse when persons protected by the USSS are at the club.

Regulatory Alternatives Considered

Within the agency's consideration, alternatives to the regulatory action were considered to determine if any alternative could accomplish the stated objectives of applicable statutes and could minimize any significant economic impact on small entities. In developing this rule, the Coast Guard considered the following alternatives:

(1) Issue a rulemaking that would not require any vessel to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

(2) Issue a rulemaking that would not require human-powered vessels to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

(3) Keep boundaries as noted in the July 10, 2017, interim final rule.

Alternative 1: Issue a rulemaking that would not require any vessel to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

The Coast Guard considered issuing a rulemaking that did not require any vessel to get permission from the COTP or the designated representative prior to entering the transit lane. But, we rejected this option because this approach would undermine the security measures this rule intends to provide. This option would allow persons with harmful intent immediate access to the Trump National Golf Club shoreline while USSS protectees were present. Instead, the Coast Guard chose to continue to allow vessels to use the transit lane as conditions permit with approval from the COTP or designated representative. This helps the Coast Guard manage waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels.

Alternative 2: Issue a rulemaking that would not require human-powered vessels to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

The Coast Guard considered amending the security zone to require only powered vessels to get permission from the COTP or the designated representative prior to entering the transit lane. Under this option human-powered vessels such as kayaks, canoes, and paddleboards would not need permission from the COTP or designated representative before entering the transit lane. We rejected this option because this approach would undermine the security measures this rule intends to provide. An exemption for paddle craft would allow persons with harmful intent immediate access to the Trump National Golf Club shoreline while USSS protectees were present. Instead, the Coast Guard will continue maintaining a shoreline-to-shoreline security zone activated when USSS protectees are present and will continue to allow vessels to use the transit lane as conditions permit. This helps the Coast Guard manage waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels.

Alternative 3: Keep boundaries as noted in the July 10, 2017, interim final rule.

For this alternative USCG considered releasing a rule which would use the boundaries as promulgated in the interim final rule of July 10, 2017. The boundaries of the previous interim final rule are wider than the boundaries of this interim final rule. This alternative would exclude a provision which was favored by the public [5] and is part of the preferred alternative (*e.g.,* this interim final rule). The alternative would continue the status quo from the 2017 interim final rule. It also would also have higher costs for the public as the opportunity costs of lost leisure time would magnify. This alternative does not provide any increased security over the preferred alternative of this interim final rule. For these reasons, USCG has chosen not to continue the status quo and continue with this alternative.

B. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we considered whether this interim final rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

As described in the ''Regulatory Planning and Review'' section, the Coast Guard expects this interim final rule to result no direct costs to any entities, including small entities. It does note that there are potential indirect costs from the July 2017 interim final rule, for some entities. The affected population for the indirect costs consists of private individuals who own recreational vessels or who engage in recreational activities in this area of the Potomac River, commercial entities and nonprofits which have activities or operate vessels in this area of the Potomac and governmental entities. The indirect costs are opportunity costs for loss leisure time to access to the restricted area of the Potomac River. Since indirect are not considered when determining the impacts on small entities for regulatory flexibility assessment purposes, this rulemaking will have no significant economic impact on any small entities. In actuality this interim final rule reduces the impact on entities from the 2017 interim final rule because it reduces the overall length of the existing security zone and creates a 250-yard-wide transit lane that provides passage for vessels through the zone near the Maryland shoreline with permission of the Captain of the Port (COTP) or designated representative.

This interim final rule also indirectly may impact four governmental units [6] in

[5] Commenters (USCG–2017–0448–0059, USCG–2017–0448–0038, USCG–2017–0448–0008, USCG–2017–0448–0067, USCG–2017–0448–0050, USCG–2017–0448–0144, USCG–2017–0448–0099, USCG–2017–0448–0104, USCG–2017–0448–0172, USCG–2017–0448–0183) supported a transit lane; albeit it may have not been referred to as such in their comments.

[6] Great Falls National Historic Park and the Chesapeake & Ohio Canal National Historic Park of the U.S. National Park Service of the U.S. Department of the Interior; Riverbend Park, Seneca

two governmental jurisdictions; none are considered by RFA definitions to be small governmental jurisdictions. Thus, the compliance with this interim final rule does not represent a significant economic impact on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the reduction in size of a security zone that prohibits entry on specified waters of the Potomac River during frequently occurring heightened security events. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum for Record for Categorically Excluded Actions supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

VI. Public Participation and Request for Comments

Although this interim rule is effective upon publication, we are seeking further public comment on it. We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number USCG–2017–0448 for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this rule as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034; 46 U.S.C. 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.557 to read as follows:

§ 165.557 Security Zone; Potomac River, Montgomery County, MD.

(a) *Definitions.* As used in this section:

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his or her behalf.

Designated representative means a Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to enforce the security zone described in paragraph (b)(1) of this section.

Public vessel has the same meaning as that term is defined under 46 U.S.C. 2101.

(b) *Location.* Coordinates used in this section are based on datum NAD 83.

(1) *Security zone.* The following area is a security zone: all navigable waters of the Potomac River, from shoreline to shoreline, within an area bounded on the west by a line connecting the following points: latitude 39°03′44.7″ N, longitude 077°21′47″ W, thence north to latitude 39°04′03″ N, longitude

Regional Park and Algonkian Golf Course of the Fairfax County Virginia Park Authority. The State legislators for District 20 of Maryland expressed comments about the 2017 interim final rule.

077°21′47″ W, and bounded on the east by a line connecting the following points: latitude 39°04′04″ N, longitude 077°19′58″ W, thence south to latitude 39°03′41.35″ N, longitude 077°20′05.30″ W.

(2) *Transit lane.* All waters within the Potomac River, contiguous with the Maryland shoreline and extending out into the Potomac River approximately 250 yards, within an area bounded by a line connecting the following points: beginning at the Maryland shoreline at latitude 39°04′03″ N, longitude 077°21′47″ W, thence south to latitude 39°03′55.3″ N, longitude 077°21′47″ W, thence east to latitude 39°03′56.8″ N, longitude 077°20′00.3″ W, thence north to the Maryland shoreline at latitude 39°04′04″ N, longitude 077°19′58″ W, thence back along the shoreline to the originating point.

(c) *Regulations.* The general security zone regulations found in § 165.33 apply to the security zone created by this section.

(1) Except for public vessels, entry into or remaining in the security zone described in paragraph (b)(1) of this section is prohibited unless authorized by the COTP or designated representative when the aforementioned security zone is being enforced. At the start of each enforcement, all persons and vessels within the security zone must depart the zone immediately or obtain authorization from the COTP or designated representative to remain within the zone. All vessels authorized to remain in the zone shall proceed as directed by the COTP or designated representative.

(2) Persons and vessel operators who intend to enter or transit the security zone while the zone is being enforced must obtain authorization from the COTP or designated representative. Access to the zone will be determined by the COTP or designated representative on a case-by-case basis when the zone is enforced. Persons and vessel operators requesting permission to enter or transit the security zone may contact the COTP or designated representative at telephone number 410–576–2675, on marine band radio VHF–FM channel 16 (156.8 MHz), or by visually or verbally hailing the on-scene law enforcement vessel enforcing the zone. On-scene Coast Guard personnel enforcing this section can be contacted on marine band radio, VHF–FM channel 16 (156.8 MHz). The operator of a vessel shall proceed as directed upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local law enforcement agency vessel, by siren, radio, flashing light, or other means. When authorized by the COTP or designated representative to enter the security zone all persons and vessels must comply with the instructions of the COTP or designated representative and proceed at the minimum speed necessary to maintain a safe course while within the security zone.

(3) The transit lane, described in paragraph (b)(2) of this section, is the only part of the security zone through which persons and vessels may travel. Before entering the transit lane, persons or vessels must have authorization as described in paragraph (c)(2) of this section. All persons and vessels shall operate at bare steerage or no-wake speed while transiting through the lane, and must not loiter, stop, or anchor, unless authorized or otherwise instructed by the COTP or a designated representative.

(4) The U.S. Coast Guard may secure the entire security zone, including transit lane, if deemed necessary to address security threats or concerns.

(5) The U.S. Coast Guard may be assisted by Federal, State, and local law enforcement agencies in the patrol and enforcement of the security zone described in paragraph (b)(1) of this section.

(d) *Enforcement.* The Coast Guard activates the security zone when requested by the U.S. Secret Service for the protection of individuals who qualify for protection under 18 U.S.C 3056(a). The COTP will provide the public with notice of enforcement of security zone by Broadcast Notice to Mariners (BNM), information release at the website: *www.news.uscg.mil/Baltimore/* and via a recorded message at telephone number (410) 576–2675 as well as on-scene notice by designated representative or other appropriate means in accordance with § 165.7.

Dated: March 18, 2019.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2019–05407 Filed 3–20–19; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0122]

RIN 1625–AA00

Safety Zone; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Delaware River to restrict and protect vessel traffic during the offloading of two Post-Panamax gantry cranes at the Port of Philadelphia. This action is intended to protect mariners and vessels from the hazards associated with these offloading activities. Entry of vessels or persons into this zone is prohibited unless a vessel meets the stated requirements or is specifically authorized by the Captain of the Port Delaware Bay. This rule compliments a safety zone found in docket number USCG–2019–0109 addressing navigation risks while the vessel carrying the cranes is underway in Delaware Bay and River.

DATES: This rule is effective without actual notice from March 21, 2019 through April 30, 2019. This rule may be cancelled earlier if the project is completed before the stated end date. For the purposes of enforcement, actual notice will be used from March 15, 2019, through March 21, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0122 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Petty Officer Thomas Welker, U.S. Coast Guard Sector Delaware Bay, Waterways Management Branch; telephone (215) 271–4814, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The M/V ZHEN HUA 25 is transporting three post-Panamax gantry cranes to ports within the United States. These large cranes extend beyond the width of M/V ZHEN HUA 25 on both sides of the vessel and create a navigational hazard to vessels operating within a certain proximity. The cranes are fastened in manner to facilitate passage through open ocean. Upon arrival with the Delaware River, M/V ZHEN HUA 25 will transit to anchorage

and begin an approximately four day process of removing the sea fastenings. The M/V ZHEN HUA 25 will then proceed, conditions permitting, to berth at the Port of Philadelphia Greenwich Terminal. The vessel will deliver two of the three cranes then proceed outbound to Wilmington, NC, with one gantry crane remaining onboard.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. There is insufficient time to allow for a reasonable comment period prior to the anticipated arrival of M/V ZHEN HUA 25 to the Delaware Bay Captain of the Port zone. The rule must be in force by March 15, 2019, to serve its purpose of ensuring the safety of waterway users and the general public from hazards associated with the offloading of post-Panamax gantry cranes with the Delaware Bay Captain of the Port Zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to mitigate the potential safety hazards associated with the offloading of the post-Panamax gantry cranes.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that there are potential hazards associated with the offloading of the post-Panamax gantry cranes. These potential hazards will be a safety concern for anyone transiting navigable waters of the Delaware River bounded to the south by a line drawn from the southeast corner of Pier 124S at 39°53′41.751″ N, 075°08′19.1419″ W, thence east-southeast to the New Jersey Shoreline at 39°53′34″ N, 075°07′49″ W, and bounded to the north by the southernmost edge of the Walt Whitman Bridge.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the Delaware River bounded to the south by a line drawn from the southeast corner of Pier 124S at 39°53′41.751″ N, 075°08′19.1419″ W, thence east-southeast to the New Jersey Shoreline at 39°53′34″ N, 075°07′49″ W, and bounded to the north by the southernmost edge of the Walt Whitman Bridge. This safety zone is needed to protect personnel and vessels, in the navigable waters within the safety zone as well as persons on the adjacent shoreline during offloading of two Post-Panamax gantry cranes. This safety zone will be enforced for approximately seven days beginning from the time of the M/V ZHEN HUA 25 moors at Greenwich Terminal until the vessel departs from the terminal, unless cancelled earlier by the COTP Delaware Bay. Enforcement of the safety zone will be announced via broadcast notice to mariners.

Vessels will be able to transit through the safety zone without permission from the COTP Delaware Bay if they meet the following requirements: (1) Transit through the safety zone at the minimum safe speed to reduce wake and maintain steerage, (2) except for towing vessels designated as assist tugs and operating in such capacity, do not overtake, meet, or otherwise pass any other unmoored or unanchored vessel while transiting through the safety zone, and (3) regardless of travel direction, vessels shall remain east of the centerline of the main navigation channel. The centerline is depicted on U. S. Electronic Navigational Chart US5PA12M and is a line drawn approximately from 39°53′39″ N, 075°08′11″ W, thence north-northeast to approximate position 39°54′19″ N, 075°07′54″ W, and thence north to approximate position 39°54′20″ N, 075°07′54″ W. Vessels which do not meet all of the requirements listed above will be prohibited from entering or transiting the safety zone without prior approval of the COTP Delaware Bay. Vessels requesting to enter or transit the safety zone may contact the Sector Delaware Bay Command Center via VHF–FM channel 16.

Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the short duration and traffic management of the safety zone. This rule will allow for vessels to transit through the safety zone while the M/V ZHEN HUA 25 moored at Greenwich Terminal in Port of Philadelphia, Pennsylvania if certain requirements are met, and the Coast Guard anticipates that most vessels will be able to freely transit around the safety zone and will not need to seek permission to enter the zone. For these reasons, the impact on waterway traffic is expected to be minimal.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance,

please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone to be enforced only during the offload of a vessel carrying post-Panamax gantry cranes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0122, to read as follows:

§ 165.T05–0122 Safety Zone, Delaware River, Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All navigable waters bounded to the south by a line drawn from the southeast corner of Pier 124S at 39°53′42″ N, 075°08′20″ W, thence east-southeast to the New Jersey shoreline at 39°53′34″ N, 075°07′47″ W, and bounded to the north by the southernmost edge of the Walt Whitman Bridge. These coordinates are based on the 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Delaware Bay (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in subpart C of this part and except for as described in paragraph (c)(3) of this section, vessels may not enter, remain in, or transit the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, unless moored or anchored outside the main navigational channel, contact the COTP or the COTP's representative via VHF–FM Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) Vessels may transit the safety zone described in paragraph (a) of this section if all of the following criteria are met:

(i) Vessel shall maintain the minimum safe speed to reduce wake and maintain steerage.

(ii) Except towing vessels designated as assist tugs and operating in such capacity, no vessel may meet, overtake or otherwise pass another unmoored or unanchored vessel within the safety zone.

(iii) Regardless of travel direction, vessels shall remain east of the centerline of the main navigation channel. The centerline is depicted on U.S. Electronic Navigational Chart US5PA12M and is a line drawn approximately from 39°53′39″ N, 075°08′11″ W, thence north-northeast to approximate position 39°54′19″ N, 075°07′54″ W, and thence north to approximate position 39°54′20″ N, 075°07′54″ W.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* Enforcement of the safety zone will begin when the M/V ZHEN HUA 25 arrives at berth at the Greenwich Terminal in the Port of

Philadelphia, Pennsylvania and end at midnight on April 30, 2019.

Dated: March 15, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–05369 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2018–0607; FRL–9990–72–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a source-specific revision to the Wyoming State Implementation Plan (SIP) that provides an alternative to Best Available Retrofit Technology (BART) for Unit 3 at the Naughton Power Plant (''the SIP revision'') that is owned and operated by PacifiCorp. The EPA finds that the BART alternative for Naughton Unit 3 provides greater reasonable progress toward natural visibility conditions than BART in accordance with the requirements of section 110 of the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR). The SIP revision was submitted by the State of Wyoming on November 28, 2017.

DATES: This rule is effective on April 22, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2018–0607. 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.,* 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: Aaron Worstell, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6073, *worstell.aaron@epa.gov.*

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

I. Background

The background for this action is discussed in detail in our November 7, 2018, proposal (83 FR 55656). In that document we proposed to approve the SIP revision that provides an alternative to BART for Unit 3 at the Naughton Power Plant.

Comments on the proposed rulemaking were due on or before December 7, 2018. The EPA received a total of three public comment submissions on the proposed approval, including a comment letter from the Wyoming Department of Environmental Quality Air Quality Division (AQD). All public comments received on this rulemaking action are available for review by the public and may be viewed by following the instructions for access to docket materials as outlined in the **ADDRESSES** section of this preamble. After reviewing the comments, the EPA has determined that one of the comment submissions is outside the scope of our proposed action and/or fails to identify any material issue necessitating a response. Our responses to the remaining two comment submissions are below.

II. Response to Comments

Comment: In a comment letter dated December 7, 2018, AQD stated that it ''agrees with EPA that both the EPA's and Wyoming's analyses demonstrate that the emissions reductions achievable through the alternative are better-than-BART.'' However, the AQD maintained that ''given the flexibilities afforded states under the BART Guidelines (70 FR 39129), the State's use of potential-to-emit emissions in order to calculate reductions is permissible.'' The AQD construed ''EPA's use of 'anticipated annual emission rate' as an EPA policy preference, not a requirement.''

Response: In 2006, the EPA finalized regulations that govern alternatives to source-specific BART determinations such as that contemplated in the Wyoming SIP revision for Naughton Unit 3.[1] These regulations ''make clear that the emissions reductions that could be achieved through implementation of the BART provisions at § 51.308(e)(1) [for source-by-source BART] serve as the benchmark against which States can compare an alternative program.'' [2] In turn, the emissions reductions that could be achieved through source-by-source BART are calculated in accordance with the *Guidelines for BART Determinations Under the Regional Haze Rule.*[3] The BART Guidelines are mandatory for powerplants exceeding 750 megawatts such as the Naughton Power Plant.[4] The BART Guidelines specify, in general, that actual emissions, rather than potential emissions, should be used to calculate the emission reductions from BART. For example, when calculating both the baseline and anticipated emissions, and thereby the emission reductions, the BART Guidelines state:

> The baseline emissions rate should represent a *realistic depiction of anticipated annual emissions* for the source. In general, for the existing sources subject to BART, you will estimate the *anticipated annual emissions based upon actual emissions* from a baseline period.[5]

In addition, the BART Guidelines state:

> When you project that future operating parameters (*e.g.,* limited hours of operation or capacity utilization, type of fuel, raw materials or product mix or type) will differ from past practice, and if this projection has a deciding effect in the BART determination, then you must make these parameters or assumptions into enforceable limitations. In the absence of enforceable limitations, you calculate baseline emissions based upon continuation of past practice.[6]

Wyoming's BART determination for Naughton Unit 3, as approved by the EPA in 2014, is comprised of an emission limit of 0.07 lb/MMBtu (30-day rolling average) and does not include enforceable limitations that would constrain future operating parameters. This reinforces the conclusion that baseline emissions for Naughton Unit 3 should be based on actual emissions reflective of past practice.

Finally, note that the citation to the BART Guidelines given by AQD (to 70 FR 39129) refers to flexibilities afforded to the states in the context of assessing visibility improvements due to potential BART controls, and does not speak to whether actual or potential emissions should be used to calculate the emission reductions from BART in the course of

[1] 71 FR 60612 (October 13, 2006).

[2] *Id.* at 60615.

[3] Appendix Y to 40 CFR part 51.

[4] Generator-level information submitted to the U.S. Energy Information Agency on form EIA–860 shows a total nameplate capacity of 832 megawatts for the three electric generating units at the Naughton Plant. See form EIA–860 detailed data located in the docket. Note that the engineering analysis supporting the BART Guidelines identified affected electric generating units by nameplate generating capacity. 70 FR 39104, 39152–53 (July 6, 2005).

[5] 70 FR 39167 (July 6, 2005) (emphases added).

[6] Ibid.

a better-than-BART demonstration. Even still, in the context of assessing visibility improvements, the BART Guidelines are clear that *actual,* and not allowable, emission rates should be used:

> On the other hand, in the long term, estimating visibility impacts based on allowable emission rates for every hour of the year may unduly inflate the maximum 24 hour modeled impairment estimate from a BART-eligible source. The emissions estimates used in the models are intended to reflect steady-state operating conditions during periods of high capacity utilization.[7]

Accordingly, because the BART Guidelines are mandatory for the Naughton Power Plant, and in this case require the use of actual emissions when calculating BART emission reductions, we disagree that the EPA's use of actual annual emissions represents a policy preference and that Wyoming's use of potential emissions for that purpose is permissible. Nonetheless, as noted by the commenter, the EPA agrees that in the case of the Naughton Unit 3 SIP revision, regardless of whether the emission reductions achievable with the BART alternative are assessed on a projected actual or allowable emissions basis, the anticipated NO_X emissions are lower under the BART alternative than under BART.[8]

Comment: AQD stated that, for the reasons noted in its SIP submittal, the AQD continues to maintain that use of an emission limit of 0.07 lb/MMBtu (30-day rolling average) is the appropriate BART emission limit for comparison purposes instead of EPA's use of an 0.05 lb/MMBtu emission rate.

Response: The BART Guidelines state that for EGUs, such as Naughton Unit 3, emission limits should specify an averaging time of a 30-day rolling average.[9] In our 2014 final rule, we approved Wyoming's 30-day rolling average emission limit of 0.07 lb/MMBtu for Naughton Unit 3.[10] However, as discussed in the comment response immediately above, in this case the BART regulations require that estimated actual emissions should be used when comparing the emission reductions from BART to those from a BART alternative. Therefore, it is necessary to adjust the 30-day rolling average emission limit (lb/MMbtu) to an actual annual (lb/MMBtu) basis for this purpose. The former value will necessarily be higher than the latter value because of (1) the shorter averaging period, and (2) a margin for compliance. The need to adjust between the two values was discussed in the EPA's 2014 final rule approving the BART determination for Naughton Unit 3.[11] The need to adjust between these two values has also been recognized by other states (*e.g.,* Colorado and North Dakota) in their regional haze SIPs that have been approved by the EPA.[12] [13] In addition, the relationship between the two values can be observed at other BART sources where selective catalytic reduction (SCR) has been installed and is subject to a 30-day rolling average emission limit of 0.07 lb/MMBtu. For example, as discussed in our proposed rule, Units 3 and 4 at the Jim Bridger Power Plant, which are subject to a 30-day rolling average emission limit of 0.07 lb/MMBtu, are achieving actual annual emissions rates of approximately 0.05 lb/MMBtu.[14] For these reasons, we find that an estimated actual annual emission rate of 0.05 lb/MMBtu appropriately corresponds to the emission limit of 0.07 lb/MMBtu on a 30-day rolling average for Naughton Unit 3.

Comment: One commenter expressed support for the EPA's proposed approval of the SIP revision which would result in the transition of Naughton Unit 3 from coal to natural gas. The commenter stated that ''natural gas is cleaner and more sustainable for our future, and therefore a public benefit.'' The commenter also stated that ''PacifiCorp will have to modernize their coal combustion power plants at some point regardless.''

Response: We acknowledge the commenter's support for our proposed approval of the SIP revision for Naughton Unit 3.

III. Final Action

In this action, the EPA is approving Wyoming's SIP revision for the Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3, including the associated emission and operational limitations, compliance dates, and monitoring, record keeping and reporting requirements. Specifically, the EPA is approving the following federally enforceable elements of the SIP revision for Naughton Unit 3:

- The NO_X and PM emission limits found in Wyoming air quality permits MD–15946 (condition 5, lb/hr and tons/year) and P0021110 (condition 7, lb/MMbtu), as shown in the table below.

Pollutant	lb/MMBtu	lb/hr	tons/year
NO_X	0.12 (30-day rolling average)	250.0 (30-day rolling)	519.0
PM/PM_{10}[a]	0.008[b]	30.0[b]	52.0

[a] Total PM/PM_{10}.
[b] Averaging period is one hour as determined by 40 CFR 60.46 and an applicable Reference Test Method.

- The operational limit on annual heat input of 12,964,800 MMBtu (based on 12-month rolling average of hourly heat input values) found in Wyoming air quality permit P0021110 (condition 18).
- The compliance dates found in Wyoming air quality permit P0021110; specifically including that PacifiCorp shall (1) remove the coal pulverizers from service (cease firing coal) by January 30, 2019 (P0021110, condition 19), (2) comply with the NO_X and PM emission limits in lb/MMBtu upon conversion to natural gas firing (P0021110, condition 7), and (3) comply with the heat input limit by January 30, 2019 (P0021110, condition 18).
- The compliance dates found in Wyoming air quality permit MD–15946 (conditions 5 and 6), requiring that PacifiCorp comply with the NO_X and PM emission limits in lb/hr and tons/year upon completion of the initial performance tests.
- The monitoring, record keeping and reporting requirements found in air

[7] *Id.* at 39129.

[8] The annual NO_X emissions limit for the Naughton Unit 3 BART alternative of 519 tons/year is lower than the actual emission projected with BART by the EPA of 621 tons/year. See proposed rule at 83 FR 55646, 55662 (November 7, 2018).

[9] 70 FR 39172 (July 6, 2005).

[10] 79 FR 5032, 5045–56 (January 30, 2014).

[11] *Id.* at 5167.

[12] Colorado Visibility and Regional Haze State Implementation Plan for the Twelve Mandatory Class I Federal Areas in Colorado, Colorado Air Pollution Control Division, pages 132 and 145, adopted January 7, 2011. Also, see Appendix C: Technical Support Documents for BART Determinations.

[13] North Dakota State Implementation Plan for Regional Haze, North Dakota Department of Health, adopted February 24, 2010. See Appendix B: Department BART Determinations for Subject-to-BART Sources in North Dakota.

[14] 83 FR 55656, 55662 (November 7, 2018).

quality permit P0021110 (NO_X CEMs, conditions 8 and 9; heat input, condition 18; PM stack testing, condition 10; reporting, conditions 4, 11, 12, 13, 14, 19; record keeping, condition 17; notification, conditions 4 and 6; good practice, condition 21; credible evidence, condition 24).

IV. Incorporation by Reference

In this document, 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 SIP amendments described in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the 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 the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[15]

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, 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 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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, the EPA is not required to submit a rule report regarding this action under section 801.

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 May 20, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 15, 2019.

Douglas Benevento,

Regional Administrator, EPA Region 8.

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 ZZ—Wyoming

■ 2. Section 52.2620 is amended by adding to the table in paragraph (d) an entry for ''Naughton Unit 3'' at the end of the table; and by adding to the table in paragraph (e), in numerical order, an entry for ''(32) XXXII'' to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(d) * * *

[15] 62 FR 27968 (May 22, 1997).

Regulation	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	* *
Naughton Unit 3.	Air Quality SIP Permits containing BART Alternative requirements, MD–15946 and P0021110.	November 28, 2017.	April 22, 2019.	[**Federal Register** CITATION] [**Federal Register** 3/21/19].	Only the following permit provisions: NO_X and PM emission limits (MD–15946 condition 5, for lb/hr and tons/year emission limits; P0021110, condition 7, for lb/MMbtu emission limits); emission limit compliance dates (P0021110, condition 7; MD–15946, conditions 5 and 6); heat input limit and compliance date (P0021110, condition 18); compliance date for coal pulverizers to be removed from service (P0021110, condition 19); and associated monitoring, recordkeeping, and reporting requirements (P0021110, conditions 4, 6, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 21, and 24).

(e) * * *

Rule No.	Rule title	State effective date	EPA Effective date	Final rule/ citation date	Comments
*	*	*	*	*	* *
(32) XXXII	Wyoming State Implementation Plan 5-Year Progress Report for Regional Haze, Appendix B: Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3.	November 28, 2017.	April 22, 2019.	[**Federal Register** citation], [**Federal Register** 3/21/19].	Only includes Appendix B: Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3.

■ 3. Section 52.2636 is amended by revising paragraph (a)(1)(vii) and Table 1 to § 52.2636 in paragraph (c)(1) to read as follows:

§ 52.2636 Implementation plan for regional haze.

(a) * * *

(1) * * *

(vii) PacifiCorp Naughton Power Plant Units 1 and 2 (PM and NO_X); and

* * * * *

(c) * * *

(1) * * *

TABLE 1 TO § 52.2636

[Emission limits for BART units for which EPA approved the State's BART and Reasonable Progress determinations]

Source name/BART unit	PM emission limits—lb/MMBtu	NO_X emission limits—lb/MMBtu (30-day rolling average)
FMC Westvaco Trona Plant/Unit NS–1A	0.05	0.35
FMC Westvaco Trona Plant/Unit NS–1B	0.05	0.35
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler C	0.09	0.28
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler D	0.09	0.28
Basin Electric Power Cooperative Laramie River Station/Unit 1	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 2	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 3	0.03	N/A
PacifiCorp Dave Johnston Power Plant/Unit 3	0.015	N/A
PacifiCorp Dave Johnston Power Plant/Unit 4	0.015	0.15
PacifiCorp Jim Bridger Power Plant/Unit 1 [1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 2 [1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 3 [1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 4 [1]	0.03	0.26/0.07
PacifiCorp Naughton Power Plant/Unit 1	0.04	0.26
PacifiCorp Naughton Power Plant/Unit 2	0.04	0.26
PacifiCorp Wyodak Power Plant/Unit 1	0.015	N/A

[1] The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3, and 4 shall comply with the NO_X emission limit for BART of 0.26 lb/MMBtu and PM emission limit for BART of 0.03 lb/MMBtu and other requirements of this section by March 4, 2019. The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3 and 4 shall comply with the NO_X emission limit for reasonable progress of 0.07 lb/MMBtu by: December 31, 2022, for Unit 1, December 31, 2021, for Unit 2, December 31, 2015, for Unit 3, and December 31, 2016, for Unit 4.

* * * * *

[FR Doc. 2019–05263 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 380

[Docket No. FMCSA–2017–0371]

RIN 2126–AC05

Commercial Driver's License Upgrade From Class B to Class A; Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; correction.

SUMMARY: FMCSA corrects the entry-level driver training (ELDT) final rule published on March 6, 2019, titled ''Commercial Driver's License Upgrade from Class B to Class A.'' The March 6, 2019 final rule contained an error in the amendatory instruction that is being corrected in order to ensure the regulatory text matches the discussion of the change being made in the preamble to the document.

DATES: Effective May 6, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations (MC–PSD) Division, FMCSA, 1200 New Jersey Ave. SE, Washington, DC 20590–0001, by telephone at 202–366–4325, or by email at *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: In FR Doc. 2019–04044 appearing on page 8029 in the **Federal Register** of Wednesday, March 6, 2019, the following correction is made:

§ 380.707 [Corrected]

■ 1. On page 8040, in the third column, in part 380, in amendment 2 for § 380.707, the instruction ''amend paragraph (a) by adding the words ''or Class A theory instruction upgrade curriculum applicants'' to the end of the final sentence'' is corrected to read ''amend paragraph (a) by adding the words ''or Class A theory instruction upgrade curriculum applicants'' after the words ''all accepted BTW applicants'' in the final sentence.''

Issued under authority delegated in 49 CFR 1.87.

Dated: March 15, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05382 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XG716

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Hook-and-Line Catcher/Processors in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by hook-and-line catcher/processors in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2019 Pacific cod total allowable catch apportioned to hook-and-line catcher/processors in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 18, 2019, through 1200 hours, A.l.t., June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2019 Pacific cod total allowable catch (TAC) apportioned to hook-and-line catcher/processors in the Western Regulatory Area of the GOA is 568 metric tons (mt), as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2019 Pacific cod TAC apportioned to hook-and-line catcher/processors in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 550 mt and is setting aside the remaining 18 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by hook-and-line catcher/processors in the Western Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

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 directed fishing closure of Pacific cod by hook-and-line catcher/processors in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 15, 2019.

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: March 18, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–05391 Filed 3–18–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 55
Thursday, March 21, 2019

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 THE INTERIOR

Office of the Secretary

2 CFR Part 1402

[DOI–2018–0013; 190D0102DM, DS62400000, DLSP00000.000000, DX62401]

RIN 1090–AB19

Financial Assistance Interior Regulation

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the Financial Assistance Interior Regulation (FAIR). The FAIR supplements the Office of Management and Budget (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), which was adopted by the Department of the Interior (DOI or Department) on December 19, 2014. This proposed rule would support the Department's goal of improving its financial assistance program, consolidate the Department's financial assistance regulations and policies derived from the OMB Uniform Guidance, and streamline the implementation of OMB's Uniform Guidance and DOI financial assistance policy.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments on the rulemaking through the Federal eRulemaking Portal at *http://www.regulations.gov.* Type in DOI–2018–0013 in the search bar. Please use Regulation Identifier Number (RIN) 1090–AB19 in your message. Follow the instructions on the website for submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Kaprice Tucker, Associate Director, Office of Acquisition and Property Management, Department of the Interior, 1849 C Street NW, Mail Stop 4262 MIB, Washington, DC 20240; telephone (202) 208–3466; or email *Kaprice_Tucker@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 26, 2013, the Office of Management and Budget (OMB) published its *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (referred to as the ''Uniform Guidance,'' 78 FR 78590). The OMB Uniform Guidance, 2 CFR part 200, provided a government-wide framework for Federal awards management and streamlined administrative requirements, cost principles, and audit requirements for Federal awards including grants and cooperative agreements.

The Uniform Guidance required Federal agencies to promulgate regulations implementing the policies and procedures applicable to Federal awards by December 26, 2014. On December 19, 2014, the Department published a final rule to adopt the OMB Uniform Guidance in full as 2 CFR part 1402, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards [79 FR 75867]. Three days later, on December 22, 2014, DOI issued memoranda to supplement the following provisions of the OMB Uniform Guidance: (1) Indirect Cost Rates for Federal Financial Assistance Awards and Agreements; (2) Conflict of Interest and Mandatory Disclosures for Financial Assistance; (3) Financial Assistance Application and Merit review Processes; and (4) Financial Assistance Awards for For-Profit Entities, Foreign Public Entities, and Foreign Organizations. On February 8, 2016, the Department published a proposed rule to establish the FAIR and to consolidate all of the policy memoranda into a regulation to be codified at 2 CFR part 1402 (81 FR 6462). Two comments were received addressing, first, details of the conflicts of interest provision and, second, the application of 2 CFR part 200, subparts E (Cost Principles) and F (Audit Requirements), to tribal awards. These two comments were addressed by expanding the conflict of interest provision to be consistent with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and by clarifying the applicability of 2 CFR part 200, subparts E and F, to tribal awards in this proposed rulemaking, respectively.

Because the RIN for the 2016 proposed rule expired and Departmental leadership wanted to strengthen the conflict of interest provisions and incorporate open science and land acquisition provisions, the Department is proposing the current version of its FAIR regulations as a revision to 2 CFR part 1402 for public comment.

The FAIR regulations proposed today would: First, revise 2 CFR part 1402 to more accurately reflect exceptions to this part; and second, add supplemental regulations for DOI's financial assistance program that would be codified at 2 CFR part 1402. The proposed rule represents an administrative simplification and is not intended to make any substantive changes to 2 CFR part 200 policies and procedures. Thus, this rulemaking is not seeking to revisit substantive issues resolved during the development and finalization of the OMB Uniform Guidance which was adopted by the Department on December 19, 2014. The purpose of the proposed rule is to help ensure that financial assistance provided by the DOI is administered in full compliance with applicable law, regulation, policy and best practices to ensure the American people get the most value from the money the DOI spends on financial assistance. The sections in this rule represent areas of the financial assistance program where questions have been raised by stakeholders, including auditors. As a result, DOI seeks to provide clarity in these specific areas.

Discussion of the Proposed Rule

Subpart A of the proposed rule sets forth definitions for terms used in this part. Terms defined in this proposed rulemaking are ''data,'' ''employment,'' ''financial assistance officer,'' ''foreign entity,'' ''non-Federal entity,'' and ''real property.'' Several of these terms help clarify proposed regulatory changes designed to avoid real or apparent conflicts of interest which might place a federal employee, non-Federal entity, its employees, and/or its subrecipients in a position of conflict, real or apparent. Proposed terms also define ''real property'' and ''data,'' to address DOI's specific focus on interests in land and to address transparency in the use of data.

Subpart B sets forth proposed general provisions including: the purpose of the

part, application, exceptions, policies and procedures that apply to non-Federal entities, conflict of interest policies, and mandatory disclosure requirements. DOI is proposing to revise § 1402.100 to more-accurately explain the purpose of the part, which includes establishment of financial assistance regulations designed to ensure that financial assistance is administered in full compliance with applicable law, regulation, policy and best practices and help ensure the American people get the most value from the money the DOI spends on financial assistance. The proposed part also extends certain regulatory provisions to foreign public entities and foreign organizations. The revised § 1402.101 provides that the proposed regulations would apply to all DOI grant-making activities and to any non-Federal entity that applies for, receives, operates, or expends funds from a DOI financial assistance award after the effective date of the final rule, unless otherwise authorized by Federal statute. The part also applies to foreign entity applicants and recipients, except where the DOI office or bureau determines that the application of the proposed regulations would be inconsistent with international obligations of the United States or statutes or regulations of a foreign government.

Section 1402.102 is revised to further clarify that awards made in accordance with the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2204), as amended, are governed by 25 CFR parts 900 and 1000, and by 2 CFR part 200, subparts E and F. This proposed regulation also provides a process for requesting exceptions to requirements of this part by foreign entities.

The proposed revision to § 1402.103 explains that non-Federal entities must follow bureau or office policies and procedures as communicated in notices of funding opportunity (NOFOs) and award terms and conditions. If such policies or procedures conflict with existing regulations at 2 CFR part 200 or this part, then the regulations at 2 CFR part 200 or this part, when finalized, will supersede, unless otherwise authorized by Federal statute.

Proposed § 1402.112 sets forth requirements related to conflicts of interest that apply to recipients of financial assistance awards. The proposed rule would require the full text of language proposed in paragraphs (a) through (f) in all NOFOs and financial assistance awards. This section is proposed in order to make clear to non-Federal entities that they must appropriately address prohibited conflicts of interest preventing them from providing impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement. Paragraphs (a) through (f) set forth direction on applicability, a discussion of conflicts, appropriate action that must be taken to avoid a conflict of interest, and enforcement.

Section 1402.113 provides that, in addition to disclosures required under 2 CFR 200.112 and 200.113, non-Federal entities and applicants must disclose in writing any potential or actual conflict of interest and must also disclose any outstanding unresolved matters with the Government Accountability Office or the Office of Inspector General of any Federal agency when submitting a proposal and through the life of the award.

Under subpart C, the proposed rule addresses: Merit review requirements for competitive awards, requirements for domestic for-profit entities, specific financial assistance award terms and conditions that apply to domestic for-profit entities, and lobbying disclosure and certification requirements.

Proposed § 1402.204 sets forth merit review requirements for competitive grants and cooperative agreements unless otherwise prohibited by Federal statute. This proposed section also provides that it is important for DOI bureaus and offices to create review systems for discretionary programs that are noncompetitive that consider statutory or regulatory provisions and include a business evaluation, risk assessment, and other applicable government-wide pre-award considerations.

This proposed section also requires pre-award considerations for both discretionary competitive and noncompetitive awards to take into account the alignment of the award's purpose, goals, and measurement with the current DOI Government Performance and Results Act Strategic Plan.

Section 1402.204 also sets forth an expectation of maximum competition in awarding discretionary funds, unless otherwise directed by Congress. The proposed rule also provides that when grants and cooperative agreements are awarded competitively, the process will be fair and impartial, that all applicants will be evaluated only on the criteria stated in the announcement, and that no applicant receives an unfair competitive advantage. The proposed rule also sets forth direction on developing an evaluation and selection plan which should be finalized prior to the release of a notice of funding opportunity (NOFO). This section of the proposed rule also sets forth direction on: The composition of an evaluation and selection plan, completeness of applications and proposals, timeliness, threshold screening, merit review evaluation screening, and risk assessments.

Proposed §§ 1402.206 and 1402.207 are designed to be read together. Section 1402.206 provides that § 1402.207(a) contains standard award terms and conditions that always apply to for-profit entities and that terms in § 1402.207(b) contain terms that are required for all subawards and contracts over the simplified acquisition thresholds. The section further lists additional administrative guidelines in existing regulations and in proposed § 1402.414 that may be applied to domestic for-profit entities. Provision is made for particular program offices and bureaus to develop specific administrative guidelines for domestic for-profits. Finally, proposed § 1402.206 provides that bureau and office award terms and conditions must be managed in accordance with requirements in existing 2 CFR 200.210.

Proposed § 1402.207 lists specific conditions that always apply to domestic for-profit entities and subawards. In addition to all other applicable terms and conditions, specific financial assistance award terms and conditions proposed in § 1402.207(d) apply to foreign entities.

Proposed § 1402.208 provides that non-Federal entities are strictly prohibited from using Federal funds under a grant or cooperative agreement for lobbying activities pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

Subpart D includes proposed regulations that set forth post Federal award requirements. Section 1402.300 provides direction on relevant statutory and national policy requirements. This section provides that DOI bureaus and offices will communicate to the non-Federal entity all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or by reference in the terms and conditions of the Federal award. The proposed section makes clear that the non-Federal entity is responsible for complying with all requirements of the award, including listed statutes and, in the case of recipients conducting work outside the United States, those entities are responsible for coordinating with appropriate United States and foreign government authorities as necessary to make sure all required licenses, permits, or approvals are obtained before undertaking project activities. In

addition, direction in this section is provided to DOI bureaus and offices regarding compliance with the ''World Heritage Convention,'' if an undertaking outside of the United States may directly and adversely affect a property that is on the World Heritage List or the applicable country's equivalent of the National Register of Historic Places. Finally, the proposed section provides that foreign entities are responsible for complying with all requirements of the Federal award and provides a non-exhaustive list of requirements.

Proposed § 1402.315 sets forth requirements for availability of data that implement Secretary's Order 3369, ''Promoting Open Science,'' dated October 18, 2018. The proposed requirements in this section rely on existing regulatory provisions found at 2 CFR 200.315(d) to achieve the goals set forth in section 4b(3) of the Secretary's Order to provide the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department. To accomplish these goals, the section provides that DOI bureaus and offices shall specifically require under the terms of any award, the ability to publicly release associated data, defined as including scientific data, methodology, factual inputs, models, analyses, technical information, or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, subject to applicable laws. This provision would apply to all grants, cooperative agreements, or other similar agreement between any Bureau, Office, or other organization of the Department and any third party and would not be limited to rulemaking.

Section 1402.329 proposes requirements for land acquired under an award. The proposed regulation provides that prior to land purchases bureaus and offices must ensure compliance with the prior written approval requirements for land acquisition in existing 2 CFR 200.439. Whenever a recipient is seeking DOI approval to use award funds to purchase an interest in real property, OMB-approved government-wide data elements must be submitted to the responsible bureau or office. For this provision, the Financial Assistance Officer is responsible for ensuring compliance. Furthermore, all aspects of the purchase must be in compliance with applicable laws and regulations relating to purchases of land or interests in land. The proposed section also requires that unless a waiver valuation applies in accordance with 49 CFR 24.102(c), land or interests in land that will be acquired under the award must be appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or the ''Yellow Book''), which is incorporated by reference, by a real property appraiser licensed or certified by the state or states in which the property is located and that the appraisal report shall be reviewed by a qualified review appraiser that meets qualifications established by the DOI Appraisal and Valuation Services Office (AVSO). Requirements are also set forth in this section for foreign land acquisition.

Proposed § 1402.329 also sets forth direction that for all financial assistance actions where real property, as defined in this proposed rule, is acquired under the Federal award, the recipient must submit reports on the status of the real property as required by 2 CFR 200.329. If the interest in real property will be held for less than 15 years, reports must be submitted annually; otherwise the recipient must submit the first report within one year of the period of performance end date of the award and then, at a minimum every five years thereafter. The proposed rule also sets forth who should receive the reports, the required format, contents, and timing for such reports.

Proposed § 1402.414 would establish DOI policy, procedures, and general decision-making criteria for deviations from negotiated indirect cost rates applicable to all Federal financial assistance programs awarded and administered within DOI. The proposed regulatory text sets forth procedures and criteria for using an indirect cost rate other than the non-Federal entity's negotiated rate. The goal of this section is to provide consistent direction within the Department on negotiated indirect cost rate deviations to ensure compliance with the Uniform Guidance.

Existing provisions of 2 CFR 200.414(c) require Federal agencies to accept federally negotiated indirect cost rates. Federal agencies may use a rate different from the negotiated rate for a class of awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegatee based upon documented justification described within 2 CFR 200.414(c)(3).

For all deviations to the Federal negotiated indirect cost rate, including statutory, regulatory, programmatic, and voluntary, the proposed rule provides that the basis of direct costs against which the indirect cost rate is applied must be: The same base identified in the recipient's negotiated indirect cost rate agreement, if the recipient has a federally negotiated indirect cost rate agreement; or, the modified total direct cost (MTDC) base, in cases where the recipient does not have a federally negotiated indirect cost rate agreement or, with prior approval of the awarding bureau or office, when the recipient's federally negotiated indirect cost rate agreement base is only a subset of the MTDC (such as salaries and wages) and the use of the MTDC still results in an overall reduction in the total indirect cost recovered.

Proposed § 1402.414(d) provides that in cases where the recipient does not have a federally negotiated indirect cost rate agreement, the Department will not use a modified rate based upon total direct cost or other base not identified in the federally negotiated indirect cost rate agreement or defined within 2 CFR 200.68.

Section 1402.414(d) goes on to provide direction on indirect cost rate deviation required by statute or regulation, indirect cost rate reductions used as cost-share, programmatic indirect cost rate deviation approval process, voluntary indirect cost rate reduction, and unrecovered indirect costs.

Incorporation by Reference: The purpose of the *Uniform Appraisal Standards for Federal Land Acquisitions* (Yellow Book) is to promote fairness, uniformity, and efficiency in the appraisal of real property in federal acquisitions. The same goals of uniformity, efficiency, and fair treatment of those affected by public projects underlie the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which applies to federal acquisitions as well as many state and local government acquisitions involving federal funds. The Yellow Book is available in hard copy or interactive electronic format from The Appraisal Foundation at *http://www.appraisalfoundation.org/imis/TAF/Yellow_Book.aspx* or from the U.S. Department of Justice at *https://www.justice.gov/file/408306/download.*

Invitation to Comment: The Department of the Interior is inviting comments concerning the proposed sections.

II. Required Determinations

1. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the OMB's Office of Information and Regulatory Affairs will review all significant rules. The Office of Information and Regulatory Affairs has

determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866, calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public, where these approaches are relevant, feasible, and consistent with regulatory objectives.

2. Regulatory Flexibility Act

This proposed rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Department of the Interior generally does not award grants to small businesses. The vast majority of Interior grants are awarded to States, local governments, and not-for-profit organizations.

3. Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The Department of the Interior generally does not award grants to small businesses.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule establishes regulations for DOI financial assistance. DOI financial assistance is typically offered to States, local governments and not-for-profit institutions. It would not affect business relationships, employment, investment, productivity, innovations, or the ability of U.S.-based enterprises to compete internationally.

4. Unfunded Mandates Reform Act

This rule:

(a) Does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year.

(b) Does not have a significant or unique effect on State, local, or tribal governments, or the private sector.

(c) This proposed regulation would clarify the applicability of two existing regulations—the regulatory requirement for reporting under 2 CFR 200.329—Reporting on Real Property, and the regulatory language establishing use of the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or ''Yellow Book'') standard under 49 CFR 24.103—to financial assistance actions at the Department of the Interior. This proposed regulation establishes a permitted standard for appraisals under 49 CFR 24.103 and specifies the required timing increments of reports under 2 CFR 200.329.

A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

Under the criteria in section 2 of E.O. 12630, this rule does not have significant takings implications. It does not impose any obligations on the public that would result in a taking. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This is because it would not substantially and directly affect the relationship between the Federal and state governments. Accordingly, a Federalism summary impact statement is not required.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) of this E.O. requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) of this E.O. requiring that all regulations be written in clear language and contain clear legal standards.

8. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have determined that it has no substantial direct effect on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

9. Paperwork Reduction Act, 44 U.S.C. 3501, et seq.

This regulation will require the use of the SF 429 to fulfill the requirement in 2 CFR 200.329. Each Bureau will submit a request for common form usage to the Office of Management and Budget for use of SF 429—Real Property Status Report—Cover Page, SF 429A—Real Property Status Report—Attachment A—General Reporting, and SF 429B—Real Property Status Report—Attachment B—Request to Acquire, Improve, or Furnish.

10. National Environmental Policy Act

This proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Pursuant to Department Manual 516 DM 2.3A(2), section 1.10 of 516 DM 2, Appendix 1 excludes from documentation in an environmental assessment or impact statement ''policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject to the NEPA process, either collectively or case-by-case.''

11. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211; therefore, a Statement of Energy Effects is not required.

12. Plain Language

We are required by section 1(b)(12) of E.O. 12866 and Section 3(b)(1)(B) of E.O. 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

List of Subjects in 2 CFR Part 1402

Accounting, Administrative practice and procedure, Adult education, Aged, Agriculture, American Samoa, Bilingual education, Blind, Business and industry, Civil rights, Colleges and universities, Communications, Community development, Community facilities, Copyright, Credit, Cultural exchange programs, Educational facilities, Educational research, Education, Education of disadvantaged, Education of individuals with disabilities, Educational study programs, Electric power, Electric power rates, Electric utilities, Elementary and secondary education, Energy conservation, Equal educational opportunity, Federally affected areas, Government contracts, Grant programs, Grant programs—agriculture, Grant programs—business, Grant programs—communications, Grant programs—education, Grant programs—energy, Grant programs—health, Grant programs—housing and community development, Grant programs—social programs, Grants administration, Guam, Home improvement, Homeless, Hospitals, Housing, Human research subjects, Indians, Indians—education, Infants and children, Insurance, Intergovernmental relations, International organizations, Inventions and patents, Loan programs, Loan programs social programs, Loan programs—agriculture, Loan programs—business and industry, Loan programs—communications, Loan programs—energy, Loan programs—health, Loan programs—housing and community development, Manpower training programs, Migrant labor, Mortgage insurance, Nonprofit organizations, Northern Mariana Islands, Pacific Islands Trust Territories, Privacy, Renewable energy, Reporting and recordkeeping requirements, Rural areas, Scholarships and fellowships, School construction, Schools, Science and technology, Securities, Small businesses, State and local governments, Student aid, Teachers, Telecommunications, Telephone, Urban areas, Veterans, Virgin Islands, Vocational education, Vocational rehabilitation, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds, Women.

■ For the reasons set forth in the preamble, the Department of the Interior proposes to revise 2 CFR part 1402 to read as follows:

PART 1402—FINANCIAL ASSISTANCE INTERIOR REGULATION, SUPPLEMENTING THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart A—Definitions

Sec.

Subpart B—General Provisions

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

Subpart D—Post Federal Award Requirements

Authority: 5 U.S.C. 301 and 2 CFR part 200.

Subpart A—Definitions

§ 1402.1 Definitions.

The definitions in this subpart are for terms used in this part. For terms used in this part that are not defined, the definitions in 2 CFR part 200 apply. Different definitions may be found in Federal statutes or regulations that apply more specifically to particular programs or activities.

§ 1402.2 Data.

Data includes scientific data, methodology, factual inputs, models, analyses, technical information, or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

§ 1402.3 Employment.

Employment includes any form of non-Federal employment or business relationship involving the provision of personal services by the employee, whether to be undertaken at the same time as, or subsequent to Federal employment. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee of the other organization.

§ 1402.4 Financial Assistance Officer.

Financial Assistance Officer means a person with the authority to enter into, administer, and/or terminate financial assistance awards (including grants and cooperative agreements); and make related determinations and findings.

§ 1402.5 Foreign entity.

Foreign entity means both ''foreign public entity'' and ''foreign organization,'' as defined in 2 CFR 200.46 and 200.47.

§ 1402.6 Non-Federal entity.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

§ 1402.7 Real property.

Real property has the same meaning as set forth in 2 CFR 200.85, except that the definition in this section also applies to interests in land such as easements.

Subpart B—General Provisions

§ 1402.100 Purpose.

(a) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 apply to the Department of the Interior. This part adopts, as the Department of the Interior (DOI) policies and procedures, the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth in 2 CFR part 200. The Uniform Guidance applies in full except as stated in this part.

(b) This part establishes DOI financial assistance regulations that implement or

supplement the OMB's Uniform Guidance. It is designed to ensure that financial assistance is administered in full compliance with applicable law, regulation, policy, and best practices to ensure the American people get the most value from the money DOI spends on financial assistance. For supplemental guidance, DOI has adopted section numbering that corresponds to related OMB guidance in 2 CFR part 200.

(c) This part extends 2 CFR part 200, subpart A through E, policies and procedures to foreign public entities and foreign organizations as allowed by 2 CFR 200.101, except as indicated throughout this part.

§ 1402.101 To whom does this part apply?

(a) This part applies to all DOI grant-making activities and to any non-Federal entity that applies for, receives, operates, or expends funds from a DOI Federal award after [EFFECTIVE DATE OF THE FINAL RULE], unless otherwise authorized by Federal statute.

(b) This part applies to foreign entity applicants and recipients, except where the DOI office or bureau determines that the application of this part would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government (see 2 CFR 1402.102). For the purposes of this part, the term ''foreign entities'' means both ''foreign public entities'' and ''foreign organizations,'' as those terms are defined in 2 CFR part 200.

(1) Foreign entities are subject to the definitions and requirements in 2 CFR part 200, subparts A through E, and as supplemented by this part. In addition to the general requirements in 2 CFR part 200, foreign entities must follow the special considerations and requirements for different classes of recipients in subparts A through E as follows, unless otherwise instructed in this part:

(i) Foreign public entities are to follow those for states, with the exception of the state payment procedures in 2 CFR 200.305(a). Foreign public entities must follow the payment procedures for non-Federal entities other than states;

(ii) Foreign nonprofit organizations are to follow those for nonprofits; and

(iii) Foreign higher education institutions are to follow those for Institutions of Higher Education (IHEs).

§ 1402.102 Are there any exceptions to this part?

(a) Awards made in accordance with the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2204), as amended, are governed by 25 CFR parts 900 and 1000, and by 2 CFR part 200, subparts E and F.

(b) Exceptions for individual foreign entities to the requirements in this part may be authorized by the Director, Office of Grants Management. Such exceptions must be made in accordance with written bureau or office policy and procedures.

(1) Foreign entities must request any exception to a requirement established in this part in writing. Such requests must be submitted to the funding bureau or office by an authorized official of the foreign entity, and must provide sufficient pertinent background information, including:

(i) Identification of the requirement under this part that is inconsistent with an in-country statute or regulation to which the foreign entity is subject;

(ii) A complete description of the in-country statute or regulation, including a description of how it prohibits or otherwise limits the foreign entity's ability to comply with the identified requirement under this part; and

(iii) Identification of the entity's name, DOI award(s) affected, and point of contact for the request.

(2) The Director, Office of Grants Management may approve exceptions for individual foreign entities to the requirements of this part only when it has been determined that the requirement to be waived is inconsistent with either the international obligations of the United States or the statutes or regulations of a foreign government. Bureaus and offices will communicate exception request decisions to the requesting entity in writing.

(3) Submissions by public international organization submissions of any assurances, certifications or representations required for and related to a Federal award do not constitute a waiver of immunities provided under the International Organizations Immunities Act (22 U.S.C. 288–288f).

(4) Foreign entities are not subject to the following requirements in 2 CFR part 200:

(i) Generally accepted accounting principles (GAAP). Foreign entities may be subject to other applicable international or in-country alternatives to GAAP, such as the International Financial Reporting Standards (IFRS). See 2 CFR 200.403, Factors affecting allowability of costs;

(ii) 2 CFR 200.321, Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms; and

(iii) Section 6002 of the Solid Waste Disposal Act. See 2 CFR 200.322, Procurement of recovered materials.

§ 1402.103 What other policies or procedures must non-Federal entities follow?

Non-Federal entities must follow bureau or office policies and procedures as communicated in notices of funding opportunity (NOFOs) and award terms and conditions. In the event such policies or procedures conflict with 2 CFR part 200 or this part, 2 CFR part 200 or this part will supersede, unless otherwise authorized by Federal statute.

§§ 1402.104–1402.111 [Reserved]

§ 1402.112 What are the conflict of interest policies?

This section shall apply to all non-Federal entities. NOFOs and financial assistance awards must include the full text of the conflict of interest provisions in paragraphs (a) through (f) of this section.

(a) *Applicability.* (1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

(b) *Requirements.* (1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.

(2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.

(3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity

that may be of competitive interest to that recipient or subrecipient.

(c) *Notification.* (1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(d) *Restrictions on lobbying.* Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(e) *Review procedures.* The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(f) *Enforcement.* Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for noncompliance, including suspension or debarment (see also 2 CFR part 180).

§ 1402.113 What are the mandatory disclosure requirements?

In addition to the disclosures required under 2 CFR 200.112 and 200.113, non-Federal entities, including applicants for all Federal awards, must disclose in writing any potential or actual conflict of interest to the DOI awarding agency or pass-through entity. Non-Federal entities and applicants must also disclose any outstanding unresolved matters with the Government Accountability Office or an Office of Inspector General when submitting a proposal and through the life of the award as needed.

§§ 1402.114–1402.203 [Reserved]

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

§ 1402.204 What are the merit review requirements for competitive awards?

The requirements in this section apply to competitive grants and cooperative agreements unless otherwise authorized by Federal statute. Merit review procedures must be described or incorporated by reference in NOFOs (see 2 CFR part 200, appendix I, and 2 CFR 200.203). It is also important for DOI bureaus and offices to create review systems for noncompetitively awarded discretionary programs that consider statutory or regulatory provisions, risk assessment, and other applicable government-wide pre-award considerations. Pre-award considerations for both discretionary competitive and noncompetitive awards shall take into account the alignment of the award's purpose, goals, and measurement with the current DOI Government Performance and Results Act Strategic Plan including, the mission statement, vision, values, goals, objectives, strategies and performance metrics therein.

(a) *Competition in grant and cooperative agreement awards.* Maximum competition is expected in awarding discretionary funds, unless otherwise directed by Congress. When grants and cooperative agreements are awarded competitively, DOI requires that the competitive process be fair and impartial, that all applicants be evaluated only on the criteria stated in the announcement, and that no applicant receive an unfair competitive advantage. All competitive funding announcements, and all modifications/amendments to those announcements, must be posted on *Grants.gov* (*www.grants.gov*).

(b) *Independent objective evaluation of financial assistance applications and proposals.* Bureaus and offices must conduct reviews of applications submitted in response to the announcement and for selecting applicants for award following established merit review procedures. Bureaus and offices must conduct comprehensive, impartial, and objective review of applications based on the criteria contained in the announcement by individuals who have no conflicts of interest with respect to the competing proposal/applications or applicants. Bureaus and offices must ensure reviewers are qualified, applications are scored on the basis of announced criteria, consideration is given to the level of applicant risk and past performance, applications are ranked, and funding determinations are made.

(c) *Evaluation and Selection Plan for notice of funding opportunities.* Bureaus and offices must develop an Evaluation and Selection Plan in concert with the notice of funding opportunity (NOFO) to ensure consistency, and to outline and document the selection process. The Evaluation and Selection Plan should be finalized prior to the release of the NOFO. An Evaluation and Selection Plan is comprised of five basic elements:

(1) Merit review factors and sub-factors;

(2) A rating system (*e.g.,* adjectival, color coding, numerical, or ordinal);

(3) Evaluation standards or descriptions that explain the basis for assignment of the various rating system grades/scores;

(4) Program policy factors; and

(5) The basis for selection.

(d) *Basic review standards.* Bureaus and offices must initially screen applications/proposals to ensure that they meet the standards in paragraphs (e) through (g) of this section before they are subjected to a detailed evaluation utilizing a merit review process specified in paragraph (h) of this section. The review system should include three phases: Initial Screening, Threshold Screening, and a Merit Review Evaluation Screening. Bureaus and offices may remove an application from funding consideration if it does not pass the basic eligibility screening per paragraphs (e) through (g) of this section.

(e) *Completeness.* Bureaus and offices may return applications/proposals that are incomplete or otherwise fail to meet the requirements of the *Grants.gov* announcement to the applicant to be corrected, modified, or supplemented, or may reject the application/proposal outright. Until the application/proposal meets the substantive requirements of the announcement and this part, it shall not be given detailed evaluation. Bureaus and offices may use discretion to determine the length of time for applicants to resolve application deficiencies.

(f) *Timeliness.* Bureaus and offices must consider the timeliness of the application submission. Applications that are submitted beyond the announced deadline date must be removed from the review process.

(g) *Threshold Screening.* Bureaus and offices are responsible for screening applications and proposals for the adequacy of the budget and compliance with statutory and other requirements. The SF–424 and budget information

(SF–424A, SF–424C, or OMB-approved alternate budget data collection) must be reviewed according to Department of the Interior policy.

(h) *Merit Review Evaluation Screening.* This is the final review stage where the technical merit of the application/proposal is reviewed. In the absence of a program rule or statutory requirement, program officials shall develop criteria that include all aspects of technical merit. Bureaus and offices shall develop criteria that are conceptually independent of each other, but all-encompassing when taken together. While criteria will vary, the basic criteria shall focus reviewers' attention on the project's underlying merit (*i.e.,* significance, approach, and feasibility). The criteria shall focus not only on the technical details of the proposed project but also on the broader importance or potential impact of the project. The criteria shall be easily understood.

(i) *Risk assessments.* Bureaus and offices must also consider risk thresholds during application/proposal review process. Elements to be considered may include organization; single audit submissions, past performance; availability of necessary resources, equipment, or facilities; financial strength and management capabilities; and procurement procedures; or procedures for selecting and monitoring subrecipients or sub-vendors, if applicable. For all non-Federal entities that receive an award, the Financial Assistance Officer must document the risk analysis.

(j) *Requirements for proposal evaluators.* Upon receipt of a Memorandum of Appointment, each proposal evaluator and advisor must sign and return a Conflict of Interest Certificate to the Financial Assistance Officer. If an actual or potential conflict of interest exists, the appointee may not evaluate or provide advice on a potential applicant's proposal until the conflict has been resolved or mitigated. Further, each proposal evaluator or advisor must agree to comply with any notice or limitation placed on the application. Upon completion of the review, the proposal evaluator or advisor shall return or destroy all copies of the application and accompanying proposals (or abstracts) to DOI; and unless authorized by the Financial Assistance Officer or agency designee, the reviewer shall not contact the non-Federal entity concerning any aspect of the application.

§ 1402.205 [Reserved]

§ 1402.206 What are the FAIR requirements for domestic for-profit entities?

(a) *Requirements for domestic for-profit entities.* (1) Section 1402.207(a) contains standard award terms and conditions that always apply to for-profit entities and § 1402.207(b) contains terms that apply to sub-awards or contracts with for-profit entities over the simplified acquisition threshold. Bureaus and offices must incorporate into awards to domestic for-profit organizations the award terms and conditions that always apply, either directly or by reference.

(2) Bureaus and offices may apply the administrative guidelines in subparts A through D of 2 CFR part 200, the cost principles at 48 CFR part 31, subpart 31.2, and the procedures for negotiating indirect costs (detailed in § 1402.414) to domestic for-profit entities.

(3) Depending on the nature of a particular program, offices and bureaus may additionally develop program-specific administrative guidelines for domestic for-profits based on the requirements in 2 CFR part 200, subparts A through D, but may not apply more restrictive requirements than the requirements in 2 CFR part 200, subparts A through D, unless approved by OMB through a request to the Director, Office of Grants Management.

(b) *Requirements for award terms and conditions.* Bureau and office award terms and conditions must be managed in accordance with the requirements in 2 CFR 200.210, Information contained in a Federal award.

§ 1402.207 What specific conditions apply?

(a) The following financial assistance award terms and conditions *always* apply to domestic for-profit entities:

(1) 2 CFR part 25, Universal Identifier and System for Award Management.

(2) 2 CFR part 170, Reporting Subawards and Executive Compensation Information.

(3) 2 CFR part 175, Award Term for Trafficking in Persons.

(4) 2 CFR part 1400, government-wide debarment and suspension (non-procurement).

(5) 2 CFR part 1401, Requirements for Drug-Free Workplace (Financial Assistance).

(6) 43 CFR part 18, New Restrictions on Lobbying. Submission of an application also represents the applicant's certification of the statements in 43 CFR part 18, appendix A, Certification Regarding Lobbying.

(7) 41 U.S.C. 4712, Whistleblower Protection for Contractor and Grantee Employees. The requirement in this paragraph (a)(7) applies to all awards issued after July 1, 2013.

(8) 41 U.S.C. 6306, Prohibition on Members of Congress Making Contracts with the Federal Government. No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this paragraph (a)(8) shall not be construed to extend to an award made to a corporation for the public's general benefit.

(9) Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving. Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Executive Order.

(b) The recipient shall insert the following clause in all subawards and contracts related to the prime award that are over the simplified acquisition threshold, as defined in the Federal Acquisition Regulation:

> All awards and related subawards and contracts over the Simplified Acquisition Threshold, and all employees working on applicable awards and related subawards and contracts, are subject to the whistleblower rights and remedies in accordance with the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239).
>
> Recipients, their subrecipients and contractors that are awarded contracts over the Simplified Acquisition Threshold related to an applicable award, shall inform their employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

(c) The following award terms and conditions apply to for-profit recipients as specified in 2 CFR 200.101:

(1) Administrative requirements: 2 CFR part 200, subparts A through D.

(2) Cost principles: 48 CFR part 31, subpart 31.2, Contracts with Commercial Organizations.

(3) Indirect cost rate negotiations. For information on indirect cost rate negotiations, contact the Interior Business Center (IBC) Indirect Cost Services Division by telephone at (916) 566–7111 or by email at *ics@ibc.doi.gov*. Visit the IBC Indirect Cost Services Division website at *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm* for more information.

§ 1402.208 What are the lobbying disclosure and certification requirements?

Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities, and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

§§ 1402.210–1402.399 [Reserved]

Subpart D—Post Federal Award Requirements

§ 1402.300 What are the statutory and national policy requirements?

(a) DOI bureaus and offices will communicate to the non-Federal entity all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or by reference in the terms and conditions of the Federal award.

(b) The non-Federal entity is responsible for complying with all requirements of the Federal award. For all Federal awards, this includes the provisions of Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the FFATA for the non-Federal entity at 2 CFR part 25, financial assistance use of universal identifier and system for award management, and 2 CFR part 170, Reporting Subaward and Executive Compensation Information. See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310.

(c) Recipients conducting work outside the United States are responsible for coordinating with appropriate United States and foreign government authorities as necessary to make sure all required licenses, permits, or approvals are obtained before undertaking project activities. DOI does not assume responsibility for recipient compliance with the laws, regulations, policies, or procedures of the foreign country in which the work is conducted.

(d) As required in 54 U.S.C. 307101, World Heritage Convention, prior to the approval of any undertaking outside the United States that may directly and adversely affect a property that is on the World Heritage List or on the applicable country's equivalent of the National Register of Historic Places, the DOI bureau or office having direct or indirect jurisdiction over the undertaking shall take into account the effect of the undertaking on the property for purposes of avoiding or mitigating any adverse effect.

(e) Foreign entities are responsible for complying with all requirements of the Federal award. For awards to foreign entities, this includes:

(1) 2 CFR part 25, Universal Identifier and System for Award Management, unless the entity meets one or more qualifying conditions and is exempted by the awarding bureau or office as provided for in 2 CFR part 25;

(2) 2 CFR part 170, Reporting Subaward and Executive Compensation Information;

(3) 2 CFR part 175, Award Term for Trafficking in Persons. This term is required in awards to foreign private entities. The term is also required in awards to foreign public entities, if funding could be provided under the award to a foreign private entity as a subrecipient;

(4) 2 CFR part 1400, Nonprocurement Debarment and Suspension. Awards to foreign organizations are covered transactions under the DOI nonprocurement debarment and suspension program. Awards to foreign public entities are not covered transactions;

(5) 43 CFR part 18, New Restrictions on Lobbying. Foreign entities shall file the 43 CFR part 18, appendix A, certification, and a disclosure form, if required, with each application for Federal assistance. See also 31 U.S.C. 1352, Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions; and

(6) Public Law 113–235 (128 Stat. 2391, Dec. 16, 2014). Federal award recipients are prohibited from requiring employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

§§ 1402.301–1402.314 [Reserved]

§ 1402.315 What are the requirements for availability of data?

(a) All data resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) Data includes scientific data, methodology, factual inputs, models, analyses, technical information, or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

(c) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes, including to allow for meaningful third-party evaluation and reproduction.

(d) Bureaus and offices of the Department of the Interior must include the language in paragraphs (a), (b), and (c) of this section in full text in all NOFOs and financial assistance agreements.

§§ 1402.316–1042.328 [Reserved]

§ 1402.329 What are the requirements for land acquired under an award?

(a) *Approval prior to land purchases.* Bureaus and offices must ensure compliance with the prior written approval requirements for land acquisition in 2 CFR 200.439. Whenever a recipient is seeking DOI's approval to use award funds to purchase an interest in real property, the OMB-approved governmentwide data elements for collection of real property reporting information, as of [EFFECTIVE DATE OF THE FINAL RULE], SF–429–B, Request to Acquire, Improve, or Furnish, or approved alternate standardized data collection, must be submitted to the bureau or office. The Financial Assistance Officer is responsible for ensuring that this requirement is met. All aspects of the purchase must be in compliance with applicable laws and regulations relating to purchases of land or interests in land.

(b) *Appraisal requirements for land purchases.* Unless a waiver valuation applies in accordance with 49 CFR 24.102(c), land or interests in land that will be acquired under the award must be appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, 6th Edition, dated December 6, 2016 (UASFLA or the ''Yellow Book'') by a real property appraiser licensed or certified by the state or states in which the property is located. The appraisal report shall be reviewed by a qualified review appraiser that meets qualifications established by the DOI Appraisal and Valuation Services Office (AVSO), which is responsible for appraisal and valuation services and policy across the Department. Bureaus and offices shall ensure that funds are not disbursed for purchases of land or interests in land

without an appraisal accompanied by a written appraisal review report that complies with standards approved by AVSO. Where appraisals are required to support federally assisted land acquisitions, AVSO has oversight responsibilities for these appraisals, including those purchased through financial assistance actions in the various grant programs within the Department. AVSO will coordinate with grant programs to conduct periodic internal control review of appraisal and appraisal review reports prepared in conjunction with grant applications for land acquisition. The Director of the Federal Register approves the incorporation by reference of the Yellow Book in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a print copy or interactive electronic version from The Appraisal Foundation at *https://www.appraisalfoundation.org/iMIS/itemDetail?iProductCode=351&Category=PUB* or a read-only version from the U.S. Department of Justice at *https://www.justice.gov/file/408306/download*. You may inspect a copy at the Appraisal and Valuation Services Office within the Department of the Interior located at 1840 C St. NW, Washington, DC 20240 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *www.archives.gov/federal-register/cfr/ibr-locations.html*.

(c) *Foreign land acquisition.* Land to be acquired under an award that is located outside the United States must be appraised by an independent real property appraiser licensed or certified in the country in which the property is located in accordance with any in-country appraisal standards, if they exist, or with International Valuation Standards, when such appraisals are available and financially feasible. Otherwise, the non-Federal entity must use the most widely accepted business practice for property valuation in the country where the property is located and provide to the awarding DOI bureau or office a detailed explanation of the methodology used to determine value.

(d) *Requirements for recipient reporting on real property purchases.* (1) For all financial assistance actions where real property is acquired under the Federal award, the recipient must submit reports on the status of the real property. Bureaus and offices must ensure recipients receive written notification of those reporting requirements, including reporting frequency/schedule, report content requirements, and submission instructions, at the time of award.

(2) If the interest in the land will be held for less than 15 years, reports must be submitted annually. If the interest in the land will be held for 15 years or more, then the recipient must submit the first report within one year of the period of performance end date of the award and then, at a minimum, every five years thereafter.

(3) The reports must be submitted to the Financial Assistance Officer within the period of performance of the award. After the end of the period of performance, reports must be submitted to a designated individual. Each bureau must have a process in place to designate specific individuals to receive, and review and accept the report.

(4) Recipients must use the OMB-approved governmentwide data elements for collection of real property reporting information, as of [EFFECTIVE DATE OF THE FINAL RULE], the Real Property Status Report Standard Form (SF) 429–A, General Reporting, to report status of land or interests in land under Federal financial assistance awards. Bureaus or offices may request to use an equivalent reporting format. The Director, Office of Grants Management must approve alternate equivalent formats.

(5) Reports must include, at a minimum, sufficient information to demonstrate that all conditions imposed on the land use are being met, and a signed certification to that fact by the recipient of the financial assistance award.

(6) The Financial Assistance Officer must indicate the reporting schedule, including due dates, in the award document. The schedule must conform with the frequency required in paragraph (d)(2) of this section. For awards issued prior to [EFFECTIVE DATE OF THE FINAL RULE], the recipient must contact the program to establish due dates for reports going forward. If there is already a reporting schedule in place, then the recipient and the program shall ensure that the schedule is updated to conform with this part prior to the due date of the next scheduled report.

§§ 1402.330–1402.413 [Reserved]

§ 1402.414 What are the negotiated indirect cost rate deviation policies?

(a) This section establishes DOI policies, procedures, and decision making criteria for using an indirect cost rate that differs from the non-Federal entity's negotiated rate or approved rate for DOI awards. These are established in accordance with 2 CFR 200.414(c)(3) or 200.414(f).

(b) DOI accepts indirect cost rates that have been reduced or removed voluntarily by the proposed recipient of the award, on an award-specific basis.

(c) For all deviations to the Federal negotiated indirect cost rate, including statutory, regulatory, programmatic, and voluntary, the basis of direct costs against which the indirect cost rate is applied must be:

(1) The same base identified in the recipient's negotiated indirect cost rate agreement, if the recipient has a federally negotiated indirect cost rate agreement; or

(2) The Modified Total Direct Cost (MTDC) base, in cases where the recipient does not have a federally negotiated indirect cost rate agreement or, with prior approval of the awarding bureau or office, when the recipient's federally negotiated indirect cost rate agreement base is only a subset of the MTDC (such as salaries and wages) and the use of the MTDC still results in an overall reduction in the total indirect cost recovered. MTDC is the base defined by 2 CFR 200.68, Modified Total Direct Cost (MTDC).

(d) In cases where the recipient does not have a federally negotiated indirect cost rate agreement, DOI will not use a modified rate based upon total direct cost or other base not identified in the federally negotiated indirect cost rate agreement or defined within 2 CFR 200.68.

(1) *Indirect cost rate deviation required by statute or regulation.* In accordance with 2 CFR 200.414(c)(1), a Federal agency must use a rate other than the Federal negotiated rate where required by Federal statute or regulation. For such instances within DOI, the official award file must document the specific statute or regulation that required the deviation.

(2) *Indirect cost rate reductions used as cost-share.* Instances where the recipient elects to use a rate lower than the federally negotiated indirect cost rate, and uses the balance of the unrecovered indirect costs to meet a cost-share or matching requirement required by the program and/or statute, are not considered a deviation from 2 CFR 200.414(c), as the federally negotiated indirect cost rate is being applied under the agreement in order to meet the terms and conditions of the award.

(3) *Programmatic indirect cost rate deviation approval process.* Bureaus and offices with DOI approved deviations in place prior to [EFFECTIVE DATE OF THE FINAL RULE] are not required to resubmit those for reconsideration following the procedures in this paragraph (d)(3). The

following requirements apply for review, approval, and posting of programmatic indirect cost rate waivers:

(i) *Program qualifications.* Programs that have instituted a program-wide requirement and governance process for deviations from federally negotiated indirect cost rates may qualify for a programmatic deviation approval.

(ii) *Deviation requests.* Deviation requests must be submitted by the responsible senior program manager to the DOI Office of Grants Management. The request for deviation approval must include a description of the program, and the governance process for negotiating and/or communicating to recipients the indirect cost rate requirements under the program. The program must make its governance documentation, rate deviations, and other program information publicly available.

(iii) *Approvals.* Programmatic deviations must be approved, in writing, by the Director, Office of Grants Management. Approved deviations will be made publicly available.

(4) *Voluntary indirect cost rate reduction.* On any single award, an applicant and/or proposed recipient may elect to reduce or eliminate the indirect cost rate applied to costs under that award. The election must be voluntary and cannot be required by the awarding official, NOFO, program, or other non-statutory or non-regulatory requirements. For these award-specific and voluntary reductions, DOI can accept the lower rate provided the notice of award clearly documents the recipient's voluntary election. Once DOI has accepted the lower rate, that rate will apply for the duration of the award.

(5) *Unrecovered indirect costs.* In accordance with 2 CFR 200.405, indirect costs not recovered due to deviations to the federally negotiated rate are not allowable for recovery via any other means.

§§ 1402.415–1402.499 [Reserved]

Susan Combs,

Senior Advisor to the Secretary, exercising the authority of the Assistant Secretary for Policy Management and Budget.

[FR Doc. 2019–05239 Filed 3–20–19; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0120; Product Identifier 2018–NM–167–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC–8–400 series airplanes. This proposed AD was prompted by a report of a cracked outboard spoiler actuator mounting bracket. This proposed AD would require repetitive inspections of the outboard spoiler actuator mounting brackets, replacement of any cracked bracket, and eventual replacement of all brackets with a re-designed part that would terminate the repetitive inspections. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 6, 2019.

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 Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2019–0120; 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: Kristopher Greer, Aerospace Engineer, Aviation Safety Section AIR–7B1, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; telephone 781–238–7799.

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–2019–0120; Product Identifier 2018–NM–167–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–21R1, effective November 1, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

> During a scheduled aileron inspection, a crack was found in the right-hand outboard spoiler bracket of an in-service aircraft. An investigation concluded that the crack was caused by low load, high cycle fatigue. A cracked bracket could cause inoperability or jam of a single spoiler panel and possible jam of the aileron circuit. This condition, if not corrected, could adversely affect the continued safe operation and landing of the aeroplane.
>
> The original version of this [Canadian] AD required initial and repetitive inspections of the outboard spoiler brackets, and required

replacement of any brackets found cracked. It also required replacement of the brackets with a new design, which terminates the inspection requirement.

Revision 1 of this [Canadian] AD is issued to correct an error in the date of Service Bulletin (SB) 84–27–72 Revision A. This [Canadian] AD also clarifies the part numbers of the outboard spoiler actuator brackets and their assemblies.

The bracket replacement includes related investigative actions (inspecting for damage of the fastener holes in the rear spar web) and corrective actions (oversizing holes or other repair). 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–2019–0120.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 84–27–72, Revision A, dated November 9, 2017. This service information describes procedures for repetitively inspecting the left and right outboard spoiler actuator mounting brackets for cracks, replacing cracked brackets, and eventually replacing all brackets with re-designed parts, and related investigative and corrective actions.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 53 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
20 work-hours × $85 per hour = $1,700	$4,142	$5,842	$309,626

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2019–0120; Product Identifier 2018–NM–167–AD.

(a) Comments Due Date

We must receive comments by May 6, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401, and –402 airplanes, certificated in any category, Serial Numbers 4001 through 4547 inclusive,

having outboard spoiler actuator brackets with part numbers 85714052–101 or 85714052–102.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a report of a cracked outboard spoiler actuator mounting bracket. We are issuing this AD to address cracking of the outboard spoiler actuator mounting brackets, which could cause inoperability or jam of a single spoiler panel and possible jam of the aileron circuit. This condition, if not corrected, could adversely affect the continued safe operation and landing of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a general visual inspection for cracks in the left and right outboard spoiler actuator mounting brackets having part number (P/N) 85714052–101 or 85714052–102 (belonging to assemblies having P/N 85714018–001 or P/N 85714018–002, respectively), in accordance with Section 3.B, Part A, of the Accomplishment Instructions of Bombardier Service Bulletin 84–27–72, Revision A, dated November 9, 2017. Repeat the inspection thereafter at intervals not to exceed 8,000 flight hours.

(1) For airplanes having less than 12,000 total flight hours as of the effective date of this AD: Prior to the accumulation of 18,000 total flight hours.

(2) For airplanes having 12,000 total flight hours or more as of the effective date of this AD: Within 6,000 flight hours after the effective date of this AD.

(h) Part Replacement

(1) If, during any inspection required by paragraph (g) of this AD, either the left or right outboard spoiler actuator mounting bracket is found cracked: Before further flight, replace both the left and right brackets with new bracket assemblies having P/N 85714018–003 or P/N 85714018–004, including doing all applicable related investigative actions and corrective actions, in accordance with Section 3.B, Part B, of the Accomplishment Instructions of Bombardier Service Bulletin 84–27–72, Revision A, dated November 9, 2017; except, where the service information specifies contacting Bombardier for corrective action, this AD requires accomplishing the action using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(2) If, during any inspection required by paragraph (g) of this AD, no cracking is found on the left and right outboard spoiler actuator mounting brackets, and the left and right outboard spoiler actuator mounting brackets have not already been replaced per the requirements of paragraph (h)(1) of this AD: Replace both the left and right brackets with new bracket assemblies having P/N 85714018–003 or P/N 85714018–004, including doing all applicable related investigative actions and corrective actions, at the applicable time specified in paragraph (h)(2)(i) or (h)(2)(ii) of this AD, in accordance with Section 3.B, Part B, of the Accomplishment Instructions of Bombardier Service Bulletin 84–27–72, Revision A, dated November 9, 2017; except, where the service information specifies contacting Bombardier for corrective action, this AD requires accomplishing the action using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature. Related investigative and corrective actions must be done before further flight.

(i) For airplanes that have accumulated less than 34,000 total flight hours as of the effective date of this AD: Replace the outboard spoiler actuator mounting brackets prior to the airplane accumulating 40,000 total flight hours.

(ii) For airplanes that have accumulated 34,000 total flight hours or more as of the effective date of this AD: Replace the outboard spoiler actuator mounting brackets within 6,000 flight hours after the effective date of this AD.

(i) Terminating Action for Repetitive Inspections

Replacement of an outboard spoiler actuator mounting bracket, in accordance with the requirements of paragraph (h) of this AD, is terminating action for the repetitive inspections required by paragraph (g) of this AD for the replaced bracket.

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–27–72, dated January 19, 2017.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–21R1, effective November 1, 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–2019–0120.

(2) For more information about this AD, contact Kristopher Greer, Aerospace Engineer, Aviation Safety Section AIR–7B1, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; telephone 781–238–7799.

(3) For information about AMOCs, contact Aziz Ahmed, Aerospace Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: 516–287–7329; fax: 516–794–5531; email: *Aziz.Ahmed@faa.gov.*

(4) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on March 13, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–05209 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0140; Airspace Docket No. 19–ASO–3]

RIN 2120–AA66

Proposed Amendment of Class E Airspace, Fort Payne, AL

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 in Isbell Field Airport, Fort Payne, AL,

to accommodate airspace reconfiguration due to the decommissioning of the Fort Payne non-directional radio beacon and cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also would update the airport name and geographic coordinates of this airport. In addition, this action would update the name and geographic coordinates of Dekalb Regional Medical Center Heliport, which is contained within the legal description of the Isbell Field Airport airspace.

DATES: Comments must be received on or before May 6, 2019.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2019–0140; Airspace Docket No. 19–ASO–3, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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 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 at Isbell Field Airport, and Dekalb Regional Medical Center Heliport, Fort Payne, AL to support IFR operations in the area.

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–2019–0140 and Airspace Docket No. 19–ASO–3) 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–2019–0140; Airspace Docket No. 19–ASO–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/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 proposes an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet or more above the surface at Isbell Field Airport, Fort Payne, AL, by increasing the airport radius to 10.6 miles (from 7.4 miles), eliminating the northwest extension of the airport, and creating a 13.5-mile extension southwest of the airport, to accommodate airspace reconfiguration due to the decommissioning of the Fort Payne NDB and cancellation of the NDB approach. This action would also remove the city name below the description header, to comply with FAA Order 7400.2M, Procedures for Handling Airspace Matters; removing the city associated with the airport from the airspace legal description.

The airspace redesign would enhance the safety and management of IFR operations at the airport. The geographic coordinates of the airport would be adjusted to coincide with the FAA's aeronautical database. Also, the name and geographic coordinates of Dekalb Regional Medical Center Heliport, (formerly Dekalb Medical Center) would

be updated to coincide with the FAA's aeronautical database.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

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.

* * * * *

ASO AL E5 Fort Payne, AL [Amended]

Isbell Field Airport, AL
(Lat. 34°28′25″ N, long. 85°43′17″ W)
Dekalb Regional Medical Center Heliport, AL
(Lat. 34°26′32″ N, long. 85°45′21″ W)

That airspace extending upward from 700 feet above the surface within a 10.6-mile radius of the Isbell Field Airport, and within 4 miles each side of the 220° bearing from the airport, extending from the 10.6-mile radius to 13.6 miles southwest of the airport, and that airspace within a 6-mile radius of Dekalb Regional Medical Center Heliport.

Issued in College Park, Georgia, on March 8, 2019.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2019–04787 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0110; Airspace Docket No. 19–ASW–3]

RIN 2120–AA66

Proposed Amendment of the Class D and Class E Airspace; Tulsa, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace and Class E airspace extending upward from 700 feet above the surface at Richard Lloyd Jones Jr. Airport, Tulsa, OK, and the Class E airspace extending upward from 700 feet above the surface at William R. Pogue Municipal Airport, Sand Springs, OK, which is contained within the Tulsa, OK, airspace legal description. The FAA is proposing this action as the result of the decommissioning of the Glenpool VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the Richard Lloyd Jones Jr. Airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before May 6, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0110; Airspace Docket No. 19–ASW–3, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

amend the Class D airspace and Class E airspace extending upward from 700 feet above the surface at Richard Lloyd Jones Jr. Airport, Tulsa, OK, and the Class E airspace extending upward from 700 feet above the surface at William R. Pogue Municipal Airport, Sand Springs, OK, to support instrument flight rule operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0110/Airspace Docket No. 19–ASW–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ''**ADDRESSES**'' section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class D airspace at Richard Lloyd Jones Jr. Airport, Tulsa, OK, by removing the Glenpool VOR/DME and the associated extension to the south of the airport from the airspace legal description; adding an extension 1 mile each side of the 193° bearing from the Richard Lloyd Jones Jr.: RWY 01L–LOC extending from the 4-mile radius to 4.1 miles south of the airport; updating the location in the header of the airspace legal description to Tulsa, OK (previously Tulsa Richard Lloyd Jones Jr. Airport, OK), to comply with FAA Order 7400.2M, Procedures for Handling Airspace Matters; removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M; updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and would make an editorial change replacing the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increasing from a 6.4-mile radius) of Richard Lloyd Jones Jr. Airport; and removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M;

And amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (decreasing from a 7.2-mile radius) of the William R. Pogue Municipal Airport, Sand Springs, OK; removing the Glenpool VOR/DME and the associated extension northwest of the William R. Pogue Municipal Airport from the Tulsa, OK, from the airspace legal description; and removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M.

This action is the result of an airspace review caused by the decommissioning of the Glenpool VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW OK D Tulsa, OK [Amended]

Richard Lloyd Jones Jr. Airport, OK
(Lat. 36°02′23″ N, long. 95°59′05″ W)
Richard Lloyd Jones Jr.: RWY 01L–LOC
(Lat. 36°02′52″ N, long. 95°59′07″ W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4-mile radius of Richard Lloyd Jones Jr. Airport, and within 1 mile each side of the 193° bearing from the Richard Lloyd Jones Jr.: RWY 01L–LOC extending from the 4-mile radius to 4.1 miles south of the airport, excluding that airspace within the Tulsa International Airport, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASW OK E5 Tulsa, OK [Amended]

Tulsa International Airport, OK
(Lat. 36°11′54″ N, long. 95°53′17″ W)
Richard Lloyd Jones Jr. Airport, OK
(Lat. 36°02′23″ N, long. 95°59′05″ W)
William R. Pogue Municipal Airport, OK
(Lat. 36°10′31″ N, long. 96°09′07″ W)
Tulsa VORTAC
(Lat. 36°11′47″ N, long. 95°47′17″ W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Tulsa International Airport, and within 1.6 miles each side of the 089° radial of the Tulsa VORTAC extending from the 8-mile radius to 11.9 miles east of the airport, and within a 6.5-mile radius of Richard Lloyd Jones Jr. Airport, and within a 6.5-mile radius of William R. Pogue Municipal Airport, and within 4 miles each side of the 355° bearing from William R. Pogue Municipal Airport extending from the 6.5-mile radius to 10.9 miles north of the airport, and within 4 miles each side of the 175° bearing from William R. Pogue Municipal Airport extending from the 6.5-mile radius to 10.9 miles south of the airport.

Issued in Fort Worth, Texas, on March 11, 2019.

John Witucki,

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

[FR Doc. 2019–04893 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0134; Airspace Docket No. 19–ASO–5]

RIN 2120–AA66

Proposed Amendment of the Class E Airspace; Portland, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Portland Municipal Airport, Portland, TN. The FAA is proposing this action as the result of the decommissioning of the Bowling Green VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before May 6, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0134; Airspace Docket No. 19–ASO–5, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0134/Airspace Docket No. 19–ASO–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 notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ''**ADDRESSES**'' section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increased from a 6.3-mile radius) of Portland Municipal Airport, Portland, TN; removing the Bowling Green VORTAC and associated extension from the airport legal description; adding an extension 2 miles each side of the 193° bearing from the airport extending from the 6.5-mile radius to 10.8 miles south of the airport; and would update the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review caused by the decommissioning of the Bowling Green VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASO TN E5 Portland, TN [Amended]

Portland Municipal Airport, TN
(Lat. 36°35′35″ N, long. 86°28′37″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Portland Municipal Airport, and within 2 miles each side of 193° bearing from the airport extending from the 6.5-mile radius to 10.8 miles south of the airport.

Issued in Fort Worth, Texas, on March 11, 2019.

John Witucki,

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

[FR Doc. 2019–04892 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2019–0100; Airspace Docket No. 17–AWP–23]

RIN 2120–AA66

Proposed Establishment of Restricted Area R–7205; Guam, GU

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish restricted area R–7205 on the island of Guam, GU. The US Army has been operating a Terminal High Altitude Area Defense (THAAD) radar system in direct support of national defense initiatives. The system has operated within a Temporary Flight Restriction (TFR) for over five years. The restricted area is necessary to protect aviation from hazardous electro-magnetic radiation and segregate non-participating aircraft.

DATES: Comments must be received on or before May 6, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket Number FAA–2019–0100; Airspace Docket No.

17–AWP–23 at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code (U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish restricted airspace at Guam, GU, to contain activities deemed hazardous to nonparticipating aircraft.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket Number FAA–2019–0100; Airspace Docket No. 17–AWP–23) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *http://www.regulations.gov.*

Commenters 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 Number FAA–2019–0100; Airspace Docket No. 17–AWP–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/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 *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 during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Background

In 2007, U.S. Pacific Command (PACOM) designated Commander, US Pacific Fleet as the executive agent of the development of the consolidated Department of Defense (DoD) Special Use Airspace (SUA) proposal for the United States Marine Corps (USMC) relocation to Guam. A DoD working group began active discussions with the FAA. Since November 2007, the working group and the FAA have coordinated on air traffic control issues, SUA proposal integration, and International Civil Aviation Organization (ICAO) rules. In an effort to reduce redundancies by the DoD while seeking SUA throughout the Commonwealth of the Northern Mariana Islands (CNMI) and Guam, PACOM submitted a consolidated DoD SUA Proposal.

The proposal was divided into four sub-phases outlining different airspace requirements. The fourth phase (Phase 4) consists of the creation of restricted airspace on the northern portion of Guam, to be designated as R–7205. The proposed restricted area R–7205 airspace is needed to encompass an electro-magnetic radiation hazard associated with the THAAD radar operations.

What is a THAAD System?

The THAAD system is a long-range, land-based air defense weapon system that provides terminal defense against ballistic missiles. This system is designed to intercept missiles during late mid-course or final stage flight. THAAD operates at high altitudes and provides broad area coverage against threats to critical assets such as population centers, industrial resources, and military forces. The system provides a broad range of surveillance services that perform target search, acquisition, identification, and tracking functions within the proposed restricted area. Intercept missiles at high altitudes will take place outside of the restricted area under military authority and authorization.

What are the hazards associated with the THAAD System?

During THAAD system operations, there is a potential hazard to military and civilian aircraft. The system emits electromagnetic radiation (EMR) that could cause adverse impacts to human health and electromagnetic interference with electronic aircraft equipment. The SUA is established to avoid injury and damage to personnel and equipment from EMR emitted from the THAAD system. THAAD normally operates in search/surveillance mode which limits the EMR to very short durations, less than 0.2 seconds, which would not result in adverse consequences. However, during tracking or calibration mode, the beam is steady and the duration of EMR exposure is greater. Calibration is performed on start-up and on regular intervals and tracking mode occurs when the unit is actively tracking a flying target such as a missile or a plane.

Why is the THAAD system in Guam?

In April 2013, the U.S. Secretary of Defense directed the U.S. Army to deploy a THAAD battery system immediately to Guam on an emergency basis in response to potential North Korean missile launch activity. Since the temporary deployment of the THAAD battery in 2013, the DoD validated the enduring requirement for a THAAD battery in Guam to ensure continued defense of the homeland against existing and emerging missile threats by potentially hostile states in the region, as mandated in Title 10 of the U.S.C., Armed Forces. The THAAD system provides long-term protection for Guam residents and the U.S. forces based there from potential ballistic

missile attacks. Alternative locations were not considered because the purpose is to protect Guam, which requires the THAAD to be located in Guam.

The Proposal

The FAA is proposing an amendment to title 14 Code of Federal Regulations (14 CFR) part 73 to establish restricted area R–7205 Guam, GU. The FAA is proposing this action at the request of the USMC. The proposed restricted area is described below.

R–7205 would be established on the northern tip of Guam and northwest of Anderson Air Force Base (AFB) abutting the Anderson AFB Class D. The altitudes would be from 700 feet MSL to 19,000 feet MSL.

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 Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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 will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.72 Guam [Amended]

■ 2. Section 73.72 is amended as follows:

* * * * *

R–7205 Guam, GU [New]

Boundaries. Beginning at lat. 13°37′10″ N, long. 144°51′58″ E; thence clockwise along the 2.4-mile radius of point in space coordinates at lat. 13°39′25″ N, long. 144°51′04″ E; to lat. 13°38′40″ N, long. 144°53′24″ E; thence counter-clockwise along the 4.3-mile radius of Andersen AFB Class D airspace; to the point of beginning, excluding that airspace within R–7202 when active.

Designated altitudes. 700 feet MSL to FL190.

Time of designation. Continuous.

Controlling Agency. FAA, Guam CERAP.

Using Agency. Commanding Officer, Task Force Talon, Andersen AFB, Guam.

* * * * *

Issued in Washington, DC, on March 6, 2019.

Scott M. Rosenbloom,

Acting Manager, Airspace Policy Group.

[FR Doc. 2019–04534 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2018–0817, FRL–9990–92–Region 2]

Approval of Source Specific Air Quality Implementation Plans; New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New Jersey State Implementation Plan (SIP) for the 2008 8-hour ozone National Ambient Air Quality Standard in relation to a Source Specific SIP for Gerdau Ameristeel in Sayreville, New Jersey. On December 5, 2018, the New Jersey Department of Environmental Protection approved an administrative amendment reflecting new ownership and name change to Commercial Metals Company. The control options in the Source Specific SIP that address nitrogen oxide Reasonably Available Control Technology for the natural gas fired billet reheat furnace remain the same under the new ownership. The intended effect of this SIP revision is for the Sayreville facility to continue to operate under their facility specific maximum allowable nitrogen oxide emission rate. The affected source will not increase hourly nitrogen oxide emissions, therefore, the National Ambient Air Quality Standards for ozone is protected.

DATES: Comments must be received on or before April 22, 2019.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–R02–OAR–2018–0817, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, such as the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Linda Longo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3565, or by email at *longo.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

The Environmental Protection Agency (EPA) proposes to approve revisions to the New Jersey State Implementation Plan (SIP) for attainment and maintenance of the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, under New Jersey Administrative Code, Title 7, Chapter 27, Subchapter 19, ''Control and Prohibition of Air Pollution from Oxides of Nitrogen'' (N.J.A.C. 7:27–19). The New Jersey Department of

Environmental Protection (NJDEP) reviewed and approved the facility specific emission limit (FSEL) nitrogen oxide (NO_X) control plan and the associated Reasonably Available Control Technology (RACT) for the Gerdau Ameristeel facility located in Sayreville, New Jersey (Sayreville Facility). The RACT for this SIP revision is the lowest emission limitation economically feasible for controlling NO_X emissions from the Sayreville Facility's billet reheat furnace (Sayerville BRF). The Sayreville BRF is used to raise the temperature of steel billets to the required level for hot rolling.

Subchapter N.J.A.C. 7:27–19.13(a)(1), ''Alternative and facility specific NO_X emission limits,'' allows owners and operators of major sources of NO_X, upon approval of the NJDEP, to obtain FSELs for maximum allowable NO_X emission rates by submitting a NO_X control plan that meets the requirements of N.J.A.C. 7:27–19.13(b). Furthermore, Subchapter N.J.A.C. 7:27–19.13(a)(3) allows facilities that wish to continue to operate under existing NO_X control plans that were approved prior to May 1, 2005 to make the request by submitting an updated proposed NO_X control plan as required in N.J.A.C. 7:27–19.13. The Sayreville Facility wishes to continue to operate under its existing NO_X control plan that was approved by the State on March 15, 2005. A full summary is included in the technical support document (TSD) that is contained in EPA's docket assigned to this **Federal Register** notice.

Please note that on December 5, 2018, the NJDEP approved an administrative amendment reflecting new ownership and name change of the Sayreville Facility from Gerdau Ameristeel to Commercial Metals Company. All control options for the Sayreville BRF and CAA permit limits (as approved by the NJDEP in the March 2005 NO_x control plan) remain the same under the new ownership as were under the former owner Gerdau Ameristeel.

Ozone Requirements

In 1997, the EPA revised the health-based NAAQS for 8-hour ozone, setting it at 0.084 parts per million (ppm) averaged over an 8-hour time frame. *See* 62 FR 38856 (July 18, 1997). The EPA revised the 8-hour ozone standard twice since 1997; in March 2008, the EPA revised the standard to 0.075 ppm, and in October 2015 the EPA revised it to 0.070 ppm while retaining the 2008 ozone indicators. *See* 73 FR 16436 (March 27, 2008); 80 FR 65292 (October 26, 2015). After the EPA establishes a new or revised NAAQS, the Clean Air Act (CAA) directs the EPA and the states to take steps to ensure that the new or revised NAAQS are met. One of the first steps, known as the initial area designations, involves identifying areas of the country that are not meeting the new or revised NAAQS, as well as the nearby areas that contain emissions sources that contribute emissions to the areas not meeting the NAAQS.

The entire state of New Jersey has been designated as nonattainment since the adoption of the 1997 8-hour ozone NAAQS and is divided into two nonattainment areas. The two nonattainment areas in New Jersey are Philadelphia-Wilmington-Atlantic City (PA–NJ–MD–DE) and New York-Northern New Jersey-Long Island (NY–NJ–CT). These areas are designated as marginal nonattainment and as moderate nonattainment, respectively, for the newest 0.070 ppm 8-hour ozone NAAQS.[1] As such, New Jersey has developed ozone SIPs to attain the standards and will consider source-specific SIPs as necessary. A source-specific SIP is submitted by a facility to request approval for source-specific emission limitations, and if approved by the state and the EPA, are incorporated into the state's ozone SIP.

RACT Requirements

RACT is defined as the lowest emission limit that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[2] CAA sections 172(c)(1), 182(b)(2) and 182(f) require nonattainment areas that are designated as moderate or above to adopt RACT. The entire state of New Jersey is subject to this requirement because (1) of the nonattainment area designations for the 8-hour ozone standards (40 CFR 81.331), and (2) the state of New Jersey is located within the Ozone Transport Region (OTR), a region in which the CAA requires that state SIPs implement RACT requirements. *See* CAA § 184(b)(1)(B).

On November 25, 1992 the EPA published a supplement to the General Preamble to Title I of the CAA Amendments of 1990 to clarify requirements for NO_X, referred to as the NO_X Supplement. *See* 57 FR 55620. The NO_X Supplement explains that the CAA section 182(f), read in conjunction with section 182(a)(2)(C) and other New Source Review (NSR) related provisions in section 182, require state NSR plans to apply to major stationary sources of NO_X, the same requirements that govern major stationary sources of VOC emissions in ozone nonattainment areas and in other areas located in OTR. Section182(a)(2)(C) requires States to adopt and submit revised NSR regulations for all ozone nonattainment areas classified as marginal or above.

In November 2005, the EPA published the final rule that discusses the RACT requirements for the 1997 8-hour ozone standard and outlined the SIP requirements and deadlines for various areas designated as moderate nonattainment. *See* 70 FR 71612 (November 29, 2005) (the ''Phase 2 Rule'').

On August 1, 2007, the NJDEP finalized RACT revisions to its SIP to address the 8-hour ozone NAAQS and the EPA approved on May 15, 2009. *See* ''RACT for the 8-hour Ozone NAAQS and other Associated SIP Revisions for the Fine Particulate Matter, Regional Haze, and Transport of Air Pollution,'' available at *http://www.nj.gov/dep/baqp/sip/8-hrRACT-Final.pdf* and *see* 74 FR 22837. The NJDEP, taking a more stringent approach, believes that significantly higher costs are warranted and should be considered reasonable with respect to available technology than were discussed in the Phase 2 Rule. Although no dollar amount is suggested, the NJDEP identifies five considerations it plans to apply to sources when determining RACT:

(1) Past New Jersey costs for retrofitting a given control;

(2) Average RACT cost (dollars per tons reduced) for a control technology and maximum RACT cost. Once a reasonable number of sources in a source category achieve a lower emission level, other sources should do the same;

(3) The seriousness of the Region's ozone air quality exceedance. For nonattainment areas with higher ozone levels, higher costs for controls are reasonable;

(4) The seriousness of the need to reduce transported air pollution. As an OTR state, higher costs for RACT are justified; and

(5) The NJDEP plan for addressing economic feasibility in RACT rules.

The NJDEP's intent is to specify RACT at the lowest emission limit that a reasonable number of similar facilities had already successfully implemented for each source category.

[1] Classifications of these areas for the current and previous ozone NAAQS can be found at 40 CFR 81.331.

[2] The EPA has not generally prescribed RACT requirements. As defined in ''State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines),'' RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source. *See* 44 FR 53761 September 17, 1979.

II. The EPA's Evaluation of New Jersey's Submittals

Continue To Operate Under Existing NO_X Control Plan

N.J.A.C. 19.13(a)(3) sets forth requirements for facilities that wish to continue to operate under existing NO_X control plans that were approved prior to May 1, 2005. The regulation requires such facilities to submit updated proposed NO_X control plans to NJDEP for review. Gerdau Ameristeel originally submitted an FSEL NO_X control plan for a BRF (old BRF) at the Sayreville Facility to NJDEP in 1995. In 2004, the facility submitted to NJDEP a proposed FSEL NO_X control plan for a replacement BRF; the new unit was designed with 64 ultra-low NO_X burners. On March 15, 2005, the NJDEP approved the NO_X control plan by authorizing Gerdau Ameristeel to replace the old BRF with the ultra-low NO_X burners.

On October 4, 2016, the Gerdau Ameristeel submitted an updated proposed NO_X control plan to NJDEP requesting to continue to operate the March 15, 2005 NO_X control plan for the Sayreville BRF that has 64 ultra-low NO_X burners and maximum allowable NO_X emission rate of 58.9 tons per year (TPY). On March 20, 2018, the NJDEP submitted to the EPA a proposal to allow the continued use of the control options as outlined in the State approved Gerdau Ameristeel March 15, 2005 NO_X control plan.

The Sayreville BRF has a heat input rating of 172.8 million British Thermal Units per hour (MMBTU/hr) and is permitted under the facility's CAA Title V operating permit (*i.e.,* PI 18052, BOP 150001) for no more than 0.1 MMBTU/hr of NO_X as a major source with FSEL not to exceed 17.3 pounds NO_X per hour and 58.9 tons NO_X per year. The Sayreville Facility is required to conduct annual emission testing to demonstrate compliance with 0.1 lb/MMBtu NO_X emission rate limit. The EPA has determined that the Sayreville BRF identified in the SIP revision are consistent with New Jersey's NO_X RACT regulation and the EPA's guidance.

RACT Analysis

The RACT analysis conducted by Gerdau Ameristeel found eight control technologies suitable for a typical BRF: (1) Ultra-low NO_X burners currently in use at the facility, (2) low excess air currently in use at the facility, (3) selective catalytic reduction (SCR), (4) Low NO_X burners, (5) Flue gas recirculation or reduction of air preheat temperature, (6) Burners out of service, (7) Selective non-catalytic reduction, and (8) Non-selective catalytic reduction. Under the regulations, the first three are technologically feasible, but the latter four were not.

Although the SCR was determined to be technologically feasible, the Sayreville Facility has major concerns with its implementation. First, the facility would need to install an evaporative cooler to control the temperature of the exiting flu gas for this technology to be effective. Second, the SCR catalyst could become damaged by the BRF process. The exhaust gas from the BRF contains concentrations of particulate matter, including metals, which would cause catalyst plugging and masking. The potential for damage cannot be determined with certainty because the Sayreville Facility does not currently have SCR units installed on any BRF that control NO_X to compare potential catalyst poisoning. Moreover, to the best of our knowledge no BRFs in the United States currently employs SCR units.[3]

Cost analysis was conducted for those control technologies found to be technologically feasible. Since the ultra-low NO_X burners and the low excess air control technologies are currently in use on the facility's BRF, Gerdau Ameristeel conducted the cost effectiveness study only for the SCR. The facility concludes that to purchase and install the SCR will cost $4,279,380 and the annual operating cost would be $1,164,379 based on a 20-year useful life of the BRF. The cost effectiveness is based on the annual cost of operating SCR and the amount of NO_X that would be removed. The amount NO_X that would be removed from the SCR is based on 90% (0.9) control efficiency not to exceed the CAA Title V operating permit limit of 58.9 NO_X TPY (58.9 TPY $\times$ 0.9 = 53 TPY). Therefore, the SCR would result in 53 TPY NO_X removed making the cost effectiveness to be $21,965 per ton NO_X removed ($1,164,379 ÷ 53 = $21,965), which is above the federal RACT guidance. Under EPA guidance, states should consider in their RACT determinations technologies that achieve 30–50 percent reduction within a cost range of $160–$1,300 per ton of NO_X removed. *See* 70 FR 71652.

The SCR control technology was found not to be RACT due to technological and economical infeasibility under federal and state RACT criteria.

[3] The EPA's RACT/BACT/LEAR Clearinghouse (RBLC), *https://cfpub.epa.gov/rblc/index.cfm?action=Home.Home&lang=en,* demonstrates that 9 U.S. facilities operate a reheat furnace, including billet reheat furnace, and have NO_X emissions. All 9 facilities have pollution prevention add-on control technologies ultra-low or low NO_X burners and none are equipped with SCR.

III. Proposed Action

Gerdau Ameristeel reached agreement with the NJDEP to continue to operate under the approved March 15, 2005 NO_X control plan that allowed the Sayreville BRF to operate using 64 ultra-low NO_X burners. The Sayreville Facility underwent a change in ownership to the Commercial Metals Company without changing its production process or associated equipment. Moreover, the Sayreville Facility met the regulatory requirements under N.J.A.C. 19.13(a)(3) to submit and obtain NJDEP approval for an updated proposed NO_X control plan requesting to continue to operate under their 2005 NO_X control plan approved prior to May 1, 2005. The updated NO_X control plan demonstrates that the only technically feasible control technology currently not in use on the Sayreville BRF is the SCR option and concludes that it is not RACT. Therefore, the EPA proposes to approve the NJDEP SIP revisions for 8-hour ozone for Commercial Metals Company continuing to operate under the 2005 NO_X Control Plan.

IV. Incorporation by Reference

In this document, we are proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section III. Proposed Action.

The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and in hard copy at the appropriate EPA office, 290 Broadway, 25th floor, New York, New York, 10007–1866 (see the **ADDRESSES** section of this preamble for more information).

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 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office

of Management and Budget under Executive Order 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 (Public Law 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 proposed rule does not have tribal implications as specified by Executive Order 13175, 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. Thus, Executive Order 13175 does not apply to this action.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 9, 2019.

Peter D. Lopez,

Regional Administrator, Region 2.

[FR Doc. 2019–04781 Filed 3–20–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2018–0842; FRL–9991–11–Region 5]

Air Plan Approval; Illinois; Redesignation of the Illinois Portion of the St. Louis Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 6, 2018, the Illinois Environmental Protection Agency (Illinois) submitted a request for the Environmental Protection Agency (EPA) to redesignate the Illinois portion of the St. Louis, MO–IL nonattainment area (hereafter, ''St. Louis area'') to attainment for the 1997 fine particulate matter ($PM_{2.5}$) annual national ambient air quality standard (NAAQS or standard). The Illinois portion of the St. Louis area includes Madison, Monroe, and St. Clair counties, and Baldwin Township in Randolph County. EPA is taking this action because it has determined that the St. Louis area is attaining the annual 1997 $PM_{2.5}$ standard based on the most recent three years of certified air quality data. EPA is also proposing to approve a revision to the Illinois state implementation plan (SIP) for maintaining the 1997 annual $PM_{2.5}$ NAAQS through 2030. Illinois' maintenance plan submission includes an updated emission inventory, which includes emission inventories for $PM_{2.5}$, NO_X, volatile organic compounds (VOCs) and ammonia. The maintenance plan submission also includes motor vehicle emission budgets (MVEBs) for the mobile source contribution of $PM_{2.5}$ and nitrogen oxides (NO_X) to the St. Louis $PM_{2.5}$ area for transportation conformity purposes. EPA is proposing to approve and update both the emissions inventory and MVEBs. EPA is proposing to take these actions in accordance with the Clean Air Act (CAA) and EPA's SIP rules regarding the 1997 $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before April 22, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0842 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3901, *Becker.Michelle@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What actions are EPA taking?

EPA is proposing to take several actions related to the redesignation of the St. Louis area to attainment of the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to determine that the St. Louis area has attained the 1997 annual $PM_{2.5}$ NAAQS based on quality-assured, certified 2015–2017 air quality data. EPA is proposing to grant the request to redesignate the St. Louis area to attainment of the 1997 annual $PM_{2.5}$ NAAQS.

EPA proposes to find that Illinois' $PM_{2.5}$ maintenance plan meets the requirements of section 175A of the CAA and is proposing to approve Illinois' $PM_{2.5}$ maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS for the St. Louis area as a revision to the Illinois SIP. The $PM_{2.5}$ maintenance plan provides for the maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the St. Louis area through 2030.

EPA is also proposing to approve Illinois' 2008 and 2030 MVEBs for the St. Louis area.

Finally, EPA is proposing to approve Illinois' 2008 primary $PM_{2.5}$, NO_X, sulfur dioxide (SO_2), VOC, and ammonia (NH_3) emission inventories for the St. Louis area as satisfying the requirement of section 172(c)(3) of the CAA for a current, accurate, and comprehensive emission inventory.

II. What is the background for these actions?

On July 18, 1997, EPA promulgated the first primary annual $PM_{2.5}$ NAAQS to provide increased protection of public health from fine particle pollution (62 FR 38652). In that action, EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) of ambient air, based on a three-year average of the annual mean $PM_{2.5}$ concentrations at each monitoring site. On January 5, 2005, EPA published air quality area designations for the 1997 annual $PM_{2.5}$ standard based on air quality data for calendar years 2001–2003 (70 FR 944). In that rulemaking, EPA designated the St. Louis area, which includes Madison, Monroe, and St. Clair counties, and Baldwin Township in Randolph county in Illinois, as nonattainment for the 1997 annual $PM_{2.5}$ standard.

III. What are the criteria for redesignation to attainment?

The CAA sets forth criteria for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of subchapter I of the CAA.

IV. What is EPA's analysis of the state's request?

EPA is proposing to redesignate the St. Louis area to attainment of the 1997 annual $PM_{2.5}$ NAAQS and to approve updates to the Illinois maintenance plan including MVEBs and emissions inventory for the area. The rationale for these proposed actions follows.

1. Attainment Determination (Section 107(d)(3)(E)(i))

To redesignate an area from nonattainment to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For $PM_{2.5}$, an area is attaining the 1997 annual $PM_{2.5}$ NAAQS if it meets the standard, as determined in accordance with 40 CFR 50.13 and part 50, appendix N, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the 1997 annual $PM_{2.5}$ NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, must be less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA reviewed the certified, quality-assured/quality-controlled $PM_{2.5}$ monitoring data from the St. Louis area for the 1997 annual $PM_{2.5}$ NAAQS from 2015–2017 and determined that the design value for the area is less than the standard of 15.0 $\mu g/m^3$ for that period. The $PM_{2.5}$ design values for monitors with complete data are summarized in Table 1:

TABLE 1—MONITORING DATA FOR THE ST. LOUIS AREA FOR 2015–2017 1997 ANNUAL $PM_{2.5}$ STANDARD ($\mu g/m^3$)

State	City/county	Site	Year			Average
			2015	2016	2017	2015–2017
Illinois	Madison	Alton	9.0	8.8	8.7	8.8
Illinois	Madison	Wood River	9.1	8.7	8.3	8.7
Illinois	Madison	Granite City	10.4	9.1	9.6	9.7
Illinois	Randolph	Houston	7.9	8.0	9.6*	8.5
Illinois	St. Claire	East St. Louis	10.7	10.0	8.8	9.8
Missouri	St. Louis City	Blair Street	10.4	8.5	7.9	8.9
Missouri	St. Louis City	South Broadway	11.1	8.1	7.8	9.0
Missouri	St. Louis City	Forest Park	9.2	8.7	8.3	8.7
Missouri	St. Louis County	Ladue	10.3	8.7	9.4	9.5
Missouri	Jefferson	Arnold West	11.6	8.3	8.2	9.3

*data completeness requirements met by substituting data from a secondary monitor resulting in a valid design value (83 FR 66631).

Pursuant to section 179(c) of the CAA, EPA is proposing to determine that the St. Louis area is attaining the 1997 annual $PM_{2.5}$ NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient

air monitoring data for the 2015–2017 monitoring period that show the area has monitored attainment of 1997 annual $PM_{2.5}$ NAAQS.

2. Section 110 and Part D Requirements, and Approval SIP under Section 110(k) (Section 107(d)(3)(E)(ii) and (v))

EPA is proposing to find that Illinois has met all currently applicable SIP requirements for purposes of redesignation for the St. Louis area under section 110 of the CAA (general SIP requirements), and the planning requirements in part D of subchapter I of the CAA (part D). We are proposing to find that all applicable requirements of the Illinois SIP, for purposes of redesignation, have been implemented, in accordance with section 107(d)(3)(E)(ii) and 107(d)(3)(E)(v) of the CAA. As discussed below, in this section, EPA is proposing to approve Illinois' 2008 emissions inventory as meeting the section 172(C)(3) requirement for a comprehensive emissions inventory.

In making these proposed determinations, we have ascertained which SIP requirements are applicable for purposes of redesignation, have concluded that there are SIP measures meeting these requirements, and that they are approved or will be approved by the time of final rulemaking on the State's $PM_{2.5}$ redesignation request.

a. Illinois has met all Applicable Requirements for Purposes of Redesignation of the St. Louis Area Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring, and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development. Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state.

EPA interprets the ''applicable'' requirements for an area's redesignation to be those requirements linked with that area's nonattainment designation. Therefore, we believe that the section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status, such as the ''infrastructure SIP'' elements of section 110(a)(2), are not applicable requirements for purposes of the redesignation. A state remains subject to these requirements after an area is redesignated to attainment, and thus EPA does not interpret such requirements to be relevant applicable requirements to evaluate in a redesignation. For example, the requirement to submit state plans addressing interstate transport obligations under section 110(a)(2)(D)(i)(I) continue to apply to a state regardless of the designation of any particular area in the state, and thus are not applicable requirements to be evaluated in the redesignation context.

EPA has applied this interpretation consistently in many redesignations for decades. *See, e.g.,* 81 FR 44210 (July 7, 2016) (final redesignation for the Sullivan county, Tennessee area); 79 FR 43655 (July 28, 2014) (final redesignation for Bellefontaine, Ohio lead nonattainment area); 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). *See* also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); and 66 FR 50399 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

We have reviewed the Illinois SIP and determined that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Illinois' SIP addressing section 110 requirements at 40 CFR 52.720.

ii. Part D Requirements

EPA has determined that, upon approval of the base year emissions inventories discussed in section IV.6 of this rulemaking, the Illinois SIP will meet the SIP requirements for the St. Louis area applicable for purposes of redesignation under part D of the CAA. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 4 of part D, found in section 189 of the CAA, sets forth nonattainment requirements applicable for particulate matter nonattainment areas.

(1) Section 172 Requirements

Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) (''General Preamble''). EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13564. EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum.[1]

EPA's long-standing interpretation regarding the applicability of section 172(c)'s attainment planning requirements for an area that is attaining a NAAQS applies in this redesignation of the St. Louis area 1997 annual $PM_{2.5}$ nonattainment area as well.

As noted above, the remaining section 172(c) ''attainment planning'' requirements are not applicable for purposes of evaluating the state's redesignation request. Specifically, these are the reasonably available

[1] September 4, 1992 Memorandum from John Calcagni, Director, Air Quality Management Division (EPA), entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

control measures (RACM) requirement under section 172(c)(1), which requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS; the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment; the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment; and the section 172(c)(6) requirement that the SIP contain control measures necessary to provide for attainment of the standard. These requirements are not applicable in evaluating Illinois' redesignation request because the St. Louis area has monitored attainment of the 1997 annual standard prior to the required attainment date of April 5, 2010, as promulgated in the Clean Data Determination published July 27, 2012 (77 FR 38183).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Illinois submitted a 2008 base year emissions inventory as part of their $PM_{2.5}$ attainment demonstration on December 6, 2018 and requested that the 2008 inventories be used as the most accurate and current inventory. As discussed below in section IV.6, EPA is proposing to approve Illinois' 2008 emissions inventory as meeting the section 172(c)(3) emission inventory requirement for the St. Louis area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) and 189(a)(1)(A) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved the current Illinois NSR program for $PM_{2.5}$ on May 13, 2003 (68 FR 25504). In addition, the state's maintenance plan does not rely on nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement; nonetheless, we have approved the state's program.[2]

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we find that the Illinois SIP meets the section 110(a)(2) applicable requirements for purposes of redesignation.

(2) Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). State transportation conformity regulations must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability, which EPA promulgated pursuant to CAA requirements.

EPA approved Illinois' transportation conformity SIPs on December 23, 1997 (62 FR 67000). In April 2010, EPA promulgated changes to 40 CFR 51.851, eliminating the requirement for states to maintain a general conformity SIP. EPA confirms that Illinois has met the applicable conformity requirements under section 176.

b. Illinois Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Illinois' comprehensive 2008 emissions inventories, EPA will have fully approved the Illinois SIP for the St. Louis area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (See page 3 of the Calcagni memorandum; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Illinois has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under particulate matter standards. In this action, EPA is proposing to approve Illinois' 2008 comprehensive emissions inventories for the St. Louis area as meeting the requirement of section 172(c)(3) of the CAA. No St. Louis area SIP provisions are currently disapproved, conditionally approved, or partially approved. Therefore, EPA has fully approved the applicable requirements for the St. Louis area under section 110(k) in accordance with section 107(d)(3)(E)(ii).

3. Permanent and Enforceable Reductions in Emissions (Section 107(d)(3)(E)(iii))

EPA finds that Illinois has demonstrated that the observed air quality improvement in the St. Louis area is due to permanent and enforceable reductions from Federal measures. In making this demonstration, Illinois has calculated the change in emissions between 2002, one of the years the St. Louis area was monitoring nonattainment, and 2008, one of the years the St. Louis area monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this period can be attributed to several regulatory control measures that the St. Louis and contributing areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

The following is a discussion of permanent and enforceable measures that have been implemented in the area:

i. Federal Emission Control Measures

Reductions in directly emitted fine particles and fine particle precursor emissions have occurred statewide and in upwind areas because of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements result in lower NO_X and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. EPA has estimated that, by the end of the phase-in period, new vehicles will emit less NO_X with the following percentage decreases: Passenger cars (light duty vehicles)—77%; light duty trucks, minivans and sports utility vehicles—86%; and, larger sports utility vehicles, vans and heavier trucks—69% to 95%. EPA expects fleet-wide average emissions to decline by similar percentages as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006, reducing both directly emitted sulfates and the precursor SO_2.

Heavy-Duty Diesel Engine Rule. EPA issued this rule in July 2000. This rule includes standards limiting the sulfur content of diesel fuel, which went into

[2] A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.''

effect in 2004. A second phase took effect in 2007 which reduced fine particle emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90% reduction in direct $PM_{2.5}$ emissions and a 95% reduction in NO_X emissions for these new engines using low sulfur diesel, compared to existing engines using higher sulfur content diesel. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Diesel Rule. In May 2004, EPA promulgated a rule for large nonroad diesel engines, such as those used in construction, agriculture and mining equipment, that was phased in between 2008 and 2014. The rule also reduces the sulfur content in nonroad diesel fuel by over 99%. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm by 2010. The combined engine and fuel rules will reduce NO_X and $PM_{2.5}$ emissions from large nonroad diesel engines by over 90%, compared to current nonroad engines using higher sulfur content diesel. It is estimated that compliance with this rule will cut NO_X emissions from nonroad diesel engines by up to 90%. This rule achieved some emission reductions by 2008 and was fully implemented by 2010. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. In November 2002, EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards were phased in from 2006 through 2012. Marine diesel engine standards were phased in from 2006 through 2009. With full implementation of the entire nonroad spark-ignition engine and recreational engine standards, an 80% reduction in NO_X is expected by 2020. Most of these emission reductions occurred by the 2015–2017 period used to demonstrate attainment, but additional emission reductions will occur during the maintenance period.

ii. Control Measures in Contributing Areas

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states (including Illinois and Missouri) to reduce emissions of NO_X. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are permanent and enforceable.

Clean Air Interstate Rule (CAIR). On March 10, 2004, EPA promulgated the CAIR. The CAIR required Electric Generating Units (EGUs) in 28 eastern states and the District of Columbia to significantly reduce emissions of NO_X and SO_2. On July 6, 2011, EPA finalized Cross-State Air Pollution Rule (CSAPR) as a replacement for CAIR. CSAPR became effective on January 1, 2015, for SO_2 and annual NO_X, and May 1, 2015, for ozone season NO_X. EPA estimated CSAPR will reduce EGU SO_2 emissions by 73% and NO_X emissions by 54% from 2005 levels in the CSAPR region, which includes Illinois.

On September 7, 2016, EPA promulgated an update to CSAPR that will bring even greater reductions in NO_X emissions. EPA estimated that the CSAPR update and other changes already underway in the power sector will cut ozone season NO_X emissions from power plants in the eastern United States by 20%, resulting in a reduction of 80,000 tons in 2017 compared to 2015 levels.

iii. Consent Decrees

Air quality in the Illinois portion of the nonattainment area has benefited from implementation of state point source NO_X controls and other emission controls targeting $PM_{2.5}$ precursors. Federally-initiated litigation resulting in emission-reducing consent decrees with local industry include the ConocoPhillips Global Refinery Settlement (filed January 27, 2005, U.S. District Court for the Southern District in Texas), which provided for installation (no later than December 31, 2009) of low-NO_X burners and ultra-low NO_X burners on combustion units at its ''Distilling West'' operations (Roxana, IL, refinery), as well as reductions of SO_2, particulate matter, and NO_X from process operations. A settlement reached with Dynegy Midwest Generation (USA v. IL Power Co., et al. 3:99–cv–833 Consent Decree, March 2005, U.S. District Court for the Southern District of Illinois) included the requirements to ''commence operation of the SCRs [selective catalytic reduction systems] installed at Baldwin Unit 1, Unit 2 . . . so as to achieve and maintain a 30-day rolling average emission rate from each such unit of not greater than 0.100 lb/mmBtu NO_X'' and ''maintain a 30-day rolling average emission rate of not greater than 0.120 lb/mmBtu NO_X at Baldwin Unit 3.'' Within this same timeframe, the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities was amended on July 13, 2006, affecting emission limits from the blast furnaces and Basic Oxygen Furnace shop at the U.S. Steel facility in Granite City, Illinois. The control measures and emission reductions resulting from this federal rulemaking and consent agreements continue to be permanent and enforceable.

The emissions reductions resulting from these control measures are in Table 2.

TABLE 2—2002 AND 2008 EMISSIONS TOTALS FOR THE ST. LOUIS 1997 ANNUAL $PM_{2.5}$ NAAQS

[Tons/year]

Pollutant	2002	2008	Difference
$PM_{2.5}$	10,950.60	8,136.98	−2,813.62
NO_X	61,860.58	44,722.08	−17,138.50
SO_2	55,940.09	50,557.33	−5,382.76
VOC	40,697.69	21,753.04	−18,944.65
NH_3	4,418.65	3,873.19	−545.46

4. Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with the request to redesignate the St. Louis nonattainment area to attainment status, Illinois has submitted a SIP revision to provide for maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the area through 2030.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ NAAQS violations.

The Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

As discussed in detail in the section below, the state's maintenance plan submission expressly documents that the area's emissions inventory and modeling show that the area will remain below the attainment year inventories through 2030, more than ten years after redesignation.

b. Attainment Inventory

Illinois developed an emissions inventory for annual $PM_{2.5}$ emissions for 2008, one of the years in the period during which the St. Louis area monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. The attainment levels of emissions are summarized in Tables 3 through 7, along with future maintenance projections.

c. Demonstration of Maintenance

As discussed above, EPA has determined that the St. Louis area attained the 1997 annual $PM_{2.5}$ NAAQS based on monitoring data for the 3-year period from 2007–2009 and based on 2015–2017 monitoring data continues to attain the standard. In its maintenance plan, Illinois selected 2008 as the attainment emission inventory year. The attainment inventory identifies the level of emissions in the St. Louis area that is sufficient to attain the 1997 annual $PM_{2.5}$ NAAQS. Illinois began development of the attainment inventory by first generating a baseline emissions inventory for the St. Louis area. The year 2008 was chosen as the base year for developing a comprehensive emissions inventory for direct $PM_{2.5}$, NO_X, SO_2, VOC, and NH_3. The projected inventory included with the maintenance plan estimates emissions forward to 2025 and 2030, which satisfies the ten year interval required in section 175A of the CAA.

The emissions inventories address four major types of sources: Point, area, onroad mobile, and nonroad mobile. The future year emissions inventories have been estimated using projected rates of growth in population, traffic, economic activity, expected control programs, and other parameters. Nonroad mobile emissions estimates were based on EPA's nonroad mobile model, with the exception of the railroad locomotives, commercial marine, and aircraft. Onroad mobile source emissions were calculated using EPA's MOVES2014a onroad mobile emission model. The 2008 $PM_{2.5}$, NO_X, SO_2, VOC, and NH_3 emissions for St. Louis area, as well as the emissions for other years, were developed consistent with EPA guidance.

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. *Id.* at pp. 9–10.

As discussed in detail below, Illinois' maintenance plan submission expressly documents that the St. Louis area's overall emissions inventories will remain well below the attainment year inventories through 2030. In addition, for the reasons set forth below, EPA believes that the St. Louis area will continue to maintain the 1997 annual $PM_{2.5}$ NAAQS through 2030. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plan, the approval will be based upon this showing, in accordance with section 175A, and EPA's analysis described herein, that the Illinois maintenance plan provides for maintenance for at least 10 years after redesignation.

The maintenance plan for the St. Louis 1997 annual $PM_{2.5}$ area includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the annual $PM_{2.5}$ standard by providing information to support the demonstration that current and future emissions of $PM_{2.5}$ and NO_X, as well as other precursors, remain at or below 2008 emissions levels.

(ii) Uses 2008 as the attainment year and includes future emission inventory projections for 2025 and 2030.

(iii) Identifies an ''out year'' at least ten years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, $PM_{2.5}$, and NO_X MVEBs were established for the last year (2030) of the maintenance plan.

(iv) Provides, as shown in Tables 3 through 7 below, the estimated and projected emissions inventories, in tons per year, covering only the Illinois portion of the St. Louis, MO–IL area, for $PM_{2.5}$, NO_X, SO_2, VOC, and NH_3.

TABLE 3—ST. LOUIS AREA $PM_{2.5}$ EMISSION INVENTORIES

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference
Point	2,438.05	2,350.90	−87.15
Area	4,749.40	4,656.69	−92.71
Onroad	524.49	104.24	−420.25

TABLE 3—ST. LOUIS AREA $PM_{2.5}$ EMISSION INVENTORIES—Continued

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference
Offroad	425.04	304.41	−120.63
Total	8,136.98	7,416.24	−720.74

TABLE 4—2002 AND 2008 EMISSIONS TOTALS FOR THE ST. LOUIS 1997 ANNUAL $PM_{2.5}$ NAAQS

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference
Point	16,608.41	14,519.27	−2,089.14
Area	1,638.36	1,766.40	128.04
Onroad	17,965.82	2,984.38	−14,981.44
Offroad	8,509.49	9,222.09	712.60
Total	44,722.08	28,492.14	−16,229.94

TABLE 5—ST. LOUIS AREA SO_2 EMISSION INVENTORIES

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference
Point	49,895.15	47,652.59	−2,242.56
Area	246.64	275.09	28.45
Onroad	60.26	51.76	−8.50
Offroad	355.25	432.68	77.43
Total	50,577.33	48,412.12	−2,165.21

TABLE 6—ST. LOUIS AREA VOC EMISSION INVENTORIES

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference
Point	4,270.41	6,071.31	1,800.90
Area	7,796.35	9,676.73	1,880.38
Onroad	6,741.77	1,402.96	−5,338.81
Offroad	2,994.51	1,605.73	−1,388.78
Total	21,753.04	18,756.74	−2,996.30

TABLE 7—ST. LOUIS AREA NH_3 EMISSION INVENTORIES

[Tons/year]

Sector	2008 Attainment	2030 Maintenance	Difference 2008–2030
Point	208.31	270.38	62.07
Area	3,354.13	3,381.35	27.22
Onroad	304.71	187.59	−117.12
Offroad	6.04	8.94	2.9
Total	3,873.19	3,848.27	−24.92

As discussed in the section below, the state's maintenance plan submission expressly documents that the area's emission levels will remain below the attainment year emission levels through 2030.

d. Monitoring Network

Illinois and Missouri each currently operate five monitors for purposes of determining attainment with the annual $PM_{2.5}$ standard for the St. Louis area. EPA has determined that the monitors maintained by both Illinois and Missouri constitute an adequate monitoring network.

e. Verification of Continued Attainment

Illinois remains obligated to continue to quality-assure monitoring data and enter all data into the AQS in accordance with Federal guidelines in accordance with 40 CFR part 58. Illinois will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Illinois will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions

Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. These actions will help to verify continued attainment in accordance with 40 CFR part 58.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA.

The Illinois contingency plan defines Level I and Level II contingency measure triggers. The Level I triggers are activated when the $PM_{2.5}$ average of the weighted annual mean of 15.0 µg/m³ or greater occurs in a single calendar year within the maintenance area or the total maintenance area emissions increase 5% or more above the 2008 inventory. A Level I trigger response will consist of a study, to be completed within nine months, to determine whether the $PM_{2.5}$ value indicates a trend toward higher $PM_{2.5}$ values or whether emissions appear to be increasing. The Level II trigger will be prompted whenever a violation of the standard (three-year average of the weighted annual means of greater than 15.0 µg/m³). If the Level II trigger occurs, Illinois will conduct an analysis to determine control measures to address the violation within six months. Level II trigger measures that can be implemented in a short time will be selected to be in place within 18 months from the close of the calendar year that prompted the action level. Illinois will also consider the timing of an action level trigger and determine if additional, significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and will constitute our response.

Because it is not possible to determine what control measures will be appropriate at an unspecified time in the future, Illinois provides that additional facility-specific controls requiring reductions in NO_X, $PM_{2.5}$, SO_2 and/or VOC emissions and broader geographic applicability of existing measures are options for implementation.

As required by section 175A(b) of the CAA, Illinois commits to submit to EPA an updated $PM_{2.5}$ maintenance plan eight years after redesignation of the St. Louis area to cover an additional ten year period beyond the initial ten year maintenance period.

For the reasons set forth above, EPA is proposing to approve Illinois' 1997 annual $PM_{2.5}$ maintenance plan for the St. Louis area as meeting the requirements of CAA section 175A.

Illinois further commits to conduct ongoing review of its data, and if monitored concentrations or emissions are trending upward, Illinois commits to take appropriate steps to avoid a violation if possible. Illinois commits to continue implementing SIP requirements upon and after redesignation.

EPA finds that Illinois' contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A.

5. Motor Vehicle Emissions Budget (MVEBs) for $PM_{2.5}$ and NO_X, and Safety Margin for the St. Louis Area

The maintenance plan submitted by Illinois for the St. Louis area contains new primary $PM_{2.5}$, NO_X, and VOC MVEBs for the area for the years 2008 and 2030. MVEBs are the projected levels of controlled emissions from the transportation sector (mobile sources) that are estimated in the SIP to provide for maintenance of the ozone standard. The MVEBs were calculated using MOVES2014a. Table 8 details Illinois' 2008 and 2030 MVEBs for the St. Louis area.

TABLE 8—MVEBS FOR THE ST. LOUIS 1997 ANNUAL $PM_{2.5}$ MAINTENANCE PLAN

[tons/year]

Pollutant	2008 MVEB	2030 MVEB
$PM_{2.5}$	524.49	208.29
NO_X	17,965.82	5,980.67
VOC	6,741.77	2,470.72

Illinois included ''safety margins'' as provided for in 40 CFR 93.124(a). A ''safety margin'', as defined in the transportation conformity rule (40 CFR part 93, subpart A), is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance. The attainment level of $PM_{2.5}$, NO_X, and VOC emissions for the St. Louis area is shown in tables 3, 4, and 6. Table 9 shows the remaining safety margin for the St. Louis area following the allocation to the $PM_{2.5}$, NO_X, and VOC MVEBs.

TABLE 9—2030 SAFETY MARGIN FOR ST. LOUIS 2012 ANNUAL $PM_{2.5}$ MAINTENANCE PLAN

[tons/year]

Pollutant	2030 Safety margin	Safety margin allocated to 2030 MVEB	Safety margin remaining
$PM_{2.5}$	720.74	104.05	616.69
NO_X	16,299.94	2,996.29	13,233.65
VOC	2,996.3	1,067.76	1,928.54

The 2008 actual and 2030 projected emissions, even with this allocation, will be below the 2008 attainment year emissions for $PM_{2.5}$, NO_X, and VOC. For this reason, EPA finds that the allocation of the safety margin to the MVEBs for the St. Louis area meet the requirements of the transportation conformity regulations at 40 CFR part 93,and are approvable. Once allocated to mobile sources, these portions of the safety margins will not be available for use by other sources.

6. Comprehensive Emissions Inventory for the St. Louis Area

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory including direct PM and all four precursors (SO_2, NO_X, VOCs, and ammonia). Actual emissions contained in the submittal cover the general source categories of point sources, area sources, onroad mobile sources, and nonroad mobile sources for the base attainment year of 2008.

For this reason, EPA proposes to approve the emissions inventory as complete and accurate, and meets the requirement of CAA section 172(c)(3).

V. What are the effects of EPA's actions?

EPA is proposing to change the official designation of the St. Louis area for the 1997 annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. EPA is proposing to determine that the St. Louis area has attained the 1997 annual $PM_{2.5}$ standard, based on the most recent three years of certified air quality data. This action also proposes to approve the maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS as revisions to the Illinois SIP for the St. Louis area. Also, the EPA proposes to approve the 2008 emissions inventory for the St. Louis area as well as the 2008 and 2030 MVEBs for the St. Louis area. These MVEBs will be used in future transportation conformity analyses for the area.

In addition, if finalized, according to the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (81 FR 58009, August 24, 2016), ''for an area that is redesignated to attainment after the effective date of this final rule, the 1997 primary annual $PM_{2.5}$ NAAQS will be revoked in such an area on the effective date of its redesignation to attainment for that NAAQS. After revocation of the 1997 primary annual $PM_{2.5}$ NAAQS in a given area, the designation for that standard is no longer in effect.''

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 these reasons, these actions:

- 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).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 11, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–05285 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 739 and 752

[0412–AA87]

United States Agency for International Development Acquisition Regulation (AIDAR): Security and Information Technology Requirements

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) seeks public comment on a proposed rule that would amend the USAID Acquisition Regulation (AIDAR) to incorporate a revised definition of information technology and other requirements relating to information security and information technology approvals. The Federal Information Technology Acquisition Reform Act requires improved management of the acquisition of Information technology resources. This proposed rule revising the AIDAR, if adopted, would provide increased oversight of contractor acquisition and use of information technology resources.

DATES: Comments must be received no later than May 20, 2019.

ADDRESSES: Address all comments concerning this notice to Carol Ketrick, Bureau for Management, Office of Acquisition and Assistance, Policy

Division (M/OAA/P), Room 867F, SA–44, Washington, DC 20523–2052. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at *http://www.regulations.gov* by following the instructions for submitting comments.

2. *By Mail addressed to:* USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867–F, SA–44, Washington, DC 20523–2052.

Comments on the information collection request under Section E, Paperwork Reduction Act must be submitted to both USAID and OMB/OIRA as follows:

USAID—Carol Ketrick at *cketrick@usaid.gov.*

OMB/OIRA—email to *oira_submission@omb.eop.gov,* fax to (202) 395–6974, or mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carol Ketrick, Telephone: 202–567–4676 or email: *cketrick@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the Addresses section above. All submissions (and attachments) must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington.

All comments will be made available at *http://www.regulations.gov* for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID will only address comments that explain why this proposed rule would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the rule may not be considered.

B. Background

On September 5, 2014, the Office of Management and Budget (OMB) and the National Security Council (NSC) convened a President's Management Council, with one of the focus areas being improvement of cybersecurity in Federal acquisitions, in particular, accountability of contractors providing IT systems and services to the Federal government.

Accordingly, USAID is taking steps to address information security for information and information systems that support the operations and assets of the agency, including those managed by contractors. The new requirements will strengthen protections of Agency information systems/facilities.

Following the cybersecurity review directed by OMB ''Follow-Up to President's Management Council Cybersecurity Meeting, September 5, 2014'', which was completed by the agency Office of the Chief of Information Officer (CIO) in October 2014, a revised clause 752.204–72 Access to USAID facilities and USAID's Information Systems (now titled Homeland Security Presidential Directive-12 (HSPD–12) and Personal Identity Verification (PIV)), and new special contract requirements were developed and implemented on an interim basis under USAID Acquisition and Assistance Policy Directive (AAPD) 16–02 SPECIAL CONTRACT REQUIREMENTS FOR INFORMATION TECHNOLOGY (IT) on May 3, 2016. The requirements in the AAPD were updated and reissued as AAPD 16–02 (Revised) on May 1, 2018. The policy published in the AAPD 16–02 (Revised) provides a new definition of information technology, and includes various requirements applicable to information and system security, as well as requirements for Electronic and Information Technology Accessibility, software licenses, and prior agency approval of IT purchases.

This AIDAR proposed rule, when finalized and effective, will establish the new definition, the revised AIDAR clause 752.204–72 Homeland Security Presidential Directive-12 (HSPD–12) and Personal Identity Verification (PIV), and AIDAR clauses based on some of the special contract requirements from the AAPD 16–02 (Revised). The remaining special contract requirements regarding information and system security in AAPD 16–02 (Revised) that are not included in this proposed rule will be assessed after finalization of the currently open FAR cases on Controlled Unclassified Information (CUI) and Breaches of Personally Identifiable Information (PII). In addition to the contract requirements originating from the AAPD 16–02 (Revised), a proposed clause providing requirements for development and/or maintenance of third-party USAID-financed websites is included in the rule.

Accordingly, USAID is proposing to amend the U.S. Agency for International Development (USAID) Acquisition Regulation (AIDAR) to revise various sections that will implement policy and procedures for contracts and orders for, or include a requirement for, information technology (IT) supplies, services and/or systems. These requirements will ensure that contractors comply with the current Agency IT policies. The requirements in this proposed rule would implement the requirements under the following authorities: The E-Government Act of 2002; Federal Information Technology Acquisition Reform ACT (FITARA) (Section 831 of the National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113–291) and; Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) (''Section 508''); Privacy Act of 1974 (5 U.S.C. 552a—the Act); Federal Information Security Management Act (FISMA) of 2002 (FISMA, Pub. L. 107–347. 44 U.S.C. 3531–3536); National Institute of Standards and Technology (NIST) Special Publication 800–53 revision 4 or the current version; and Office of Management and Budget (OMB) Circular A–130.

USAID proposes to add AIDAR subpart 739, revise AIDAR 752.204–72, and include new clauses as follows:

- FAR subpart 739 provides the Agency definition of ''information technology'' as issued in AAPD 16–02 (Revised). As part of the AAPD 16–02 (Revised), a Class Deviation to FAR Part 2.101(b) definition of ''information technology'' was approved by the head of the contracting activity. This new definition broadens and clarifies the definition to include services such as cloud services; it is derived from the definition set forth in the Office of Management and Budget's (OMB's) guidance at OMB Memo M–15–14, Management Oversight of Federal Information Technology dated June 10, 2015. AIDAR 739.2 adds this definition, which also appears at 752.239–XX Use of Information Technology Approval and 752.239–XX Limitation on Use of Information Technology.
- AIDAR Clause 752.204–72 Access to USAID Facilities and USAID's Information Systems is being replaced in its entirety with a new title Homeland Security Presidential Directive-12 (HSPD–12) and Personal

Identity Verification (PIV) and significant changes to reflect additional restrictions and reporting to better implement Homeland Security Presidential Directive-12 (HSPD–12) (August 27, 2004) and PIV procedures.

The revision improves requirements for contractor personnel provided access to agency facilities and information systems, as well as timely monitoring of such access when the employee's employment is terminated. The revised clause requires submission of staff reports listing employees that require access to USAID facilities or information systems, and also specifies the Agency's authority to suspend or terminate the access to any systems and/or facilities if an Information Security Incident or other electronic access violation, use, or misuse incident gives cause for such action.

- AIDAR 752.204–XX USAID-Financed Third-party websites requires that Contractors adhere to certain requirements when developing, launching, and maintaining a third-party website funded by USAID for the purpose of meeting the project implementation goals. This applies to sites hosted on environments external to USAID boundaries and not directly controlled by USAID policies and staff. The clause requires adherence to Agency branding requirements and limits the contractor to collecting only the amount of information necessary to complete the specific business need as required by statute, regulation, or Executive Order.
- AIDAR 752.239–XX Limitation on Information Technology prohibits the acquisition of information technology under an award as defined in the clause unless prior approval is obtained from the contracting officer.

The clause ensures that only information technology approved by the Agency Chief Information officer (CIO) is acquired, pursuant to the Federal Information Technology Acquisition Reform ACT (FITARA)(Section 831 of the National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113–291). All agency IT investment decisions, including software and IT equipment, must be made consistent with the agency's enterprise architecture. USAID must consider the total cost of ownership including the costs associated with risk issues, including security and privacy of data, and the costs of ensuring security of the IT system itself.

This clause is consistent with the guidance promulgated by OMB in support of the Federal Information Technology Acquisition Reform Act (FITARA) and related information technology (IT) management practices in OMB Memo M–15–14 Management Oversight of Federal Information Technology.

- AIDAR 752.239–XX Software License addresses the need to ensure that acquired software is aligned with the agency's enterprise architecture; it will also enable the Agency to consolidate licenses when appropriate in alignment with OMB Category Management Policy 16–1.

The clause clarifies that renewal of software licenses may only occur in accordance with the mutual agreement of the parties; or an option renewal clause allowing the Government to unilaterally exercise one or more options to extend the term of the award. Since renewal of a software license would require the obligation of funds by the Federal Government, renewal must not be automatic.

Commercial off the shelf software solutions are offered to the public under standard agreements that may take a variety of forms, including license agreements, terms of service (TOS), terms of sale or purchase, and similar agreements. Customarily, these standard agreements contain terms and conditions that are appropriate when the purchaser is a private party but are inappropriate when the purchaser is the Federal Government.

- AIDAR 752.239–XX Information and Communication Technology (ICT) Accessibility requires contractors to implement Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) (''Section 508''). This clause applies to all development, procurement, maintenance, and information communication technology for use by USAID and members of the U.S. public.
- AIDAR 752.239–XX Information Technology Approval requires that contractors acquire only the information technology specified in the contract, and specifies a process to request approval if the Contractor determines that acquisition of information technology is necessary to meet the Government's requirements under the award. The clause ensures that only information technology approved by the Agency Chief Information Officer (CIO) is acquired, pursuant to the Federal Information Technology Acquisition Reform ACT (FITARA)(Section 831 of the National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113–291). All agency IT investment decisions, including software and IT equipment, must be made consistent with the agency's enterprise architecture. USAID must consider the total cost of ownership including the costs associated with risk issues, including security and privacy of data, and the costs of ensuring security of the IT system itself.

This clause is consistent with the guidance promulgated by OMB in support of the Federal Information Technology Acquisition Reform Act (FITARA) and related information technology (IT) management practices in OMB Memo M–15–14 Management Oversight of Federal Information Technology.

- AIDAR 752.239–XX Skills and Certification Requirements for Privacy and Security Staff requires that Contractor personnel performing the roles of Information System Security Officer and Information Security Specialists possess a Certified Information Systems Security Professional (CISSP) certification. All USAID contractors who have significant information security responsibilities as defined by OPM 5 CFR part 930 must complete specialized IT security training.

Additionally, contractor personnel filling the role of Privacy Analysts must possess a Certified Information Privacy Professional (CIPP) credential with a CIPP/US to ensure that Privacy Analysts have the expertise required to implement U.S. government privacy laws, regulations and policies specific to government practice.

C. Regulatory Planning and Review

This proposed rule has been determined to be ''nonsignificant'' under Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, is not subject to review.

This proposed rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

The proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

E. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains an information collection requirement. Accordingly, USAID has submitted a request to the Office of Management and Budget for approval of a new information collection requirement concerning ''Access to USAID Facilities and USAID's Information Systems'' and the

monthly reports of employees requiring access.

Access to USAID Facilities and USAID's Information Systems

Public reporting burden for this collection of information is estimated to average initially eight hours immediately after contract award to develop the list of employee's requiring access, then 2 hours per month to update such a list, including the time for reviewing instructions, gathering/maintaining the employee names, and forwarding the list to the agency for processing. The recordkeeping requirements are minor. While a contractor is required to identify and submit the list of its employees who require access, there is no requirement to collect this information in a particular format for submission to the agency.

The annual reporting burden is estimated as follows:

Total number of respondents and the amount of time estimated for an average respondent to respond: 138 contractors; eight hours for the initial report, 24 hours annually thereafter for submission of the monthly reports.

Total public burden (in hours) associated with the collection: 1,104 hours initially, and 3,312 hours annually thereafter.

Total public burden (in cost) associated with the collection: Initial submission, $54,537, then $163,613 annually thereafter.

When submitting comments on these information collections, your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways which USAID can minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

List of Subjects in 48 CFR parts 739 and 752

Government procurement.

For the reasons discussed in the preamble, USAID proposes to amend 48 CFR Parts 739 and 752 as set forth below:

■ 1. Add part 739 to read as follows:

PART 739—Acquisition of Information Technology

Sec.
739.002 Definitions
739.003 [Reserved]

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

739.002 Definitions.

As used in this part—

Information Technology means

(1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where

(2) Such services or equipment are ''used by an agency'' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.

(3) The term ''information technology'' includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

(4) The term ''information technology'' does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment.

739.003 [Reserved]

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. The authority for part 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

■ 3. Amend section 752.204–72 by revising the section heading and the clause to read as follows:

752.204–72 Homeland Security Presidential Directive-12 (HSPD–12) and Personal Identity Verification (PIV).

* * * * *

Homeland Security Presidential Directive-12 (HSPD–12) and Personal Identity Verification (PIV) (Date)

(a) Individuals engaged in the performance of this award as employees, consultants, or volunteers of the contractor must comply with all applicable HSPD–12 and PIV procedures, as described below, and any subsequent USAID or Government-wide HSPD–12 and PIV procedures/policies.

(b) A U.S. citizen or resident alien engaged in the performance of this award as an employee, consultant, or volunteer of a U.S firm may obtain access to USAID facilities or logical access to USAID's information systems only when and to the extent necessary to carry out this award and in accordance with this clause. The contractor's employees, consultants, or volunteers who are not U.S. citizens or resident aliens as well as employees, consultants, or volunteers of non-U.S. firms, irrespective of their citizenship, will not be granted logical access to U.S. Government information technology systems (such as Phoenix, GLAAS, etc.) and must be escorted to use U.S. Government facilities (such as office space).

(c) (1) No later than five business days after award, the Contractor must provide to the Contracting Officer's Representative (COR) a complete list of employees that require access to USAID facilities or information systems.

(2) Before a contractor (or a contractor employee, consultant, or volunteer) or subcontractor at any tier may obtain a USAID ID (new or replacement) authorizing the individual routine access to USAID facilities in the United States, or logical access to USAID's information systems, the individual must provide two forms of identity source documents in original form to the Enrollment Office personnel when undergoing processing. One identity source document must be a valid Federal or State Government-issued picture ID. Contractors may contact the USAID Security Office to obtain the list of acceptable forms of documentation. Submission of these documents, to include documentation of security background investigations, is mandatory in order for the contractor to receive a PIV or PIV-Alternative (PIV–A)/Facilities Access Card (FAC) card and be granted access to any of USAID's information systems. All such individuals must physically present these two source documents for identity proofing at their enrollment.

(d) The Contractor must send a staffing report to the COR by the fifth day of each month. The report must contain the listing of

all staff members with access who were separated or hired under this contract in the past sixty (60) calendar days. This report must be submitted even if no separations or hiring occurred during the reporting period. Failure to submit the 'Contractor Staffing Change Report' each month may, at USAID's discretion, result in the suspension of all logical access to USAID information systems and/or facilities access associated with this contract. USAID will provide the contractor the format for this report.

(e) Contractor employees are strictly prohibited from sharing logical access to USAID information systems and Sensitive Information. USAID will disable accounts and revoke logical access to USAID IT systems if Contractor employees share accounts.

(f) USAID, at its discretion, may suspend or terminate the access to any systems and/or facilities when an Information Security Incident or electronic access violation, use, or misuse incident gives cause for such action. The suspension or termination may last until such time as USAID determines that the situation has been corrected or no longer exists.

(g) The Contractor must notify the COR and the USAID Service Desk at least five business days prior to the Contractor employee's removal from the contract. For unplanned terminations of Contractor employees, the Contractor must immediately notify the COR and the USAID Service Desk (*CIO-HELPDESK@usaid.gov* or (202) 712–1234). The Contractor or its Facilities Security Officer must return USAID PIV/FAC cards and remote authentication tokens issued to Contractor employees to the COR prior to departure of the employee or upon completion or termination of the contract, whichever occurs first.

(h) The contractor is required to insert this clause (including this paragraph (h) in any subcontracts that require the subcontractor, subcontractor employee, or consultant to have routine physical access to USAID space or logical access to USAID's information systems.

(End of Clause)

■ 4. Add section 752.204–XX to read as follows:

752.204–XX USAID-Financed Third-Party Websites.

Insert the following clause in USAID-funded solicitations and contracts that require development and/or maintenance of a third-party website to achieve project implementation goals.

USAID-Financed Third-Party Websites (Date)

(a) Definitions: ''Third-party websites''

Websites hosted on environments external to USAID boundaries and not directly controlled by USAID policies and staff, except through the terms and conditions of a contract. Third-party websites include project websites.

(b) The contractor must adhere to the following requirements when developing, launching, and maintaining a third-party website funded by USAID for the purpose of meeting the project implementation goals:

(1) Prior to website development, the Contractor must provide information as required in Section C-Statement of Work of the contract (including a copy of their Contractor's privacy policy) to the Contracting Officer's Representative (COR), for USAID's Bureau for Legislative and Public Affairs (LPA) evaluation and approval. The Contractor must notify the COR of the website URL as far in advance of the site's launch as possible and must not launch the website until USAID's approval has been provided through the COR. The Contractor must provide the COR any changes to the Contractor's privacy policy for the duration of the contract.

(2) The Contractor must collect only the amount of information necessary to complete the specific business need as required by statute, regulation, or Executive Order.

(3) The Contractor must comply with Agency branding and marking requirements comprised of the USAID logo and brandmark with the tagline ''from the American people,'' located on the USAID website at *www.usaid.gov/branding,* and USAID Graphics Standards manual at *http://www.usaid.gov.*

(4) The website must be marked on the index page of the site and every major entry point to the website with a disclaimer that states:

''The information provided on this website is not official U.S. Government information and does not represent the views or positions of the U.S. Agency for International Development or the U.S. Government.''

(5) The website must provide persons with disabilities access to information that is comparable to the access available to others. As such, all site content must be compliant with the requirements of the Section 508 of the Rehabilitation Act, as amended (29 U.S.C. 794d) (''Section 508'') and other terms and conditions of the contract.

(6) The Contractor must identify and provide to the COR, in writing, the contact information for the Contractor's information security point of contact. The contractor is responsible for updating the contact information whenever there is a change in personnel assigned to this role.

(7) The Contractor must provide adequate protection from unauthorized access, alteration, disclosure, or misuse of information processed, stored, or transmitted on the websites. To minimize security risks and ensure the integrity and availability of information, the Contractor must use sound: System/software management; engineering and development; and secure-coding practices consistent with USAID standards and information security best practices. Rigorous security safeguards, including but not limited to, virus protection; network intrusion detection and prevention programs; and vulnerability management systems must be implemented and critical security issues must be resolved as quickly as possible or within 30 calendar days. Contact the USAID Chief Information Security Officer (CISO) at *ISSO@usaid.gov* for specific standards and guidance.

(8) The Contractor must conduct periodic vulnerability scans, mitigate all security risks identified during such scans, and report subsequent remediation actions to CISO at *ISSO@usaid.gov* and COR within 30 calendar days from the date vulnerabilities are identified. The report must include disclosure of the tools used to conduct the scans. Alternatively, the contractor may authorize USAID CISO at *ISSO@usaid.gov* to conduct periodic vulnerability scans via its Web-scanning program. The sole purpose of USAID scanning will be to minimize security risks. The Contractor will be responsible for taking the necessary remediation action and reporting to USAID as specified above.

(c) For general information, agency graphics, metadata, privacy policy, and Section 508 compliance requirements, refer to *http://www.usaid.gov.*

(End of Clause)

■ 5. Add section 752.239–XX to read as follows:

752.239–XX Limitation on Acquisition of Information Technology.

Insert the following clause in all solicitations and contracts unless the special contract requirement Information Technology Approval is included.

Limitation on Acquisition of Information Technology (Date)

(a) Definitions. As used in this contract:

Information Technology means

(1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where

(2) such services or equipment are ''used by an agency'' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.

(3) The term ''information technology'' includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

(4) The term ''information technology'' does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment.

(b) The Federal Information Technology Acquisition Reform Act (FITARA) requires Agency Chief Information Officer (CIO) review and approval of contracts that include information technology or information technology services.

(c) The Contractor must not acquire information technology as defined in this clause without the prior written approval by the contracting officer as specified in this clause.

(d) Request for Approval Requirements:

(1) If the Contractor determines that any information technology will be necessary to meet the Government's requirements or to facilitate activities in the Government's statement of work, the Contractor must request prior written approval from the Contracting Officer.

(2) As part of the request, the Contractor must provide the Contracting Officer a description and an estimate of the total cost of the information technology equipment, software, or services to be procured under this contract. The Contractor must simultaneously notify the Contracting Officer's Representative (COR) and the Office of the Chief Information Office at *ITAuthorization@usaid.gov.*

(e) The Contracting Officer will provide written approval to the Contractor through modification to the contract expressly specifying the information technology equipment, software, or services approved for purchase by the COR and the Agency CIO. The Contracting Officer will include the applicable clauses and any special contract requirements in the modification.

(f) Except as specified in the contracting officer's written approval, the Government is not obligated to reimburse the Contractor for any costs incurred for information technology as defined in this clause. Such approval does not relieve the Contractor from the responsibility to maintain current compliance at all times—including through any updates or modifications to the information technology—with all terms and conditions of the contract, as well as relevant statutes and regulations.

(g) The Contractor must insert the substance of this clause, including this paragraph (g), in all subcontracts.

(End of Clause)

■ 6. Add section 752.239–XX to read as follows:

752.239–XX Software License.

Insert the following clause in solicitations and contracts for new software licenses or to renew existing licenses, and in solicitations and contracts which may include a requirement for new software licenses or renewal of existing licenses.

Software License Addendum (Date)

(a) This clause incorporates certain terms and conditions relating to Federal procurement actions. The terms and conditions of this Addendum take precedence over the terms and conditions contained in any license agreement or other contract documents entered into between the parties.

(b) Governing Law: Federal procurement law and regulations, including the Contract Disputes Act, 41 U.S.C. 601 et seq., and the Federal Acquisition Regulation (FAR), govern the agreement between the parties. Litigation arising out of this contract may be filed only in those fora that have jurisdiction over Federal procurement matters.

(c) Attorney's Fees: Attorney's fees are payable by the Federal government in any action arising under this contract only pursuant to the Equal Access in Justice Act, 5 U.S.C. 504.

(d) No Indemnification: The Federal government will not be liable for any claim for indemnification; such payments may violate the Anti-Deficiency Act, 31 U.S.C. 1341(a).

(e) Assignment: Payments may only be assigned in accordance with the Assignment of Claims Act, 31 U.S.C. 3727, and FAR Subpart 32.8, ''Assignment of Claims.''

(f) Patent and Copyright Infringement: Patent or copyright infringement suits brought against the United States as a party may only be defended by the U.S. Department of Justice (28 U.S.C. 516).

(g) Renewal of Support after Expiration of this Award: Service will not automatically renew after expiration of the initial term of award.

(h) Renewal may only occur in accord with (1) the mutual agreement of the parties; or (2) an option renewal clause allowing the Government to unilaterally exercise one or more options to extend the term of the award.

(End of Clause)

■ 7. Add section 752.239–72 to read as follows:

752.239–72 Information and Communication Technology Accessibility.

Insert the following clause in solicitations and contracts that include acquisition of Information and Communication Technology (ICT) supplies and/or services for use by Federal employees or U.S. members of the public.

Information and Communication Technology Accessibility

(Date)

(a) Federal agencies are required by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), to offer access to information and communication technology for disabled individuals within its employment, and for disabled members of the public seeking information and services. This access must be comparable to that which is offered to similar individuals who do not have disabilities. Standards for complying with this law are prescribed by the Architectural and Transportation Barriers Compliance Board (''The Access Board'') in 36 CFR part 1194, which implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at *http://www.access-board.gov/sec508/508standards.htm.* The contractor must comply with any future updates of standards by the Access Board.

(b) Except as indicated elsewhere in the contract, all ICT procured through this contract must meet the applicable accessibility standards at 36 CFR part 1194 as follows:

(1) Section 1194.21 Software applications and operating systems

(2) 1194.22 Web-based intranet and internet information and applications;

(3) Section 1194.23 Telecommunications products;

(4) Section 1194.24 Video and multimedia products;

(5) Section 1194.25 Self-contained, closed products;

(6) Section 1194.26 Desktop and portable computers;

(7) Section 1194.31 Functional performance criteria; and

(8) Section 1194.41 Information, documentation, and support.

(c) Deliverable(s) must incorporate these standards as well.

(d) The final work product must include documentation that the deliverable conforms with the Section 508 Standards promulgated by the US Access Board.

(End of Clause)

■ 8. Add section 752.239–XX to read as follows:

752.239–XX Use of Information Technology Approval.

Insert the following clause in all USAID solicitations and contracts for Information Technology (IT) services or supplies or include a requirement for the contractor to provide IT services or supplies.

Use of Information Technology Notification (Date)

(a) Definitions. As used in this contract:

Information Technology means

(1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where

(2) Such services or equipment are ''used by an agency'' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.

(3) The term ''information technology'' includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

(4) The term ''information technology'' does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment. (OMB M–15–14)

(b) The Federal Information Technology Acquisition Reform Act (FITARA) requires

Agency Chief Information Officer (CIO) review and approval of contracts or interagency agreements for information technology or information technology services.

(c) The approved information technology and/or information technology services are specified in the Schedule of this contract. The Contractor must not acquire additional information technology without the prior written approval of the Contracting Officer as specified in this clause.

(d) Request for Approval Requirements:

(1) If the Contractor determines that any information technology in addition to that information technology specified in the Schedule will be necessary to meet the Government's requirements or to facilitate activities in the Government's statement of work, the Contractor must request prior written approval from the Contracting Officer.

(2) As part of the request, the Contractor must provide the Contracting Officer a description and an estimate of the total cost of the information technology equipment, software, or services to be procured under this contract. The Contractor must simultaneously notify the Contracting Officer's Representative (COR) and the Office of the Chief Information Officer at *ITAuthorization@usaid.gov.*

(e) The Contracting Officer will provide written approval to the Contractor expressly specifying the information technology equipment, software, or services approved for purchase by the COR and the Agency CIO. Additional clauses or special contract requirements may be applicable and will be incorporated by the Contracting Officer through a modification to the contract.

(f) Except as specified in the Contracting Officer's written approval, the Government is not obligated to reimburse the Contractor for costs incurred in excess of the information technology equipment, software or services specified in the Schedule. Such approval does not relieve the Contractor from the responsibility to maintain current compliance at all times—including through any updates or modifications to the information technology—with meeting all terms and conditions of the contract, as well as relevant statutes and regulations.

(d) The Contractor must insert the substance of this clause, including this paragraph (g), in all subcontracts.

(End of Clause)

■ 9. Add section 752.239–XX to read as follows:

752.239–XX Skills and Certification Requirements for Privacy and Security Staff.

Insert the following clause in solicitations and contracts for Information Technology (IT) services and in solicitations and contracts that include a component for IT services.

Skills and Certification Requirements for Privacy and Security Staff (Date)

(a) Applicability: This clause applies to the Contractor, its subcontractors and personnel providing support under this contract and addresses the Privacy Act of 1974 (5 U.S.C. 552a—the Act) and Federal Information Security Management Act (FISMA) of 2002 (FISMA, Pub. L. 107–347. 44 U.S.C. 3531–3536).

(b) Contractor personnel filling the role of Information System Security Officer and Information Security Specialists must possess a Certified Information Systems Security Professional (CISSP) certification at time of contract award and maintain their certification throughout the period of performance. This will fulfill the requirements for specialized training due to the continuing education requirements for the certification. Contractor personnel must provide proof of their certification status upon request.

(c) Contractor personnel filling the role of Privacy Analysts must possess a Certified Information Privacy Professional (CIPP) credential with a CIPP/USat the time of the contract award and must maintain the credential throughout the period of performance. This will fulfill the requirements for specialized training due to the continuing education requirements for the certification. Contractor personnel must provide proof of their certification status upon request.

(End of Clause)

Mark Walther,

Chief Acquisition Officer, Acting.

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Notices

Federal Register
Vol. 84, No. 55
Thursday, March 21, 2019

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the public meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 2:30 p.m. to 5:00 p.m. EDT on Tuesday, April 9, 2019 via livestream online at *http://www.aplu.org/projects-and-initiatives/international-programs/bifad/bifad-meetings.html.*

The Board for International Food and Agricultural Development (BIFAD), an advisory committee to the U.S. Agency for International Development (USAID), will convene a virtual public meeting on April 9 2019 to solicit feedback from the U.S. university community on their experiences implementing the regulations that govern USAID funded Exchange Visitors (EVs) and Participant Training (PT), as per the Automated Directives System (ADS) 252 and ADS 253. The ADS contains the organization and functions of USAID, along with the policies and procedures that guide the Agency's programs and operations.

For questions about registration, please contact Devin Furguson at *dferguson@aplu.org* or (202) 478–6030. For questions about BIFAD, please contact Clara Cohen, Designated Federal Officer for BIFAD in the Bureau for Food Security at USAID. Interested persons may write to her in care of the U.S. Agency for International Development, Ronald Reagan Building, Bureau for Food Security, 1300 Pennsylvania Avenue NW, Washington, DC 20523–2110 or telephone her at (202) 712–0119.

Clara Cohen,

Supervisory Agricultural Development Specialist, Bureau for Food Security, U.S. Agency for International Development.

[FR Doc. 2019–05345 Filed 3–20–19; 8:45 am]

BILLING CODE 6116–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

DATE: March 18, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 22, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: 7 CFR 1778, Emergency and Imminent Community Water Assistance Grants.

OMB Control Number: 0572–0110.

Summary of Collection: The Rural Utilities Service (RUS) is authorized under Section 306A of the Consolidated Farm and rural Development Act, 7 U.S.C. 1926(a) to provide grants to rural areas and small communities to secure adequate quantities of safe water. There are two levels of grant limits—$500,000 and $150,000. Grants made under this program shall be made for 100 percent of the project's cost, can serve rural areas with population not in excess of 5,000, and household income should not exceed 100 percent of a State's non-metropolitan median household income. Grants under this program may be made to public bodies and private nonprofit corporations serving rural areas.

Need and Use of the Information: RUS will collect the information from applicants applying for grants under 7 CFR 1778. The information is unique to each borrower and emergency situation. Applicants must demonstrate that there is an imminent emergency or that a decline occurred within 2 years of the date the application was filed with Rural Development.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 52.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,273.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–05410 Filed 3–20–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Watkins Branch Watershed, Buchanan County, Virginia

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of intent to deauthorize Federal Funding and request for comments.

SUMMARY: NRCS gives notice of the intent to deauthorize Federal funding for the Watkins Branch Watershed project, Buchanan County, Virginia.

DATES: Interested persons are invited to submit comments by May 20, 2019.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the volume, date, and page number of this issue of the **Federal Register**. You may submit your comments by the following method:

• *Federal eRulemaking Portal Website:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2019–0002. Follow the online instruction for submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: John Bricker, VA State Conservationist, 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229. Telephone: (804) 287–1691 or email: *Jack.Bricker@va.usda.gov.* Also, for specific questions regarding this notice, contact Wade Biddix, (804) 287–1675 or *Wade.Biddix@va.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83–566) and NRCS Guidelines (7 CFR part 622), a determination has been made by John Bricker, NRCS State Conservationist in Virginia, that the proposed works of improvement for the Watkins Branch Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from John Bricker, NRCS State Conservationist at the above contact information.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register**.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this NOFA applies is: 10.904 Watershed Protection and Flood.

John A. Bricker,

VA State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2019–05309 Filed 3–20–19; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2019–0001]

Notice of Intent To Prepare an Environmental Impact Statement for the Willow Creek Watershed, Glacier County, Montana, on the Blackfeet Indian Reservation

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The NRCS Montana State Office gives notice that an EIS is being prepared for the Willow Creek Watershed Project in the proximity of Browning, Montana on the Blackfeet Indian Reservation. This notice announces our intent to prepare an EIS, provide information on the nature of the proposed action and possible alternatives, invite public participation in the EIS process, and identify cooperating agency contacts. The EIS process will evaluate alternatives recommended for detailed study because of previous planning-level studies completed by NRCS and additional (new) alternatives identified during scoping.

DATES: We will consider comments that we receive by April 22, 2019. Comments received after this date will be considered to the extent possible.

ADDRESSES: We invite you to submit comments on this NOI. In your comments, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2019–0001. Follow the online instructions for submitting comments.

• *Mail, Hand Delivery, Fax, or Courier:* Amy Darlinton P.E., Northern Engineering & Consulting, Inc., 200 N 34th Street, Billings, MT 59101, email: *amy.darlinton@neciusa.com,* fax: (406) 206–5248 or telephone: (406) 206–5248.

All written comments will be publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Watson, State Conservationist, NRCS, 10 E Babcock, Suite 443, Bozeman, MT 59715, telephone (406) 587–6811 or email *tom.watson@mt.usda.gov.*

SUPPLEMENTARY INFORMATION: The NRCS Montana State Office gives notice that an EIS is being prepared for the Willow Creek Watershed Project in the proximity of Browning, Montana on the Blackfeet Indian Reservation. The EIS process will evaluate alternatives recommended for detailed study because of previous planning-level studies completed by NRCS and additional (new) alternatives identified during scoping. Preparing an EIS, providing information on the nature of the proposed action and possible alternatives, inviting public participation in the EIS process, and identifying cooperating agency contacts is being done as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service (NRCS) regulations that implement NEPA in 7 CFR part 650. The initial agency scoping of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. Tom Watson, State Conservationist, has determined that the preparation and review of an EIS is needed for this project.

The objective of the EIS is to formulate and evaluate alternatives to prevent or reduce Willow Creek floodwater damage through Browning, Montana. A draft EIS will be prepared and circulated for review by agencies and the public. NRCS invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement.

Written comments on the scope of the draft EIS, including the project's need and purpose, the alternatives to be considered, types of issues that should be addressed, associated research that should be considered, and the methodologies to be used in impact evaluations should be sent to Northern Engineering & Consulting, Inc. (NECI), (see **ADDRESSES** section above for contact information).

Two scoping meetings were held to present the project and develop the scope of the draft EIS on Wednesday, January 24, 2019, at 629 All Chiefs Road, Browning Montana Blackfeet Tribal Council Chambers, Browning, Montana 59417. Comments received, including the names and addresses of

those who comment, are part of the public record.

Scoping meeting presentation materials are available on the Northern Engineering & Consulting, Inc., website at *http://www.neciusa.com/.*

Representatives of Blackfeet Tribal governments and Federal, State, regional and local agencies that may have an interest in any aspect of the project were invited to be cooperating agencies.

Background

Historically, when a Willow Creek Flood Control Project Plan-EIS was completed for Browning in 1975, it was signed by NRCS and the following project sponsors: City of Browning, Blackfeet Tribal Council, and Glacier County Conservation District.

Over the last 43 years, residential and municipal developments have encroached on Flat Iron Creek and the planned footprint of the upper floodwater diversion. As a result, the Plan-EIS (1975) is no longer feasible. The following documents are available for review from Amy Darlinton (see **ADDRESSES** section above for contact information):

- Original analyses of engineering alternatives,
- 80% design of selected alternative,
- Preliminary and final watershed project plans, and
- EIS.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this NOFA applies is:

10.904 Watershed Protection and Flood.

Tom Watson,

Montana State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2019–05322 Filed 3–20–19; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Ohio Advisory Committee (Committee) will hold a meeting via teleconference on Friday April 5, 2019, from 3–4 p.m. EDT for the purpose of reviewing received testimony and planning for future testimony on education funding in the state.

DATES: The meeting will be held on Friday April 5, 2019, at 3:00 p.m. EDT.

Public Call Information: Dial: 1–855–719–5012, Conference ID: 7027912.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Ohio Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Education Funding in Ohio
Community Forum Preparations: Columbus OH, April 16, 2019
Public Comment
Adjournment

Dated: March 18, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05408 Filed 3–20–19; 8:45 am]

BILLING CODE 6335–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0026]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements Pertaining to Third Party Conformity Assessment Bodies

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC) requests comments on a proposed extension of approval of a collection of information under the requirements pertaining to third party conformity assessment bodies, approved previously under OMB Control No. 3041–0156. The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget (OMB).

DATES: Submit written or electronic comments on the collection of information by May 20, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0026, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2012–0026, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Bretford J. Griffin, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7037, or by email to: *bgriffin@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Requirements Pertaining to Third Party Conformity Assessment Bodies.

OMB Number: 3041–0156.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Third party conformity assessment bodies seeking acceptance of accreditation or continuing accreditation.

Estimated Burden

• *New Applications From Third Party Conformity Assessment Bodies*

○ We estimate approximately 40 new applications from independent third party conformity assessment bodies will be submitted per year, taking an estimated 75 minutes to complete the initial application materials, with an estimated burden of 50 hours per year.

○ We estimate approximately 3 firewalled third party conformity assessment bodies will apply per year, taking an estimated 8.4 hours to complete the initial application materials, with an estimated burden of 25.2 hours per year.

○ We estimate approximately 4 governmental third party conformity assessment bodies will apply per year, taking an estimated 3 hours to complete the initial application materials, with an estimated burden of 12 hours per year.

• *Third Party Conformity Assessment Bodies Updating Information*

○ We estimate that approximately 5 third party conformity assessment bodies will take 15 minutes to update information for only those elements of information that need updating, with an estimated burden of 1.35 hours per year.

• *Third Party Conformity Assessment Bodies That Subcontracts Out Tests*

○ We estimate that approximately 27 third party conformity assessment bodies will take 7 minutes to comply with the subcontracting recordkeeping requirement for an estimated 68,769 subcontract test, with an estimated of approximately 8,023 hours per year.

• *Third Party Conformity Assessment Bodies That Voluntarily Withdraw*

○ We estimate approximately 8 third party conformity assessment bodies will withdraw yearly, taking an estimated 30 minutes to create and submit the required documentation, with an estimated burden of 4 hours per year.

• *Third Party Conformity Assessment Bodies That Are Audited*

○ We estimate that approximately 228 independent third party conformity assessment bodies each year will be audited, taking approximately 4 minutes to resubmit their Form 223 and accreditation certificate, with an estimated burden of 15.2 hours per year.

○ We estimate that approximately 18 firewalled third party conformity assessment bodies will spend 226 minutes collecting and preparing the documentation to submit for an audit, with estimated burden of about 68 hours per year.

○ We estimate approximately 25 governmental third party conformity assessment bodies will spend 1 hour collecting and preparing the documentation to submit for an audit, with estimated burden of 25 hours per year.

• *Total Annual Burden*

Adding all of the annual estimated burden hours results in a total of 8,224 hours for third party conformity assessment bodies per year. At $38.78 per hour, the total cost of the recordkeeping associated with the Requirements Pertaining to Third Party Conformity Assessment Bodies is approximately $318,927 (8,224 hours × $38.78 = $318,927).

General Description of Collection: On March 12, 2013, the Commission issued a rule Pertaining to Third Party Conformity Assessment Bodies (78 FR 15836). The rule established the general requirements concerning third party conformity assessment bodies, such as the requirements and procedures for CPSC acceptance of the accreditation of a third party conformity assessment body, and prescribed adverse actions that may be imposed against CPSC-accepted third party conformity assessment bodies. The rule also amended the audit requirements for third party conformity assessment bodies and amended the CPSC's regulation on inspections.

Request for Comments

The CPSC solicits written comments from all interested persons about the proposed collection of information. The CPSC specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the CPSC's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2019–05368 Filed 3–20–19; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2019–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the

agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the CIO, Headquarters Air Force Safety Center, ATTN: Mr. Douglas MacCurdy, 9700 G. Ave., Kirtland AFB, NM 87117, at 505–846–0675.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Air Force Safety Automated System; AF978; OMB Control Number 0701–XXXX.

Needs and Uses: The Air Force Safety Automated System (AFSAS) and the AF978 are used to collect incident and witness information with regard to accidents involving Air Force personnel or property. The Air Force will use the collected information to conduct investigations and evaluate mishap events to prevent such incidents from recurring. The information collection is necessary to obtain and record name, email, and phone number of individuals who witness a mishap related to Air Force personnel or property and who volunteer to provide information about the incident. Respondents will include both DoD contractors and any non-government civilians who may witness an incident on an Air Force installation.

Affected Public: Individuals and households.

Annual Burden Hours: 1,202.

Number of Respondents: 2,403.

Responses per Respondent: 1.

Annual Responses: 2,403.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Dated: March 15, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05310 Filed 3–20–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2019–HQ–0007]

Proposed Collection; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army, Army & Air Force Exchange Service (Exchange), announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army & Air Force Exchange Service, Office of the General Counsel, Compliance Division, ATTN: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 or call the Exchange Compliance Division at 800–967–6067.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Security Clearance Process for Contractors/Vendor Personnel; Exchange Form 3900–013 ''Electronic Questionnaires for Investigations Processing (e-QIP) request'', Exchange Form 3900–002 ''Trusted Associate Sponsorship System (TASS Request Form)'', Exchange Form 3900–006 ''Background Check for Vendors/Contractors''; OMB Control Number 0702–0135.

Needs and Uses: The information collection requirement is necessary for the processing of all Army and Air Force Exchange Service security clearance actions, to record security clearances issued or denied, and to verify eligibility for access to classified information or assignments to sensitive positions.

Affected Public: Individuals and/or Households; Business or other for-profit.

Annual Burden Hours: 1,450.

Number of Respondents: 2,900.

Responses per Respondent: 1.

Annual Responses: 2,900.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Respondents are individuals and/or households affiliated with Army and Air Force Exchange Service (Exchange) by assignment, employment contractual relationship, or as a result of an inter-service support agreement on which personnel security clearance determination has been completed or is pending. Information collected is utilized to process the personnel security clearance of contractors and/or vendors to work at an Exchange facility, record the security clearances issued or denied, and to verify the eligibility for access to classified information or

assignment to a sensitive position. In addition to utilizing the information for processing security clearances, the information may be used by Exchange executives for adverse personnel actions such as removal from sensitive duties, removal from contract agreement, denial to a restricted or sensitive area, and revocation of security clearance.

Dated: March 15, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05341 Filed 3–20–19; 8:45 am]

BILLING CODE 35001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–HA–0029]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, TRICARE Health Plan Office, 8111 Gatehouse Road, Falls Church, VA 22042, ATTN: Ms. Shane Pham, or call 703–275–6249.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: TRICARE Prime Enrollment, Disenrollment, and Primary Care Manager (PCM) Change Form; DD Form 2876; OMB Control Number 0720–0008.

Needs and Uses: The information collection requirement is necessary to obtain the TRICARE beneficiary's personal information needed to: (1) Complete his/her enrollment into TRICARE Prime health plan, (2) change the beneficiary's enrollment (new Primary Care Manager, enrolled region, add/drop a dependent, etc.), or (3) disenroll the beneficiary. All TRICARE beneficiaries have the option of enrolling, changing their enrollment or dis-enrolling using the DD Form 2876, the Beneficiary Web Enrollment (BWE) portal, or by calling their regional Managed Care Support Contractor (MCSC). Although the telephonic enrollment/change is the preferred method by the large majority of beneficiaries, many beneficiaries prefer using the form to document their enrollment date and preferences.

Affected Public: Individuals and households.

Annual Burden Hours: 74,017.

Number of Respondents: 148,033.

Responses per Respondent: 1.

Annual Responses: 148,033.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Respondents are TRICARE beneficiaries choosing to enroll in TRICARE Prime for the first time, change their current enrollment, or disenroll using the DD Form 2876, instead of using the BWE web portal or calling their Managed Care Support Contractor. The completed form is used by the TRICARE Managed Care Support Contractors to formally update the enrollment, enrollment change or disenrollment. The beneficiary is notified via email or postcard, which refers them to the MilConnect website to confirm the enrollment/change. A beneficiary can also call their Managed Care Support Contractor to confirm the change.

Dated: March 15, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05350 Filed 3–20–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0031]

Proposed Collection; Comment Request

AGENCY: National Guard Bureau, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the National Guard Bureau, announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive,

Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write National Guard Bureau, ARNG–HRR–O, ATTN: SFC Smiley, Javoris, 111 South George Mason Dr., Arlington, VA 22204; (501) 212–4954.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Education Verification for National Guard Enlistees; High School Verification, NGB Form 900; College Enrollment Verification NGB Form 901; OMB Control Number 0704–XXXX.

Needs and Uses: The information collection is necessary to verify education status and projected graduation dates for students who agree to enlist in the Army National Guard. Information gathered by the NGB Form 900 is required to verify and determine the graduation dates for high school juniors who enlist in the National Guard. Information gathered by the NGB Form 901 is required to verify the enrollment and graduation dates for college students who enlist in the National Guard. The National Guard will use this information to schedule basic training dates to accommodate a student's educational obligations, thereby ensuring that the enlistee will complete his or her education in a timely manner.

Affected Public: Individuals or Households.

Annual Burden Hours: 833.33.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Respondents are high school juniors and college students who have agreed to enlist in the Army National Guard. NGB Form 900 and NGB Form 901 each record an enlistee's last day of school, first day of school for the next school year, and/or graduation date, as applicable. The completed forms are used to properly process applicants into the Army National Guard. If the form is not completed, applicants cannot be properly processed for enlistment in a way that is compatible with their education dates, and this error could result in wasted funds for scheduled incomplete Basic Combat Training.

Dated: March 18, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2019–05409 Filed 3–20–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0030]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Policy, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Security Cooperation Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Security Cooperation Agency, 2800 Defense Pentagon, Washington, DC 20301; ATTN: Ms. Robyn Walker or call 703–697–9709.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Security Assistance Network (SAN); OMB Control Number 0704–0555.

Needs and Uses: The Security Assistance Network (SAN) is a web based database used to exchange Security Cooperation training information between overseas Security Cooperation Offices, Geographical Combatant Commands, Military Departments, Defense Security Cooperation Agency, DoD Schoolhouses, Regional Centers, and International Host Nation Organizations. The Security Cooperation Training Management System (SC–TMS) is a tool used by the Security Cooperation community to manage International Military Student training data.

Affected Public: Individuals or households.

Annual Burden Hours: 10,995.

Number of Respondents: 43,980.

Responses per Respondent: 1.

Annual Responses: 43,980.

Average Burden per Response: 15 minutes.

Frequency: As required.

Dated: March 18, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2019–05398 Filed 3–20–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0093]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 22, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DLA Police Center Records; DLA Form 635; OMB Control Number 0704–0514.

Type of Request: Reinstatement with Change.

Number of Respondents: 2,000.

Responses per Respondent: 1.

Annual Responses: 2,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 1,000.

Needs and Uses: The DLA Police Center (POLC) system houses data of civilian and military personnel of DLA, contractor employees, and other persons who have committed or are suspected of having committed any criminal act (felony or misdemeanor), as well as any violations of laws, regulations, or ethical standards on DLA-controlled activities or facilities. The information is used by DLA police officers, DLA installation support offices, and the DLA Office of General Counsel (OGC) to monitor progress of cases and to develop non-personal statistic data on crime and criminal investigative support for the future. DLA OGC also uses data to review cases, determine appropriate legal action, and coordinate on all available remedies. Information is released to DLA managers who use the information to determine actions required to correct the causes of loss and to take appropriate action against DLA employees or contractors in cases of their involvement. Records are also used by DLA police to monitor the progress of incidents, identify crime-conducive conditions, and prepare crime vulnerability assessments.

Affected Public: Individuals or Households, Federal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 18, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2019–05412 Filed 3–20–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0032]

Agency Information Collection Activities; Comment Request; National Assessment of Educational Progress (NAEP) 2019 and 2020 Long-Term Trend (LTT) Update Emergency Clearance

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a revised information collection.

DATES: NCES requests comments to be submitted by April 16, 2019 for this emergency information collection. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before May 20, 2019.

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–2019–ICCD–0032. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

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: National Assessment of Educational Progress (NAEP) 2019 and 2020 Long-Term

Trend (LTT) Update Emergency Clearance.

OMB Control Number: 1850–0928.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 642,087.

Total Estimated Number of Annual Burden Hours: 322,765.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts. The request to conduct NAEP 2019 and 2020 was approved in September 2018 with the latest change request approved in February 2019 (OMB# 1850–0928 v.10–13). NAEP 2019 is currently underway. This request is to update the approved NAEP 2020 plan with: (1) The cancellation of all of the NAEP pilot and special studies originally planned for the 2019–20 school year (NAEP 2020), and (2) based on a Congressional request, the administration of Long Term Trend (LTT) assessment during the 2019–20 school year. The LTT assessments are based on nationally representative samples of 9-, 13-, and 17-year olds, and have been used by NAEP since the early 1970s to provide measures of students' educational progress over long time periods to allow for analyses of national trends in students' performance in mathematics and reading.

Additional Information: In order to be able to comply with the Congressional request to conduct LTT during the 2019–20 school year and to meet the study's timeline while maintaining compliance with the Paperwork Reduction Act (PRA), due to this unanticipated event, the U.S. Department of Education (ED) and NCES are requesting under 44 U.S.C. 3507(j)(1) (''emergency clearance'') to begin participant recruitment and study materials printing for LTT 2020 by May 2019. Therefore, NCES is submitting this Information Collection Request (ICR) to OMB utilizing emergency review procedures in accordance with the PRA (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13 to announce revisions to the NAEP 2020 study plans and to provide for review the LTT 2020 plans, procedures, and materials. NCES is simultaneously initiating a regular clearance process for this request, including a 60-day followed by a 30-day public comment periods.

NCES requests that any comments on the plans, procedures, and materials proposed in this ICR will be submitted via *Regulations.gov* by April 16, 2019, as part of the public comment period affiliated with this emergency clearance. This will allow NCES to timely consider and address all comments related to this submission, so that upon approval of the ICR by OMB in April 2019, NCES can begin all participant recruitment activities and printing of study materials necessary to conduct LTT 2020.

Dated: March 18, 2019.

Stephanie Valentine,

PRA Clearance Coordinator,Information Collection Clearance Program,Information Management Branch,Office of the Chief Information Officer.

[FR Doc. 2019–05403 Filed 3–20–19; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Meeting Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of Conference Call Meeting for EAC Technical Guidelines Development Committee.

DATES: Tuesday, April 2, 2019, 3:00–5:00 p.m. (EDT).

ADDRESSES: EAC Technical Guidelines Development Committee Conference Call.

To listen and monitor the event as an attendee:

1. Go to: *https://eac-meetings.webex.com/eac-meetings.*

2. Click ''Join Now''.

To join the audio conference only:

1. To receive a call back, provide your phone number when you join the event, or

2. call the number below and enter the access code. US TOLL FREE: +1–855–892–3345, US TOLL: +1–415–527–5035, Access code: 908 977 287 (See toll-free dialing restrictions at *https://www.webex.com/pdf/tollfree_restrictions.pdf*).

For assistance: Contact the host, Ryan Macias at *rmacias@eac.gov.*

Purpose: In accordance with the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. Appendix 2), the U.S. Election Assistance Commission (EAC) Technical Guidelines Development Committee will conduct a conference call to discuss current EAC activities.

Agenda: The Technical Guidelines Development Committee (TGDC) will receive updates from EAC staff and NIST staff regarding EAC activities related to the Voluntary Voting System Guidelines (VVSG); Technical Requirements development and the EAC's advisory Board Annual Meetings. The TGDC will discuss the next TGDC meetings and steps to develop the Requirements and Test Assertions respectively. There may be votes conducted on this call.

FOR FURTHER INFORMATION CONTACT: Ryan Macias, Telephone: (301) 563–3931.

SUPPLEMENTARY INFORMATION: Members of the public may submit relevant written statements to the TGDC with respect to the meeting no later than 10:00 a.m. EDT on Tuesday, April 2, 2019. Statements may be sent via email to *facaboards@eac.gov,* via standard mail addressed to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, or by fax at 301–734–3108.

This conference call will be open to the public.

Clifford D. Tatum,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2019–05342 Filed 3–20–19; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–467]

Application to Export Electric Energy; Citigroup Commodities Canada ULC

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: Citigroup Commodities Canada ULC (Applicant or CCCU) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before April 22, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On March 4, 2019, DOE received an application from CCCU for authorization to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities.

In its application, the Applicant states that it ''does not own or control electric generation or transmission facilities in the United States'' and that it has no ''obligation to serve native load within a franchised service area.'' The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning CCCU's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–467. An additional copy is to be provided directly to both Jeffrey Gollomp, Citigroup Energy Inc., 2700 Post Oak Blvd., Suite 400, Houston, TX 77056, and Margaret H. Claybour, Van Ness Feldman, LLP, 1050 Thomas Jefferson St. NW, Seventh Floor, Washington, DC 20007.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on March 15, 2019.

Christopher Lawrence,

Management and Program Analyst,Transmission Permitting and Technical Assistance,Office of Electricity.

[FR Doc. 2019–05397 Filed 3–20–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–468]

Application To Export Electric Energy; TransCanada Energy Sales Ltd.

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: TransCanada Energy Sales Ltd. (Applicant or TCES) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before April 22, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On March 6, 2019, DOE received an application from TCES for authorization to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. DOE most recently granted export authorization to TCES on May 6, 2014 for a five-year term, in Order No. EA–98–M. That Order authorized electricity exports by TCES and certain other members of WSPP Inc., which the Order described as ''a non-profit organization with approximately 300 electric utility members.'' In its present application, TCES requests authorization effective by May 6, 2019, to prevent lapse in its current authorization under Order No. EA–98–M, which expires on that date.

In its application, the Applicant states that it ''does not own or control any generation, transmission, or distribution facilities within the United States and does not have a franchised electric power service area.'' The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning TCES's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–468. An additional copy is to be provided directly to both David Farmer, TransCanada, 450–1 Street SW, Calgary, AB T2P 5H1, and Arnold B. Podgorsky, Podgorsky PLLC, 2101 L Street NW, Suite 800, Washington, DC 20037.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on March 15, 2019.

Christopher Lawrence,

Management and Program Analyst,Transmission Permitting and Technical Assistance,Office of Electricity.

[FR Doc. 2019–05399 Filed 3–20–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 21, 2019, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *http://ferc.capitolconnection.org/* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1053RD MEETING—OPEN MEETING

[March 21, 2019, 10:00 a.m.]

Item No.	Docket No.	Company
	Administrative	
A–1	AD19–1–000	Agency Administrative Matters.
A–2	AD19–2–000	Customer Matters, Reliability, Security and Market Operations.
	Electric	
E–1	PL19–3–000	Inquiry Regarding the Commission's Electric Transmission Incentives Policy.
E–2	PL19–4–000	Inquiry Regarding the Commission's Policy for Determining Return on Equity.
E–3	Omitted	
E–4	TX19–1–000	Mountain Breeze Wind, LLC.
E–5	EC19–36–000	NextEra Energy Transmission, LLC and Trans Bay Cable LLC.
E–6	EC98–2–001, ER18–2162–000	Louisville Gas and Electric Company; Kentucky Utilities Company.
E–7	ES19–5–000	Cube Yadkin Transmission LLC.
E–8	ER19–654–000, EL18–79–000	Cheyenne Light, Fuel and Power Company.
E–9	ER16–120–007	New York Independent System Operator, Inc.
E–10	ER18–2397–000, ER18–2397–001	Midcontinent Independent System Operator, Inc.
E–11	ER18–2401–000, ER18–2401–001	PJM Interconnection, L.L.C.
E–12	ER18–2318–000, ER18–2318–001	Southwest Power Pool, Inc.
E–13	ER18–829–001	Wisconsin Electric Power Company.
E–14	ER09–548–000	ITC Great Plains, LLC.
E–15	ER17–1553–002	Duke Energy Progress, LLC.
E–16	ER18–2428–001	Public Service Company of Colorado.
E–17	EL18–104–001	NorthWestern Corporation.
E–18	EL14–9–002	Gregory and Beverly Swecker v. Midland Power Cooperative.
	EL14–18–002	Gregory and Beverly Swecker v. Midland Power Cooperative and Central Iowa Power Cooperative.
	QF11–424–006	Gregory and Beverly Swecker.
E–19	Omitted	
E–20	Omitted	
E–21	EL19–6–000	City of Alexandria, Louisiana v. Cleco Power LLC.
E–22	EL19–17–000	Kansas Electric Power Cooperative, Inc. v. Westar Energy, Inc.

1053RD MEETING—OPEN MEETING—Continued

[March 21, 2019, 10:00 a.m.]

Item No.	Docket No.	Company
	Gas	
G–1	RP19–389–000.	BP Energy Company; Equinor Natural Gas LLC (FKA Statoil Natural Gas LLC); and Shell NA LNG LLC v. Dominion Energy Cove Point LNG, LP.
G–2	RP19–310–000	Arena Energy, LP; Castex Offshore, Inc.; EnVen Energy Ventures, LLC; Fieldwood Energy LLC; Walter Oil & Gas Corporation; and W&T Offshore, Inc. v. High Point Gas Transmission, LLC.
G–3	OR15–25–002	BP Products North America Inc. v. Sunoco Pipeline L.P.
	Hydro	
H–1	Omitted	

Issued: March 14, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

A free webcast of this event is available through *http://ferc.capitolconnection.org/.* Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Shirley Al-Jarani at 703–993–3104.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2019–05508 Filed 3–19–19; 4:15 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Estes to Flatiron Transmission Lines Rebuild Project Environmental Impact Statement (DOE/EIS–0483)

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision; floodplain statement of findings.

SUMMARY: The Western Area Power Administration (WAPA) issued the Final Environmental Impact Statement (EIS) (DOE/EIS–0483) for the Estes to Flatiron Transmission Lines Rebuild Project (Project) on April 13, 2018. The Agency Preferred Alternative developed by WAPA through the National Environmental Policy Act (NEPA) process and described in the Final EIS is summarized in this Record of Decision (ROD). This alternative is also the Environmentally Preferred Alternative for the Project. All practicable means to avoid or minimize environmental harm have been adopted.

WAPA has selected the Agency Preferred Alternative identified in the Final EIS for implementation.

ADDRESSES: The Final EIS, this ROD, and other Project documents are available on the Project website at *https://www.wapa.gov/transmission/EnvironmentalReviewNEPA/Pages/estes-flatiron.aspx.*

FOR FURTHER INFORMATION CONTACT: For information on WAPA's participation in the Project contact Brian Little, Environmental Manager J0400, Rocky Mountain Regional Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, telephone (970) 461–7287, facsimile (720) 962–7083, email *blittle@wapa.gov.* For information about the Project EIS process, contact Mark J. Wieringa, NEPA Document Manager, Natural Resources Office A9402, Headquarters Office, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213, telephone (720) 962–7448, facsimile (720) 962–7263, email *wieringa@wapa.gov.*

SUPPLEMENTARY INFORMATION: WAPA, a Power Marketing Administration within the U.S. Department of Energy (DOE), is proposing to rebuild and upgrade two 115-kilovolt (kV) single-circuit transmission lines between Flatiron Substation west of Flatiron Reservoir and the intersection of Mall Road and U.S. Highway 36 on the east side of Lake Estes in Estes Park, all within Larimer County, Colorado. The Project area is situated east of the community of Estes Park and west of the Town of Loveland. Major transportation corridors are U.S. Highways 36 and 34, which provide access between Front Range communities to the east and Rocky Mountain National Park to the west of the Project area. The Project area includes private lands in Larimer County, and public lands administered by the U.S. Department of the Interior (DOI), Bureau of Reclamation; U.S. Department of Agriculture, Forest Service (Forest Service); the Colorado State Land Board; Northern Colorado Water Conservancy District; and Larimer County. The Forest Service, through the Canyon Lakes District of the Roosevelt National Forest, was a cooperating agency in the preparation of the EIS, and that agency will issue its own ROD addressing the Federal actions within its jurisdiction and authority.

WAPA owns, operates, and maintains two single-circuit 115-kV transmission lines between the Flatiron Substation and Estes Park Substation. Prior to the formation of the DOE, the DOI's Bureau of Reclamation constructed and maintained the two existing transmission lines as part of the Colorado-Big Thompson Project. The lines were constructed to transmit electricity from hydropower generation sources of the Colorado-Big Thompson Project. After the formation of the DOE and WAPA in 1977, ownership, operation, and maintenance of the transmission lines was transferred from the Bureau of Reclamation to WAPA.

The Estes-Lyons Tap is the more northern of the two lines and is also referred to as the North Line. The South Line consists of the Estes-Pole Hill and Flatiron-Pole Hill line segments that connect the Pole Hill Substation to the Estes Park and Flatiron substations, respectively. Both existing transmission lines are 115-kV single-circuit lines

constructed on wood pole H-frame structures. The North Line is 14.1 miles long and was constructed in 1938, while the South Line is 14.5 miles in length and was constructed in 1953. WAPA's Project only encompasses the single-circuit wood-pole transmission lines to the intersection of Mall Road and U.S. Highway 36, where both lines intersect at a lattice steel structure; the Project does not include the double-circuit steel lattice structures that start at that point, parallel the U.S. Highway 36 causeway across Lake Estes, and terminate at the Estes Park Substation.

Project Description

WAPA proposes to remove both wood pole lines and replace them with a new line or lines, for the following reasons. The existing wood structures are in poor condition and continue to deteriorate due to both age and the type of material with which they were constructed. Many of the existing wood poles on both lines suffer from core rot and cracking, and have reached or are reaching the end of their anticipated facility life. The majority of wood structures will need replacing in the near future to meet the strength and safety requirements found in National Electric Safety Code standards.

At one time there was access to the existing transmission line structures for construction and maintenance. However, in the 60 to 75 years since the transmission lines were built, access has deteriorated at many locations. Portions of the existing lines are marginally accessible for routine maintenance and structure replacement. Inaccessible areas include sections of the existing transmission lines that span canyons, are located on steep cliffs or rocky slopes, or cross the Pole Hill penstock (the water pipelines between Pinewood and Flatiron reservoirs).

Portions of the existing transmission lines run parallel to each other in relatively close proximity. Each line has a separate right-of-way (ROW). The North Line has a ROW width of only 20 to 30 feet at most locations, which is inadequate to meet reliability and safety standards. The South Line has ROW widths that range from 75 feet to 130 feet for most of its length. WAPA would need to increase the South Line ROW easement width to 110 feet in locations where it is less. The Project area is susceptible to mountain pine beetle infestation and currently has many infested trees that create heavy fuel loads for wildfires. Where ROWs have insufficient width and heavy fuel loading, there is a greater risk of a large wildfire event. This level of risk does not meet applicable standards or WAPA's commitment to its customers to provide reliable and safe power.

In many cases, ROW maintenance has been limited to removal of hazard trees. This practice typically does not address the encroaching vegetation until it becomes a threat that requires immediate attention to ensure no adverse effect to the transmission line or to prevent a fire caused by a transmission line. This reactive approach to hazardous vegetation maintenance is not conducive to ensuring the level of operating reliability that is required by today's North American Electric Reliability Corporation standards, nor is it efficient or cost effective. Today's stricter maintenance standards require a more proactive approach to vegetation management, with the goals of ensuring that there will be no tree-caused transmission line outages and minimizing the risk for wildfires.

Alternatives

Four full-length alternatives and three variants form seven action alternatives to rebuild and upgrade the existing 115-kV transmission lines. These seven alternatives were analyzed in addition to the No Action Alternative. All alternatives, including the No Action Alternative, would require improved access, including new access roads, and widening the ROW to 110 feet where it is presently less. North Line alternatives would all require the removal and reroute of a short section of line through a subdivision near Pinewood Reservoir, where encroachments on the inadequate ROW do not allow for rebuilding a transmission line. The EIS also disclosed that portions of the alternatives could be combined during the decision-making process. The alternatives are briefly described below:

The No Action Alternative would not rebuild the old lines, but structures and other line components would be replaced by maintenance forces over time. Alternative D would entirely rebuild both lines with new structures and conductors similar to the existing ones; essentially it is a replacement in kind alternative. The existing wood pole H-frame structures are 65 to 75 feet tall; Alternative D would use wood pole structures 5 to 10 feet taller.

Alternative A would rebuild and consolidate the transmission lines primarily on the existing North Line ROW. Structures would be galvanized steel, single pole, double-circuit structures approximately 40 feet taller than the existing structures, and would be the same for all other alternatives using steel structures. If structure-for-structure replacement is used in visually sensitive areas, those steel monopole structures would be about 85 feet tall, and closer together. Alternative A includes a reroute to the north and northeast of Newell Lake View subdivision and along Mall Road in Estes Park. Variant A1 is identical to Alternative A for all but the westernmost segment. At a point in the valley between Mount Olympus and Mount Pisgah, this routing variation would depart from the alignment of the existing North Line and traverse along the base of Mount Pisgah before turning to the northwest and generally following an alignment parallel to U.S. Highway 36 for the remaining distance to the existing steel lattice double-circuit structure at the intersection of U.S. Highway 36 and Mall Road. Variant A2 follows an alignment similar to Variant A1 except the westernmost 2.7 miles of the transmission line would be constructed underground.

Alternative B would rebuild and consolidate the transmission lines, primarily on the existing South Line ROW. This alternative includes a 0.25-mile reroute along Pole Hill Road on National Forest System lands, and a 0.75-mile reroute to the North Line on new ROW in the vicinity of Pole Hill Substation.

Alternative C would rebuild and consolidate the transmission lines along an alignment utilizing a combination of the existing North and South line ROWs. This alternative includes reroutes off the existing transmission line ROW east of Pinewood Reservoir, along Pole Hill Road on National Forest System lands, and on privately held land on the west end of the Project area. Variant C1 would similarly rebuild and consolidate the transmission lines along an alignment similar to Alternative C, except that the westernmost 2.7 miles of the transmission line would be constructed underground.

Alternatives A, A1, A2, B, C, and C1 would all result in the abandonment of one ROW, and consolidation on the other, although the alternatives vary in what sections of the two ROWs would be abandoned.

Agency Preferred Alternative

WAPA, with input from the Forest Service (Canyon Lakes District of the Roosevelt National Forest), has selected the Agency Preferred Alternative identified in the Final EIS for implementation. The Agency Preferred Alternative would be a new galvanized steel, single-pole, double-circuit line between Flatiron Substation and U.S. Highway 36 at the intersection of Mall Road using the Alternative C alignment in the west and primarily the

Alternative C alignment in the center, and the Alternative B alignment in the east. In the west region, the Agency Preferred Alternative would follow the Alternative C alignment along Pole Hill Road through the Meadowdale Hills subdivision to U.S. Highway 36. In adapting part of Alternative C for the Agency Preferred Alternative, the four-wheel drive segment of West Pole Hill Road would not be reconstructed or improved on National Forest System land, retaining the challenge for four-wheel drive use in response to Draft EIS public comments. New access would be needed in the west region for construction and maintenance. The previous access road has been closed as a result of flood damage. In addition, instead of crossing over U.S. Highway 36, the Agency Preferred Alternative would follow the Alternative C alignment for 1.7 miles, generally parallel to and north of U.S. Highway 36 down the valley for the remaining distance to the intersection of Mall Road and U.S. Highway 36.

New ROW would be required for the last segment on the west end of Alternative C to reduce visibility from U.S. Highway 36. Special design measures will be considered for this segment within the Meadowdale Hills subdivision, including the use of structures with a lower height and shorter span, if they provide a lower visual impact. This option could result in a structure-for-structure replacement instead of eliminating some structures entirely. After design options have been developed with specific structure locations, they will be shared with the affected parties.

In the central region on private lands, the Agency Preferred Alternative primarily would follow the North Line, but may shift to the South Line and back again to stay closer to Pole Hill Road, thus minimizing the need for access roads and ROW maintenance disturbance. Additional ROW would need to be obtained along the North Line to meet the 110-foot requirement.

In the east region, from the Flatiron Substation the Agency Preferred Alternative would follow the Alternative B alignment along the existing South Line to the Pole Hill Substation. Just east of the Pole Hill Substation the Agency Preferred Alternative would continue to follow the alignment of Alternative B which would turn north and partially parallel Lone Elk Road for 0.75 mile until intersecting the alignment of the existing North Line. A new ROW along existing roads would be required for this short segment, as well as new access spur roads to new structures. Shifting to the North Line alignment at this point would avoid crossing the Pole Hill Penstock and the steep and rocky terrain west of the Pole Hill Substation.

At locations where the Agency Preferred Alternative alignment would follow the existing transmission line routes, the existing structures would be replaced with new double-circuit galvanized steel monopole structures. Individual structure locations could vary depending on final design. Increasing the number of transmission line structures near National Forest System roads could change the visual nature and impact of human development for recreational users of the roads. WAPA would not increase the number of structures along National Forest System roads, and depending on final design there may be fewer structures in these locations.

On abandoned ROW, existing structures and conductors would be removed, vegetation management would cease, and the ROW allowed to return to natural vegetation patterns. The Agency Preferred Alternative would avoid the fen wetlands identified in the Project area.

Environmentally Preferred Alternative

The Agency Preferred Alternative is also overall the Environmentally Preferred Alternative for the Project. Using the tabular impact data developed for the Final EIS, Alternative B comes out very slightly environmentally preferred compared to the Agency Preferred Alternative. The few sections of the Agency Preferred Alternative where new ROW would be required would result in new environmental resource disturbance in those sections; the effects of this new disturbance are captured in the impact tables. However, these new sections were developed to reduce specific recognized important impacts, both existing and associated with the Project. The net effect on environmental resources of these departures from the existing ROW would be positive, and outweigh the slight calculated advantage of Alternative B. The Agency Preferred Alternative would also result in the abandonment of approximately half the existing linear ROW, allowing for natural regeneration and the removal of easement encumbrances on private and public landowners.

Floodplain Statement of Findings

Notification of potential floodplain action was included in the Notice of Intent for this Project (77 FR 22774 (Apr. 17, 2012)). Potential impacts to floodplains were analyzed as an integral part of the NEPA process. The Project is located in a mountainous area, and most surface water features are ephemeral or intermittent drainage channels that run during rainstorms and snow melt. These channels are typically very narrow and are spanned by transmission lines, as structures are typically sited on higher ground to increase span lengths. The Project makes use of existing transmission ROWs, and access is a combination of public, private, and National Forest System roads, and spurs to reach structure locations. Approximately 30 culverts are associated with existing access. The North Fork of the Little Thompson River is the only perennial stream crossed by the Project, and it would be spanned by the transmission line and crossed using existing road crossings. The Agency Preferred Alternative avoids the Big Thompson River Special Flood Hazard Area.

An existing access road across a small fen on the National Forest has been closed and would no longer be used. The Agency Preferred Alternative would avoid the ephemeral wet meadow crossed by the west end of the existing North Line on the west end. The existing transmission line structures would be removed, access would no longer be required, and the ROW abandoned. A few additional structures currently located in seasonal wetlands would be relocated outside of the wetlands, and the existing structures removed during dry periods or when the ground is frozen. WAPA also has standard construction practices and environmental protection measures to protect floodplains, wetlands, and riparian areas, and these are specifically committed to in table 2.5–1 and section 2.5 of the Final EIS and by issuance of this ROD. Given the lack of new impacts from the Project, the removal of existing infrastructure and access presently located in floodplains and wetlands, and the abandonment of one entire ROW, the construction of the Project would result in a net improvement to these resources as compared to current conditions.

Section 7 and Section 106 Consultation

WAPA consulted with the Fish and Wildlife Service under Section 7 of the Endangered Species Act. This consultation resulted in a November 9, 2017, letter from the Fish and Wildlife Service concurring with a determination of ''not likely to adversely affect'' listed species that could occur in the Project area.

WAPA consulted with the Colorado State Historic Preservation Office (SHPO) and the Cheyenne and Arapaho tribes of Oklahoma, Northern Arapaho

Tribe, Northern Cheyenne Tribe, Oglala Sioux Tribe, Shoshone Tribe of the Wind River Reservation, Southern Ute Indian Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, and the Ute Mountain Tribe. The opportunity to consult was also extended to the Estes Park Museum.

The SHPO has concurred with WAPA's findings of No Adverse Effect on historic properties within the area of direct effects, No Historic Properties Affected for indirect visual effects, and an overall Project finding of No Adverse Effects for the Agency Preferred Alternative. The Southern Ute Indian Tribe was the only tribe or entity that responded, asking for further information. WAPA extended the review period to accommodate that request. WAPA remains open to Native American comment should any be made.

WAPA's Decision

Informed by the analyses and environmental impacts documented in the Final EIS and related consultations, WAPA has selected the Agency Preferred Alternative identified in the Final EIS and summarized above as its decision for the Project. The Agency Preferred Alternative route will be the basis for design and engineering activities that will finalize the centerline, ROW, and specific structure and access road locations. Additionally, this ROD commits WAPA to implement the standard construction practices listed in table 2.5–1, the Project-specific design criteria and construction practices in section 2.5.2, and the vegetation management practices described in appendix B of the Final EIS to minimize environmental impacts. All practicable means to avoid or minimize environmental harm have been adopted, and the Project will result in a net environmental benefit.

This ROD was prepared in accordance with the requirements of the Council on Environmental Quality regulations for implementing NEPA (40 CFR parts 1500–1508) and U.S. Department of Energy NEPA regulations (10 CFR part 1021).

Dated: March 13, 2019.

Mark A. Gabriel,

Administrator,Western Area Power Administration.

[FR Doc. 2019–05385 Filed 3–20–19; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0408; FRL–9989–18–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's WaterSense Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's WaterSense Program (EPA ICR No. 2233.07, OMB Control No. 2040–0272), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on August 28, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 22, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2006–0408, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Tara O'Hare, WaterSense Branch, Water Infrastructure Division, Office of Wastewater Management, Office of Water, (Mail Code 4204M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–8836; email address: *ohare.tara@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: WaterSense is a voluntary program designed to create self-sustaining markets for water-efficient products and services via a common label. The program provides incentives for manufacturers and builders to design, produce, and market water-efficient products and homes. The program also encourages consumers and commercial and institutional purchasers of water-using products and systems to choose water-efficient products and use water-efficient practices. As part of strategic planning efforts, EPA encourages programs to develop meaningful performance measures, set ambitious targets, and link budget expenditures to results. Data collected under this ICR will assist WaterSense in demonstrating results and carrying out evaluation efforts to ensure continual program improvement. In addition, the data will help EPA estimate water and energy savings and inform future product categories and specifications. All shipment and sales data submitted by WaterSense manufacturer and retailer/distributor partners are collected as confidential business information (CBI) using the procedures outlined in the WaterSense CBI security plan under the Clean Water Act.

Form Numbers: *Forms not yet finalized in *italics.*

Partnership Agreement

- Builders 6100–19
- Licensed Certification Providers 6100–20
- Manufacturers 6100–13
- Professional Certifying Organizations 6100–07
- Promotional partners 6100–06
- Retailers/distributors 6100–12

Application for Professional Certifying Organization Approval

- *Professional Certifying Organizations 6100–X3*

Annual Reporting Form

- Builders 6100–09
- Professional Certifying

Organizations 6100–09
- Promotional partners 6100–09

Annual Reporting Form—Online and Hard-copy Confidential Business Information (CBI) Forms
- Plumbing Manufacturers 6100–09
- Non-plumbing Manufacturers 6100–09
- Retailers/Distributors 6100–09

Provider Quarterly Reporting Form
- Licensed Certification Providers 6100–09

Award Application Form
- Builders 6100–17
- Licensed Certification Providers 6100–17
- Manufacturers 6100–17
- Professional Certifying Organizations 6100–17
- Promotional Partners 6100–17
- Retailers/Distributors 6100–17

Consumer Awareness Survey
- *Survey form 6100–X2*

Respondents/affected entities: WaterSense partners and participants in the consumer survey, which include product manufacturers; professional certifying organizations; retailers; distributors; utilities; federal, state, and local governments; home builders; licensed certification providers; and non-governmental organizations (NGOs).

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 2,649.

Frequency of response: Once, annually, quarterly, occasionally.

Total estimated burden: 3,212 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $293,189 (per year), includes $905 of annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 898 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to changes in program requirements including using online forms for all non-CBI related data, discontinuing the individual irrigation partner category, and simplifying the quarterly provider reporting requirements, which have reduced operation & maintenance costs and lowered the estimated burden. EPA also better understands how long it takes partners to complete program forms and has better historical data to project new partners/forms over the next three years.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05312 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0131; FRL–9991–06]

Initiation of Prioritization Under the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required under the Toxic Substances Control Act (TSCA) and related implementing regulations, EPA is initiating the prioritization process for 20 chemical substances as candidates for designation as High Priority Substances for risk evaluation and 20 chemical substances as candidates for designation as Low Priority Substances for risk evaluation. This document provides the identity of the chemical substances being initiated for prioritization, a general explanation of why the Agency chose these chemical substances and information on the data sources that EPA plans to use to support the designation. EPA is providing a 90-day comment period during which interested persons may submit relevant information on these chemical substances.

DATES: Comments must be received on or before June 19, 2019.

ADDRESSES: Use one of the following methods to submit comments, directing not related to a specific chemical, including comments on Unit V., to docket identification (ID) number EPA–HQ–OPPT–2019–0131; submit information on the 20 candidates for which EPA is initiating the prioritization process before designation as High Priority Substances for risk evaluation to the applicable chemical specific docket ID number identified in Unit III.B.; and submit information on the 20 candidates for which EPA is initiating the prioritization process before designation as Low Priority Substances for risk evaluation to the applicable chemical specific docket ID number identified in Unit IV.B.:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information about the candidates for high priority contact:* Ana Corado, Chemical Control Division, Office of Pollution Prevention and Toxics, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency (Mailcode 7408M), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–0140; email address: *corado.ana@epa.gov.*

For technical information about the candidates for low priority contact: Lauren Sweet, Chemistry, Economics and Sustainable Strategies Division, Office of Pollution Prevention and Toxics, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency (Mailcode 7406M) 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–0376; email address: *sweet.lauren@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that currently or may manufacture (including import) a chemical substance regulated under TSCA (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, users, non-profit organizations in the environmental and public health sectors, state and local government agencies, and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

B. What action is the Agency taking?

EPA is initiating the prioritization process under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et*

seq., for 20 chemical substances as candidates for designation as High Priority Substances for risk evaluation and 20 chemical substances as candidates for designation as Low Priority Substances for risk evaluation. This document includes the identity of the chemical substances entering the prioritization process before designation, and a general explanation of why the Agency chose to initiate prioritization on these chemical substances. In addition, EPA is providing a 90-day comment period during which interested persons may submit relevant information on these chemical substances. Relevant information might include, but is not limited to, any information that may inform the prioritization screening review conducted pursuant to 40 CFR 702.9(a).

C. Why is the Agency taking this action?

TSCA section 6(b) requires that EPA initiate the prioritization process for chemical substances that may be designated as high priority and low priority for risk evaluation. Per TSCA section 6(b)(2)(B), EPA must designate at least 20 low priority substances and be conducting risk evaluations on at least 20 high priority substances no later than three and one-half years after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182). The request for interested persons to submit relevant information on a chemical substance for which EPA has initiated the prioritization process is required by TSCA section 6(b)(1)(C)(i).

D. What is the Agency's authority for taking this action?

This document is issued pursuant to the authority in TSCA section 6(b)(1).

E. What are the estimated incremental impacts of this action?

This document identifies the 40 chemical substances for which EPA is initiating the prioritization process, provides a general explanation of why the Agency chose to initiate prioritization on these chemical substances, and provides a 90-day comment period for interested persons to submit relevant information. This document does not establish any requirements on persons or entities outside of the Agency. No incremental impacts are therefore anticipated, and consequently EPA did not estimate potential incremental impacts for this action.

F. What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

TSCA section 6(b)(1), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182), requires EPA to prioritize chemical substances for risk evaluation and to establish a process for prioritizing chemical substances. As required by TSCA section 6(b) and described in 40 CFR 702.7, EPA is initiating the prioritization process for 20 chemical substances as candidates for High Priority Substances for risk evaluation and 20 chemical substances as candidates for designation as Low Priority Substances.

Under the amended statute (section 6(b)(1)(B)) and implementing regulations (40 CFR 702.3), a High Priority Substance is defined as a chemical substance that EPA determines, without consideration of costs or other non-risk factors, may present an unreasonable risk of injury to health or the environment because of a potential hazard and a potential route of exposure under the conditions of use, including an unreasonable risk to potentially exposed or susceptible subpopulations identified as relevant by EPA. A Low Priority Substance is described as a chemical that EPA concludes, based on information sufficient to establish, without consideration of costs or other non-risk factors, does not meet the statutory criteria for designation as a High Priority Substance.

Initiation of prioritization for substances as High Priority candidates is not a finding of risk. Rather, when prioritization is complete, for those chemicals designated as high, the Agency will have evidence that this substance may present an unreasonable risk of injury to health or the environment because of a potential hazard and a potential route of exposure under the conditions of use. Final designation of a high priority substance initiates the risk evaluation process (40 CFR 702.17), which culminates in a finding of whether or not the chemical substance presents an unreasonable risk under the conditions of use. A final designation of a Low Priority substance does not require a finding of low or no risk; rather, it is sufficient to show that the chemical does not meet the statutory criteria for a High Priority substance and that risk evaluation is not warranted at this time (40 CFR 702.15).

This document is intended to fulfill the TSCA section 6(b)(1)(C)(i) requirement that the Administrator request interested persons to submit relevant information on chemical substances that the Administrator has identified as candidates for designation as High Priority and Low Priority Substances for risk evaluation. As described in 40 CFR 702.7, this document also initiates the prioritization process, and provides 90 days during which interested persons may submit relevant information.

As described in 40 CFR 702.9(b) *Information sources,* in conducting the screening review during the prioritization process, EPA will consider sources of information relevant to the screening review criteria as outlined in the statute (TSCA section 6(b)(1)(A)) and implementing regulations (40 CFR 702.9(a)) and consistent with the scientific standards of TSCA section 26(h), including, as appropriate, sources for hazard and exposure data listed in Appendices A and B of the TSCA Work Plan Chemicals: Methods Document (February 2012).

Consistent with the approach in our *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization* (September 27, 2018) and prioritization process (40 CFR 702.7), EPA consulted with other federal agencies and intends to continue to collaborate with them to identify information that is useful throughout the prioritization process.

III. High Priority Candidate Chemical Substances for Which EPA Is Initiating Prioritization

A. Candidates for Which EPA Is Initiating Prioritization for Designation as High Priority Substances for Risk Evaluation

EPA's working approach to selecting candidates for designation as High Priority Substances for risk evaluation is outlined in the document, *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization,* released to the public on September 27, 2018 (*https://www.epa.gov/sites/production/files/2018-09/documents/prepriorit ization_white_paper_927 2018.pdf*). To identify candidates for designation as High Priority Substances the Agency primarily looked to the TSCA Work Plan for Chemical Assessments: 2014 Update (2014 TSCA Work Plan). EPA surveyed the information and checked quality data elements in a step-wise approach that ensured responsible and timely completion of the process according to TSCA timelines. Additionally, EPA opened dockets for each of the 2014 TSCA Work Plan chemicals, and an additional docket for non-2014 TSCA Work Plan chemicals, to allow for public comment on the prioritization of these chemicals.

The sources of information, as described in the document *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization,* included:

1. Type 1 sources: Existing databases (and dashboards) that allow the user to sift through information using a graphical user-interface, a direct query such as Structured Query Language (SQL), or webservice Application Programming Interface (APIs). EPA's National Center for Computational Toxicology's Chemistry Dashboard (Chemistry Dashboard) (*https://comptox.epa.gov/dashboard*) is one of the several examples of a Type 1 source.

2. Type 2 sources: Additional details from existing information from public and non-public (*i.e.,* confidential business information) sources that are maintained by competent authorities—this includes supporting information from other EPA program offices, state and federal agencies including assessments or evaluations from various U.S. and international organizations (*e.g.,* including but not limited to EPA's Integrated Risk Information System (IRIS) Assessments, EPA's Office of Water, EPA's Office of Air and Radiation, EPA's High Production Volume Challenge Program, International Agency for Research on Cancer (IARC), National Toxicology Program (NTP), National Institute for Occupational Safety and Health (NIOSH), Organisation for Economic Co-operation and Development (OECD), Agency for Toxic Substances and Disease Registry (ATSDR), and California Environmental Protection Agency (Cal EPA)).

3. Type 3 sources: Initial searches of additional sources of information within the public and gray literature domains that are not available from Type 1 and 2 sources (*e.g.,* searches in PubMed, ToxNet, other U.S. government and international websites).

After identifying evidence of information from reasonably available sources, the information was evaluated across several data elements including hazard, exposure, uses, and physicochemical, fate and transport properties.

After reviewing the three types of data, as explained previously, the chemical substances were reviewed for data availability across all data elements (*e.g.,* hazard, exposure, uses, and physicochemical, fate and transport properties). Considerations were given for chemical similarity, similar identified functions (*e.g.,* solvents, phthalates, flame retardants), existing OPPT work (*e.g.,* experience gained from the first ten chemicals to undergo risk evaluation) and other information as identified in available risk assessments (*e.g.,* IRIS, ECHA), and public literature.

In the absence of measured data on chemicals being evaluated, EPA may use alternative means or new approach methods (NAMs) to obtain relevant data. These NAMs can reduce vertebrate testing, consistent with TSCA section 4(h)(1)(A). EPA intends to use this approach to the extent practicable and scientifically justified.

To identify chemical substances, EPA considered information such as the 2016 CDR reported uses and products as a surrogate for complexity of information to inform prioritization and risk evaluation. EPA considered the release and use information for these chemicals and screened them according to the types of industrial uses and types of products where the chemicals were used, as reported in the 2016 CDR. EPA considers a chemical with fewer unique uses as a lower work load and a chemical with multiple uses reported as a higher work load.

EPA intends to update and refine its initial review based on data sources identified by the public during the comment period (see EPA's request for data in Unit V.) and, where permitted by TSCA section 14 and subject to EPA confidentiality regulations at 40 CFR part 2, subpart B, intends to make this information publicly available for the 20 initiated chemicals when we publish the proposed priority designation.

B. Chemicals Initiated

EPA is initiating the prioritization process for the following twenty chemicals as candidates for designation as High Priority Substance candidates.

1. *1,3-Butadiene, CAS RN 106–99–0, Docket number: EPA–HQ–OPPT–2018–0451.* This chemical was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments by another federal agency and by other countries.

2. *Butyl benzyl phthalate (BBP) (1,2-Benzenedicarboxylic acid, 1-butyl 2-(phenylmethyl) ester), CAS RN 85–68–7, Docket number: EPA–HQ–OPPT–2018–0501.* This phthalate ester was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments by other countries.

3. *Dibutyl phthalate (DBP) (1,2-Benzenedicarboxylic acid, 1,2-dibutyl ester), CAS RN 84–74–2, Docket number: EPA–HQ–OPPT–2018–0503.* This phthalate ester was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments by another federal agency and by other countries.

4. *1,1-Dichloroethane, CAS RN 75–34–3, Docket number: EPA–HQ–OPPT–2018–0426.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information on this chemical through the Toxics Release Inventory. Information is available from assessments by another federal agency.

5. *1,2-Dichloroethane, CAS RN 107–06–2, Docket number: EPA–HQ–OPPT–2018–0427.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments conducted by another federal agency and another country.

6. *1,2-Dichloropropane, CAS RN 78–87–5, Docket number: EPA–HQ–OPPT–2018–0428.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. This chemical is also subject to other EPA regulations. In addition, information is available from assessments by another federal agency.

7. *Dicyclohexyl phthalate (1,2-Benzenedicarboxylic acid, 1,2-dicyclohexyl ester), CAS RN 84–61–7, Docket number: EPA–HQ–OPPT–2018–0504.* This phthalate ester was listed in the 2014 Work Plan Chemicals with a hazard score of 3 (based solely on environmental toxicity); an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. Information is available from assessment by another country.

8. *Di-ethylhexyl phthalate (DEHP) (1,2-Benzenedicarboxylic acid, 1,2-bis(2-ethylhexyl) ester), CAS RN 117–81–7, Docket number: EPA–HQ–OPPT–2018–0433.* This phthalate ester was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments by another federal agency and by other countries.

9. *Di-isobutyl phthalate (DIBP) (1,2-Benzenedicarboxylic acid, 1,2-bis(2-methylpropyl) ester), CAS RN 84–69–5, Docket number: EPA–HQ–OPPT–2018–0434.* This phthalate ester was listed in the 2014 Work Plan Chemicals with a hazard score of 1; an exposure score of 2; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. Information is available from assessments by other countries.

10. *Ethylene dibromide (Ethane, 1,2-dibromo-), CAS RN 106–93–4, Docket number: EPA–HQ–OPPT–2018–0488.* This chemical was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 2; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. EPA released a screening-level hazard characterization in 2009. In addition, information is available from assessments by another federal agency.

11. *Formaldehyde, CAS RN 50–00–0, Docket number: EPA–HQ–OPPT–2018–0438.* This chemical was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information on this chemical annually through the Toxics Release Inventory. EPA published the Formaldehyde Emission Standards for Composite Wood Products final rule in 2016. Information is available from assessments by another federal agency and other countries.

12. *1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta [g]-2-benzopyran (HHCB), CAS RN 1222–05–5, Docket number: EPA–HQ–OPPT–2018–0430.* This chemical was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. This chemical is also subject to other EPA regulations. EPA completed a risk assessment of the ecological risks from HHCB as fragrance ingredient in commercial and consumer products in 2014. EPA released a screening-level hazard characterization in 2008. In addition, information is available from assessment by another country.

13. *4,4′-(1-Methylethylidene)bis[2, 6-dibromophenol] (TBBPA), CAS RN 79–94–7, Docket number: EPA–HQ–OPPT–2018–0462.* This halogenated flame retardant was listed in the 2014 Work Plan Chemicals with a hazard score of 2 (based solely on environmental toxicity); an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. EPA released a problem formulation for TBBPA in 2015. Information is available from assessment by another country.

14. *o-Dichlorobenzene (Benzene, 1,2-dichloro-), CAS RN 95–50–1, Docket number: EPA–HQ–OPPT–2018–0444.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information on this chemical through the Toxics Release Inventory. EPA completed a screening-level hazard characterization of this chemical in 2009. Information is available from assessments by another federal agency and other countries.

15. *p-Dichlorobenzene (Benzene, 1,4-dichloro-), CAS RN 106–46–7, Docket number: EPA–HQ–OPPT–2018–0446.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. EPA identified information available from assessments by another federal agency and other countries.

16. *Phosphoric acid, triphenyl ester (TPP), CAS RN 115–86–6, Docket number: EPA–HQ–OPPT–2018–0458.* This halogenated flame retardant was listed in the 2014 Work Plan Chemicals with a hazard score of 3 (based solely on environmental toxicity); an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016.

17. *Phthalic anhydride (1,3-Isobenzofurandione), CAS RN 85–44–9, Docket number: EPA–HQ–OPPT–2018–0459.* This chemical was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 3; and a persistence and bioaccumulation score of 1. Data regarding the use of this chemical was reported to EPA in 2016. EPA also received receives information on this chemical annually through the Toxics Release Inventory.

18. *trans-1,2- Dichloroethylene (Ethene, 1,2-dichloro-, (1E)-), CAS RN 156–60–5, Docket number: EPA–HQ–OPPT–2018–0465.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 3; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016.

EPA completed a screening-level hazard characterization of this chemical in 2015.

19. *1,1,2-Trichloroethane, CAS RN 79–00–5, Docket number: EPA–HQ–OPPT–2018–0421.* This chlorinated solvent was listed in the 2014 Work Plan Chemicals with a hazard score of 3; an exposure score of 2; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA also receives information annually on this chemical through the Toxics Release Inventory. Information is available from assessments by another federal agency.

20. *Tris(2-chloroethyl) phosphate (TCEP) (Ethanol, 2-chloro-, 1,1′,1″-phosphate), CAS RN 115–96–8, Docket number: EPA–HQ–OPPT–2018–0476.* This halogenated flame retardant was listed in the 2014 Work Plan Chemicals with a hazard score of 2; an exposure score of 2; and a persistence and bioaccumulation score of 2. Data regarding the use of this chemical was reported to EPA in 2016. EPA released a problem formulation for TCEP in 2015. Information is available from assessment by another country.

IV. Low Priority Candidate Chemical Substances for Which EPA Is Initiating Prioritization

A. Candidates for Which EPA Is Initiating Prioritization for Designation as Low Priority Substances for Risk Evaluation

1. EPA's working approach to selecting candidates for designation as Low Priority Substances for risk evaluation is outlined in the document, *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization,* released to the public on September 27, 2018 (*https://www.epa.gov/sites/production/files/2018-09/documents/preprioritization_white_paper_9272018.pdf*).As elaborated in this unit, EPA has taken steps to implement the approach outlined in the working approach document.

Starting with over 30,000 chemicals from the April 2018 interim update of the TSCA active inventory, EPA applied a series of filtering steps to identify potential Low Priority Substance candidates. EPA's goal was to select chemicals that are among the best-suited for possible Low Priority Substance designation. EPA identified potential Low Priority Substance candidates based on low-hazard, across a range of endpoints, as the initial criterion since EPA knew the data on hazard would be the most readily available.

EPA first narrowed the candidate pool to chemicals that had been evaluated by a government body like the U.S. EPA or an OECD member nation. EPA's Safer Chemicals Ingredients List (SCIL) and Chemical Assessment Management Program (ChAMP), as well as the OECD Screening Information Data Sets, served as sources of government-evaluated chemicals. The SCIL (*https://www.epa.gov/saferchoice/safer-ingredients*) is a continuously updated list of chemicals that meet low-concern Safer Choice criteria (*https://www.epa.gov/saferchoice/standard*) for both human health and ecological endpoints. Based on assessments used to support their listing on the SCIL, EPA has found these chemicals to be relatively rich in data on hazard. Under ChAMP, EPA scientists performed interim evaluations of hazard, use, and exposure of high- and medium-production volume chemicals. These screening-level risk characterizations were interim evaluations that constituted neither a final Agency determination on risk nor a determination as to whether sufficient data were available to characterize risk. Screening Information Dataset (SIDS) Initial Assessment Reports (SIARs) (*https://hpvchemicals.oecd.org/ui/Default.aspx*), prepared by OECD member nations, represent a systematic investigation of the potential risks to human health and the environment, and are most often associated with high-production-volume (HPV) chemicals. SIARs include a base set of hazard information, known as the SIDS elements, for each chemical substance and incorporate available information on use patterns and exposure to put hazard(s) into context (*http://www.oecd.org/chemicalsafety/risk-assessment/1947541.pdf*). Through public meetings and comments, EPA stakeholders indicated support for use of SCIL, ChAMP evaluations on chemicals of low concern, and relevant SIDS assessments as a starting point for identifying Low Priority Substance candidates.

2. As a next filtering step and to increase confidence in the information on hazard, conditions of use and exposure, EPA filtered the pool of approximately 1,600 chemicals to approximately 200 substances having discretely defined structures. Data on chemicals with discrete structures, as opposed to those with variable structures, are more reliable and easily compared because of the certainty a definitive molecular structure provides in assessing hazard, conditions of use, and exposure. EPA further filtered the chemicals with discrete structures and selected those with the most available data, narrowing the pool to about 75 chemicals with low-hazard status among an internationally accepted set of endpoints. EPA applied a final screen by conducting a literature search to update and verify candidate information for reliability, completeness and consistency. With a set of high-quality data relevant to a potential designation as a Low Priority Substance, EPA reduced the candidate pool to the 20 chemical substances being initiated today. EPA will make transparent literature search documentation available at the proposal phase for the 20 Low Priority Substance candidates. EPA intends to update and refine its initial review based on data sources identified by the public during the comment period (see EPA's request for data in Unit V.) and, where permitted by TSCA section 14 and subject to EPA confidentiality regulations at 40 CFR part 2, subpart B, intends to make this information publicly available for the 20 initiated chemicals at proposal. This unit contains information on the data sources EPA is using to obtain reasonably available information for evaluating candidate Low Priority Substances consistent with TSCA section 6(b)(1)(B) and implementing regulations. EPA encourages submission of additional information relevant to Low Priority Substance designation that stakeholders believe may not be found in the sources listed.

a. *Data sources.* EPA intends to search for and review literature from primary literature databases and gray literature and additional search strategies.

b. *NAMs and Analogous chemical data.* In the absence of measured data on chemicals being evaluated, EPA may use alternative means or new approach methods (NAMs) to obtain relevant data. These NAMs can reduce vertebrate testing, consistent with TSCA section 4(h)(1)(A). EPA intends to use this approach to the extent practicable and scientifically justified.

EPA will consider closely related, analogous chemicals, or analogs, and use data from these chemicals to demonstrate the suitability of a chemical for proposal as a Low Priority Substance where appropriate. The use of appropriate analogs in chemical assessment is a scientifically valid, widely adopted practice. Governments worldwide use analogs to fill data gaps in both regulatory and prioritization contexts. Examples can be found in the OECD screening information dataset (SIDS), the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), the Canadian

Chemicals Management Plan (CMP), and the Australian National Industrial Chemicals Notification and Assessment Scheme (NICNAS).

Suitable analogs will be chosen based on chemical biological similarities (*e.g.,* chemical structure, metabolic breakdown or likely mechanistic/mode of action considerations). Information on the value of analogs and guidance for identifying suitable analogs can be found in OECD Series on Testing and Assessment No. 194 Guidance on Grouping of Chemicals, Second Edition (2014). EPA will use expert judgment to determine if the analog or model used is appropriate for the attribute being evaluated. EPA will consider each case separately, make the analog we have selected and the data we are using from it transparent, and accept public comment on alternative approaches.

EPA will also consider modeled data from sources such as ECOSAR, Oncologic, EPI Suite, and other models when determined to be within the domain of applicability or supported by analog data.

B. Chemicals Initiated

EPA is initiating the prioritization process for the following twenty chemicals as candidates for designation as Low Priority Substance candidates.

1. *1-Butanol, 3-methoxy-, 1-acetate (CAS RN 4435–53–4), Docket ID number: EPA–HQ–OPPT–2019–0106.* EPA has selected 1-butanol, 3-methoxy-, 1-acetate for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

2. *D-gluco-Heptonic acid, sodium salt (1:1), (2.xi.)- (CAS RN 31138–65–5), Docket ID number: EPA–HQ–OPPT–2019–0107.* EPA has selected d-gluco-heptonic acid, sodium salt (1:1), (2.xi.)- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

3. *D-Gluconic acid (CAS RN 526–95–4), Docket ID number: EPA–HQ–OPPT–2019–0108.* EPA has selected d-gluconic acid for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2004).

4. *D-Gluconic acid, calcium salt (2:1) (CAS RN 299–28–5), Docket ID number: EPA–HQ–OPPT–2019–0109.* EPA has selected d-gluconic acid, calcium salt (2:1) for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2004).

5. *D-Gluconic acid, .delta.-lactone (CAS RN 90–80–2), Docket ID number: EPA–HQ–OPPT–2019–0110.* EPA has selected d-gluconic acid, .delta.-lactone for initiation as a candidate for potential designation as a low-priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2004).

6. *D-Gluconic acid, potassium salt (1:1) (CAS RN 299–27–4), Docket ID number: EPA–HQ–OPPT–2019–0111.* EPA has selected d-gluconic acid, potassium salt (1:1) for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2004).

7. *D-Gluconic acid, sodium salt (1:1) (CAS RN 527–07–1), Docket ID number: EPA–HQ–OPPT–2019–0112.* EPA has selected d-gluconic acid, sodium salt (1:1) for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2004).

8. *Decanedioic acid, 1,10-dibutyl ester (CAS RN 109–43–3), Docket ID number: EPA–HQ–OPPT–2019–0113.* EPA has selected decanedioic acid, 1,10-dibutyl ester for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating

lower hazard, based on an internationally accepted set of concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

9. *1-Docosanol (CAS RN 661–19–8), Docket ID number: EPA–HQ–OPPT–2019–0114.* EPA has selected 1-docosanol for initiation as a candidate for potential designation as a low-priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2006). 1-docosanol was also evaluated by EPA's ChAMP program.

10. *1-Eicosanol (CAS RN 629–96–9), Docket ID number: EPA–HQ–OPPT–2019–0115.* EPA has selected 1-eicosanol for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2006). 1-eicosanol was also evaluated by EPA's ChAMP program.

11. *1,2-Hexanediol (CAS RN 6920–22–5), Docket ID number: EPA–HQ–OPPT–2019–0116.* EPA has selected 1,2-hexanediol for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

12. *1-Octadecanol (CAS RN 112–92–5), Docket ID number: EPA–HQ–OPPT–2019–0117.* EPA has selected 1-octadecanol for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While an OECD SIDS Initial Assessment Report (August 2002) indicated a need to examine anaerobic biodegradability and potential long-term fish toxicity, the follow-on SIDS Initial Assessment Report (April 2006) concludes, based on new information, that fatty acids with chain lengths greater than 16, like 1-octadecanol, have low solubility (and hence low bioavailability), limiting potential chronic toxicity as well as limiting the need for further research.

13. *Propanol, [2-(2-butoxymethylethoxy)methylethoxy]-(CAS RN 55934–93–5), Docket ID number: EPA–HQ–OPPT–2019–0118.* EPA has selected propanol, [2-(2-butoxymethylethoxy)methylethoxy]- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

14. *Propanedioic acid, 1,3-diethyl ester (CAS RN 105–53–3), Docket ID number: EPA–HQ–OPPT–2019–0119.* EPA has selected propanedioic acid, 1,3-diethyl ester for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2005).

15. *Propanedioic acid, 1,3-dimethyl ester (CAS RN 108–59–8), Docket ID number: EPA–HQ–OPPT–2019–0120.* EPA has selected propanedioic acid, 1,3-dimethyl ester for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the environment in the OECD SIDS Initial Assessment Report (April 2005).

16. *Propanol, 1(or 2)-(2-methoxymethylethoxy)-, acetate (CAS RN 88917–22–0), Docket ID number: EPA–HQ–OPPT–2019–0121.* EPA has selected propanol, 1(or 2)-(2-methoxymethylethoxy)-, acetate for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints, and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' for human health and the

environment in the OECD SIDS Initial Assessment Report (November 2003).

17. *Propanol, [(1-methyl-1,2-ethanediyl)bis(oxy)]bis- (CAS RN 24800–44–0), Docket ID number: EPA–HQ–OPPT–2019–0122.* EPA has selected propanol, [(1-methyl-1,2-ethanediyl)bis(oxy)]bis- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low potential risk and low priority for further work'' in the OECD SIDS Initial Assessment Report (July 1994).

18. *2-Propanol, 1,1′-oxybis- (CAS RN 110–98–5), Docket ID number: EPA–HQ–OPPT–2019–0123.* EPA has selected 2-propanol, 1,1′-oxybis- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' in the OECD SIDS Initial Assessment Report (January 2001).

19. *Propanol, oxybis- (CAS RN 25265–71–8), Docket ID number: EPA–HQ–OPPT–2019–0124.* EPA has selected propanol, oxybis- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance. While EPA will present an independent review if this chemical is proposed as a Low Priority Substance, EPA notes that this chemical has been evaluated and determined to be ''low priority for further work'' in the OECD SIDS Initial Assessment Report (January 2001).

20. *Tetracosane, 2,6,10,15,19,23-hexamethyl- (CAS RN 111–01–3), Docket ID number: EPA–HQ–OPPT–2019–0125.* EPA has selected tetracosane, 2,6,10,15,19,23-hexamethyl- for initiation as a candidate for potential designation as a low priority substance because it has a comprehensive data set demonstrating lower hazard, based on an internationally accepted set of low-concern thresholds for a broad range of endpoints and in view of its known, intended and reasonably foreseen uses. Given the low-hazard profile, EPA does not expect estimated exposures to alter the assessment supporting its initiation as a candidate for potential designation as a low priority substance.

V. Relevant Information

Through this initiation of prioritization for a chemical substance, EPA is providing a 90-day comment period as required by the statute (TSCA section 6(b)(1)(C)(i)) and implementing regulations (40 CFR 702.7(d)), and requests that interested persons voluntarily submit relevant information. Relevant information might include, but is not limited to, information that may inform the screening review conducted pursuant to 40 CFR 702.9(a) and consistent with the scientific standard of TSCA section 26(h), as follows:

- The chemical substance's hazard and exposure potential;
- The chemical substance's persistence and bioaccumulation;
- Potentially exposed or susceptible subpopulations which the submitter believes are relevant to the prioritization;
- Whether there is any storage of the chemical substance near significant sources of drinking water, including the storage facility location and the nearby drinking water source(s);
- The chemical substance's conditions of use or significant changes in conditions of use, including information regarding trade names;
- The chemical substance's production volume or significant changes in production volume; and
- Any other information relevant to the potential risks of the chemical substance that might be relevant to the designation of the chemical substance's priority for risk evaluation.

If the information is publicly available, citations are sufficient (including, but not limited to: Title, author, date of publication, publication source), and the submission does not need to include copies of the information.

A person seeking to protect from disclosure as ''confidential business information'' any information that person submits under TSCA must assert and substantiate a claim for protection from disclosure concurrent with submission of the information in accordance with the requirements of TSCA section 14. While EPA may consider confidential business information when conducting its review under 40 CFR 702.9(a), the Agency encourages submitters to minimize claims for protection from disclosure wherever possible to maximize transparency in EPA's screening review. More information on asserting and substantiating confidential business information claims under TSCA can be found at *https://www.epa.gov/tsca-cbi.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 18, 2019.

Andrew R. Wheeler,

Administrator.

[FR Doc. 2019–05404 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0085; FRL–9988–74–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Radionuclides (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Radionuclides (EPA ICR Number 1100.16, OMB Control Number 2060–0191) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on September 6, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 22, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2003–0085–0014, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Walsh, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–343–9238; fax number: 202–343–2304; email address: *walsh.jonathan@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: On December 15, 1989, pursuant to Section 112 of the Clean Air Act as amended in 1977 (42 U.S.C. 1857), the Environmental Protection Agency (EPA) promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) to control radionuclide emissions from several source categories. The regulations are codified at 40 CFR part 61. Of the seven subparts (B, H, I, K, R, T and W) included in the 1989 rule, as currently amended, four apply to privately operated facilities. In addition to requiring operational practices that limit emissions, Subparts B, K, R, and W impose radionuclide dose and/or emission limits, respectively, to underground uranium mines, elemental phosphorous plants, phosphogypsum stacks, and uranium mill tailings impoundments. Facilities must measure their radionuclide emissions, perform analysis or calculations per EPA procedure, and report the results to the EPA.

Information collected is used by the EPA to ensure that public health continues to be protected from the hazards of airborne radionuclides by compliance with these standards. Compliance is demonstrated through emissions testing and dose calculation when appropriate.

Form Numbers: None.

Respondents/affected entities: The North American Industry Classification System (NAICS) codes of facilities associated with the activity of the respondents are: (1) Elemental Phosphorous—325180, (2) Phosphogypsum Stacks—212392, (3) Underground Uranium Mines—212291, and (4) Uranium Mill Tailings—212291.

Respondent's obligation to respond: Mandatory (CAA, Sec, 112; 40 CFR part 61).

Estimated number of respondents: 17 (total).

Frequency of response: Annual, or one-time depending on the source category and respondent activity.

Total estimated burden: 1,880 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $447,850 (per year), includes $328,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is decrease of 1,898 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a combination of factors. Fewer facilities, particularly uranium mines, are currently active. The only operating elemental phosphorus plant has obtained a waiver from annual testing and reporting. Compared to previous estimates, the current calculation assumes that fewer phosphogypsum stacks will require radon tests in any given year. The current assumption represents an upper bound on costs due to radon testing and reporting, compared to the actual observed activities of these facilities.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05313 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0408; FRL 9990–07]

Certain New Chemical Substances; Receipt and Status Information for September 2018

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture Notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a Test Marketing Exemption (TME), both pending and/or concluded; a Notice of Commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from September 1, 2018 to September 30, 2018.

DATES: Comments identified by the specific case number provided in this document must be received on or before April 22, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0408, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more

information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from September 1, 2018 to September 30, 2018. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the TSCA, 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs received by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices received by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting

manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier versions were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 9/1/2018 TO 9/30/2018

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–18–0045	1	09/27/2018	CBI	(G) Ethanol production	(G) Biofuel producing Saccharomyces cerevisiae modified, genetically stable.
P–16–0104A	2	09/27/2018	CBI	(G) This material is used as a feed stock for another intermediate.	(S) 2-pyridinecarboxylic acid, 4,5-dichloro-6-(4-chloro-2-fluoro-3-methoxyphenyl.
P–16–0309A	4	09/28/2018	CBI	(G) PMN substances are intended for use as rheological or thixotropic agents used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats.	(G) 12-hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid.
P–16–0310A	4	09/28/2018	CBI	(G) PMN substances are intended for use as rheological or thixotropic agents used in the production of solvent based industrial coatings, high solid aromatic paints, adhesives, sealants, and other types of paints and topcoats.	(G) 12-hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid.
P–16–0354A	3	09/21/2018	CBI	(G) Intermediate	(G) Esteramine.
P–16–0355A	3	09/21/2018	CBI	(G) Intermediate	(G) Esteramine.
P–16–0380A	5	09/28/2018	CBI	(G) Component in electrocoat resin	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts).
P–16–0381A	5	09/28/2018	CBI	(G) Component in electrocoat resin	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0382A	5	09/28/2018	CBI	(G) Component of an electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates(salts).
P–16–0383A	5	09/28/2018	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts).
P–16–0384A	5	09/28/2018	CBI	(G) Component of an electrocoat resin.	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0385A	5	09/28/2018	CBI	(G) Component of electrocoat resin	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates(salts).
P–16–0442A	3	09/24/2018	CBI	(G) Polymer for coatings	(G) Carboxylic acids, unsaturated, polymers with disubstituted amine, alkanediol, substituted alkylpropanoic acid, alkanedioic acid and substituted isocyanatocycloalkane, compds. with alkylamine.
P–16–0443A	3	09/24/2018	CBI	(G) Polymer for coatings	(G) Carboxylic acids, unsaturated, hydrogenated polymers with disubstituted amine, alkanediol, substituted alkylpropanoic acid, alkanedioic acid and substituted isocyanatocycloalkane, compds. with alkylamine.
P–16–0444A	3	09/24/2018	CBI	(G) Polymer for coatings	(G) Amine salted polyurethane.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–16–0445A	3	09/24/2018	CBI	(G) Polymer for coatings	(G) Carboxylic acids, unsaturated, hydrogenated polymers with substituted alkanediamine, alkanediol, substituted alkylpropanoic acid, alkanedioic acid and substituted isocyanatocycloalkane, compds. with alkylamine.
P–16–0539A	4	09/14/2018	CBI	(G) Photolithography	(G) Organic sulfonate compound.
P–16–0583A	4	09/27/2018	CBI	(S) Sealant for head lamps of cars	(G) Aromatic hydrocarbon resin.
P–17–0016A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated.
P–17–0017A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated.
P–17–0018A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, azobis[aliphatic nitrile] initiated.
P–17–0019A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated.
P–17–0020A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated.
P–17–0021A	4	09/24/2018	CBI	(G) Polymer for coatings	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, azobis[aliphatic nitrile] initiated.
P–17–0144A	2	09/07/2018	Designer Molecules, Inc.	(G) Coating component	(S) Amines, c36-alkylenedi-, polymers with octahydro-4,7-methano-1h-indenedimethanamine and pyromellitic dianhydride, maleated.
P–17–0184A	4	09/24/2018	Colonial Chemical, Inc.	(S) Liquid Laundry Detergent	(S) 1-propanaminium, 2-hydroxy-n, n-dimethyl-n-[3-[(1-oxooctyl-amino]propyl]-3-sulfo-, inner salt.
P–17–0207A	4	09/24/2018	CBI	(G) Paint	(G) 2-alkenoic acid, 2 alkyl, 2 alkyl ester, polymer with alkyl alkenoate, carbomonocyle, alkyl alkenoate and alkyl alkenoate, alkyl peroxide initiated.
P–17–0234A	4	09/11/2018	CBI	(S) Adhesive intermediate	(S) Oxirane, 2-(chloromethyl)-, polymer with 2-methyloxirane polymer with oxirane bis(2-aminopropyl) ether.
P–17–0282A	10	09/14/2018	Elantas PDG, Inc.	(S) This is a component of a mixture that is used as an impregnating varnish for stators and motors.	(S) Isocyanic acid, polymethylenepolyphenylene ester, caprolactam- and phenol-blocked.
P–17–0298A	2	09/06/2018	GE Water & Process Technologies.	(S) The notified substance is described as a hydrogen sulfide scavenger used in controlling hydrogen sulfide in the vapor space of fuel storage, shipping vessels and pipelines. It is designed to reduce the health, safety and environmental hazards of handling fuels containing H2S. The substance reacts selectively with (neutralizes) and removes H2S to help meet product and process specifications.	(S) Formaldehyde, homopolymer, reaction products with n-propyl-1-propanamine.
P–17–0339A	5	09/25/2018	Sasol Chemicals (USA), LLC.	(S) Paints, (S) Industrial/Commercial Surfactant, (S) Metal working Fluid, (S) Agricultural chemicals, (S) Agricultural chemicals.	(S) Poly(oxy-1,2-ethanediyl), a-(2-butyloctyl)-w-hydroxy-.
P–17–0340A	5	09/25/2018	Sasol Chemicals (USA), LLC.	(S) Industrial/Commercial Surfactant, (S) Metal working Fluid, (S) Paints, (S) Metal working Fluid, (S) Agricultural chemicals, (S) Agricultural chemicals, (S) Paints, (S) Industrial/Commercial Surfactant.	(S) Poly(oxy-1,2-ethanediyl), a-(2-hexyldecyl)-w-hydroxy-.
P–17–0341A	5	09/25/2018	Sasol Chemicals (USA), LLC.	(S) Paints, (S) Paints, (S) Metal working Fluid, (S) Industrial/Commercial Surfactant, (S) Agricultural chemicals, (S) Industrial/Commercial Surfactant, (S) Metal working Fluid, (S) Agricultural chemicals.	(S) Alcohols, c16-20-branched, ethoxylated.
P–17–0342A	5	09/25/2018	Sasol Chemicals (USA), LLC.	(S) Agricultural chemicals, (S) Agricultural chemicals.	(S) Poly(oxy-1,2-ethanediyl), a-(2-octyldodecyl)-w-hydroxy-.
P–17–0382A	3	09/18/2018	Chemtura Corporation.	(S) Friction Modifier for Automotive lubricants (*i.e.,* Motor oil, Transmission fluid, Differential fluid).	(S) Amides, tallow, n,n-bis(2-hydroxypropyl).
P–17–0387A	4	09/24/2018	CBI	(G) Paint	(G) Dicarboxylic acids, polymers with alkanoic acid, alkanediol, susbtituted-alkylalkanoic acid, substituted alkyl carbomonocyle, alkanedioic acid and alkanediol, alkanolamine blocked, compds. with alkanolamine.
P–17–0388A	4	09/24/2018	CBI	(G) Paint	(G) Dicarboxylic acids, polymers with alkanoic acid, alkanediol, susbtituted-alkylalkanoic acid, substituted alkyl carbomonocyle, alkanedioic acid and alkanediol, alkanolamine blocked, compds with alkanolamine.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–17–0393A	4	09/25/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Alkanediamine, dialkyl-, polymer with a-hydro-w-[(1-oxo-2-propen-1-yl)oxy]poly(oxy-1,2-ethanediyl) ether with substituted alkyl-substituted-alkanediol, reaction products with alkyl-alkanamine.
P–18–0018A	3	09/04/2018	Kyodo Yushi USA, Inc.	(G) Lubricant	(G) Fluorinated acrylate, polymer with alkyloxirane homopolymer monoether with alkanediol mono(2-methyl-2-propenoate), tert-Bu 2-ethylhexaneperoxoate-initiated.
P–18–0057A	8	09/10/2018	CBI	(S) A drier accelerator that is used for superior drying performance in solvent-borne and waterborne air-dried paints, inks and coatings.	(S) Vanadium, tris(2-ethylhexanoato-ko)tri-μ-oxotri-, cyclo.
P–18–0057A	9	09/21/2018	CBI	(S) A drier accelerator that is used for superior drying performance in solvent-borne and waterborne air-dried paints, inks and coatings.	(S) Vanadium, tris(2-ethylhexanoato-ko)tri-μ-oxotri-, cyclo.
P–18–0070A	8	09/12/2018	Arrowstar, LLC	(G) Chemical intermediate for polyurethane industry.	(G) Waste plastics, polyester, depolymd. with glycols, polymers with dicarboxylic acids.
P–18–0078A	2	09/10/2018	CBI	(G) Paint	(G) 2-alkenoic acid, 2-alkyl-, 2-alkyl ester, polymer with alkyl 2-alkenoate, 2-substitutedalkyl 2-alkenoate and 2-substitutedalkyl 2-alkyl-2-alkenoate, tert alkylperoxoate initiated.
P–18–0078A	3	09/24/2018	CBI	(G) Paint	(G) 2-alkenoic acid, 2-alkyl-, 2-alkyl ester, polymer with alkyl 2-alkenoate, 2-substitutedalkyl 2-alkenoate and 2-substitutedalkyl 2-alkyl-2-alkenoate, tert alkylperoxoate initiated.
P–18–0084A	4	09/21/2018	ShayoNano USA, Inc.	(S) Additive for paints and coatings ...	(S) Silicon zinc oxide.
P–18–0088A	2	09/14/2018	CBI	(G) Oil and gas production	(G) Di(substituted-1,3-trialkylammonium) dialkylammonium salt.
P–18–0091A	2	09/11/2018	Greenwich Chemical Consulting, Inc.	(S) Intermediate for use in the manufacture of polymers.	(G) Vegetable oil, polymers with diethylene glycol- and polyol- and polyethylene glycol-depolymd. poly(ethylene terephthalate) waste plastics and arylcarboxylic acid anhydride.
P–18–0092A	4	09/05/2018	Shell Chemical LP—Martinez Catalyst Plant.	(G) The TBPMI chemical is used as a catalyst, the catalyst is imported and used in the manufacture of monoethlyene glycol (MEG).	(S) Phosphonium, tributylmethyl-, iodide (1:1).
P–18–0100A	2	09/17/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Substituted alkanoic acid polymer with alkylcarbonate, alkanediols and isocyanate substituted carbomonocycles, sodium salt, alkanoic acid-substituted polyol reaction products-blocked.
P–18–0100A	5	09/19/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Substituted alkanoic acid polymer with alkylcarbonate, alkanediols and isocyanate substituted carbomonocycles, sodium salt, alkanoic acid-substituted polyol reaction products-blocked.
P–18–0102A	3	09/17/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Alkanoic acid, ester with [oxybis(alkylene)]bis[alkyl-substituted alkanediol], polymer with alkylcarbonate, alkanediols, substituted alkanoic acid and isocyanate and alkyl substituted carbomonocycle, sodium salt.
P–18–0102A	5	09/19/2018	Allnex USA, Inc	(G) UV Curable Coating Resin	(G) Alkanoic acid, ester with [oxybis(alkylene)]bis[alkyl-substituted alkanediol], polymer with alkylcarbonate, alkanediols, substituted alkanoic acid and isocyanate and alkyl substituted carbomonocycle, sodium salt.
P–18–0104A	5	09/04/2018	CBI	(S) Halogen free flame retardant in thermoplastic polymers.	(G) Acrylic acid, reaction products with pentaerythritol, polymerized.
P–18–0109A	2	09/07/2018	CBI	(G) Additive, open, non-dispersive use	(G) 2-alkenoic acid, 2-alkyl-, alkyl ester, polymer with 2-(dialkylamino)alkyl 2-alkyl-2-alkenoate, alkyl 2-alkyl-2-alkenoate and ¿-(2-alkyl-1-oxo-2-alken-1-yl)-¿-alkoxypoly(oxy-1,2-alkanediyl), [(1-alkoxy-2-alkyl-1-alken-1-yl)oxy]trialkylsilane-initiated.
P–18–0116A	3	09/14/2018	CBI	(G) Intermediate for industrial chemical.	(G) Fatty acid oil reaction product with fatty acid oil.
P–18–0133A	2	09/19/2018	CBI	(G) Component in hydraulic fracturing fluids.	(G) Polyol adduct of bisaldehyde.
P–18–0137A	2	09/07/2018	Wacker Chemical Corporation.	(S) For improved water protection of construction materials, like cement fiber board.	(G) Alkylsilsesquioxane, ethoxy-terminated.
P–18–0160A	2	09/18/2018	CBI	(G) Coating component	(G) Heteropolycyclic, halo substituted alkyl substituted-diaromatic amino substituted carbomonocycle, halo substituted alkyl substituted heteropolycyclic, tetraaromatic metalloid salt (1:1).

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0172A	6	09/04/2018	CBI	(S) Category of use: By function and application, *i.e.,* a dispersive dye for finishing polyester fibers). Calcium is an auxiliary drier that is used solely in combination with primary and secondary driers. It can also be used as a pigment wetting agent and loss of dry additive. Calcium itself has no drying effect on binders that dry by oxidation. However, it yields synergistic effects in combination with primary driers such as cobalt, manganese and Borchi OXY-Coat, and with secondary driers such as zirconium. When added during the dispersion, it prevents adsorption of the primary driers by the pigments thereby stabilizing surface dry. Calcium also promotes pigment wetting to improve film gloss. Applications 10% Calcium Cem-All® driers are based on a blend of carboxylate metal salts and are designed for Solventborne coatings only. Calcium driers are used in all oxidatively cured systems, whether air or force dried. They are used in architectural paints, industrial coatings and stains. Dosage In conventional alkyd formulations, the Calcium addition is between 0.03–0.30% metal based on the vehicle solids of the coating and will vary depending upon the composition of the binder. The specific drier blend should be experimentally determined. Higher levels might be needed if added to the dispersion to prevent drier adsorption. Calcium drier can be added to the dispersion and/or in the letdown with other driers.	(S) Calcium, carbonate 2-ethylhexanoate neodecanoate propionate complex.
P–18–0179A	5	09/10/2018	CBI	(G) Adhesive	(G) Phenol, polymer with formaldehyde and phenolic resin, sodium salt.
P–18–0180A	5	09/10/2018	CBI	(G) Adhesive	(G) Phenol, polymer with formaldehyde and phenolic resin, potassium salt.
P–18–0181A	5	09/10/2018	CBI	(G) Adhesive	(G) Phenol, polymer with formaldehyde and phenolic resin, potassium sodium salt.
P–18–0182	3	09/18/2018	Georgia Institute of Technology.	(S) For heat transfer, heat storage, thermal emission, and general temperature management in heat-generating systems such as electronics (S) For light absorption properties (S) To improve mechanical properties or electrical conductivities of other materials or products.	(G) Multiwalled carbon nanotubes.
P–18–0185A	2	09/11/2018	Allnex USA, Inc	(S) Adhesion-enhancing resin for wood applications.	(G) Fatty acid, polymer with alkanedioic acid dialkyl ester, hydroxyl alkyl substituted alkanediol, substituted carbomonocycle and alkylol substituted alkane.
P–18–0185A	3	09/21/2018	Allnex USA, Inc	(S) Adhesion-enhancing resin for wood applications.	(G) Fatty acid, polymer with alkanedioic acid dialkyl ester, hydroxyl alkyl substituted alkanediol, substituted carbomonocycle and alkylol substituted alkane.
P–18–0227A	2	09/10/2018	CBI	(G) Corrosion inhibitor (G) Chemical intermediate.	(S) D-glucaric acid.
P–18–0235A	4	09/05/2018	CBI	(S) Component in automotive gasoline/transportation fuel for consumer use.	(G) Naphtha oils.
P–18–0235A	6	09/12/2018	CBI	(S) Component in automotive gasoline/transportation fuel for consumer use.	(G) Naphtha oils.
P–18–0262	2	09/05/2018	SEPPIC	(S) Function: Thickener Applications: Paints, adhesive (S) Function: Polishes Applications: Wood care, leather care (S) Function: Stabilizer of suspensions, Applications: Detergency, treatment of physical surfaces, development of soaps.	(S) 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with ammonium 2-methyl-2-[(1-oxo-2-propen-1-yl)amino]-1-propanesulfonate (1:1), n,n-dimethyl-2-propenamide and .alpha.-(2-methyl-1-oxo-2-propen-1-yl)-.omega.-(dodecyloxy)poly(oxy-1,2-ethanediyl).
P–18–0277A	3	09/12/2018	CBI	(G) Adhesive	(G) Poly[2-(dimethylamino)ethyl acrylate chloride salt, vinyl acetate, methacrylic acid and alkyl acrylates].
P–18–0282A	5	09/12/2018	Ashland, Inc.	(G) Adhesive	(G) Fatty acid ester, polyether, diisocyanate polymer.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0283A	2	09/04/2018	CBI	(G) Open, non-dispersive use	(G) Hydroxy alkanoic acid, compds. with aminoalkoxyalcohol-epoxy polymer-alkanolamine reaction products.
P–18–0287A	4	09/19/2018	CBI	(G) Company plans to produce ''tires, wastes, pyrolyzed, condensate oil fraction'' (hereafter referred to as syn oil) (CASRN: 1312024–02–4) from scrap tire materials. The synthetic oil fraction from tire waste pyrolysis can be used in a variety of industries. Some examples of use of synthetic oil include use as a fuel, upgraded for use as a higher quality fuel, as an additive for asphalt or other complex mixtures, used to manufacture other chemicals, etc.	(G) Synthetic oil from tires.
P–18–0289	2	09/20/2018	CBI	(G) Gas scrubbing,(G) Wastewater deoderizing, (G) Landfill deoderizing, (G) Agricultural manure digester deodorizing.	(G) 2-(2(methylcaboxymonocyclic)amino)ethoxy)-alcohol.
P–18–0290	2	09/20/2018	CBI	(G) Wastewater deoderizing, (G) Landfill odor neutralizing, (G) Agricultural manure digester deodorizing, (G) Gas scrubbing.	(G) Carbomonocylic-oxazolidine.
P–18–0297	1	09/04/2018	CBI	(G) A Component of material for fabrication.	(G) Substituted, (alkylaromatic)diaromatic salt with trihalo-[(trihaloalkyl)substituted]substituted alkaneamide.
P–18–0298	1	09/06/2018	Hexion, Inc	(G) Epoxy curing agent	(G) 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with ethyleneamine, 2-(chloromethyl)oxirane, 2-[[4-(1,1-dimethylethyl)phenoxy]methyl]oxirane, 2,2'-[1,6-hexanediylbis(oxymethylene)]bis[oxirane], 4,4'-(1-methylethylidene)bis[phenol], alkyl ether amine, and 2-[(2-methylphenoxy methyl]oxirane.
P–18–0299	1	09/07/2018	CBI	(G) Ink additive	(G) Alkenoic acid, alkyl-, polymers with alkyl methacrylate, cycloalkyl methacrylate, alkylene dimethacrylate, and polyalkene glycol hydrogen sulfate [(branched alkyloxy)alkyl]-(alkenyloxy)alkyl ethers ammonium salts, metal salts.
P–18–0300	1	09/10/2018	CBI	(S) Additive for automatic dishwashing detergent.	(G) Heteromonocycle, alkenoic 1:1 salt, polymer with alpha-(2-methyl-1-oxo-2-propen-1-y)l-omegamethoxypoly(oxy-1,2-ethanediyl) and methyl-alkenoic acid.
P–18–0301	1	09/10/2018	CBI	(G) Coating component	(G) Alkanedioic acid, polymer with cycloalkyl dimethanol, alkyl and cycloalkyl diisocyanates, dimethyl-alkanediol, dihydroxyalkanoic acid methylenebis[isocyanatocyclohexane, hydroxyethyl acrylate- and polyalkyl glycol monoalkyl ether blocked.
P–18–0302	1	09/10/2018	CBI	(G) Chemical intermediate	(S) D-glucaric acid, ammonium salt (1:1).
P–18–0303	1	09/10/2018	CBI	(G) UV curable oligomer	(G) 2-propenoic acid, polymer with aliphatic cyclic epoxide.
P–18–0303A	2	09/21/2018	CBI	(G) UV curable oligomer	(G) 2-propenoic acid, polymer with aliphatic cyclic epoxide.
P–18–0304	1	09/11/2018	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Sulfonium, bis(dihalocarbomonocycle) carbomonocycle, salt with substituted heteropolycycle dihalo sulfoalkanoate (1:1).
P–18–0305	1	09/12/2018	CBI	(G) Component of ink	(G) Alkenoic acid, alkyl-,alkyl ester, polymer with alkyl alkenoate, substituted heteromonocycle, substituted carbomonocycle, substituted alkanediol and alkenoic acid, alkali metal salt.
P–18–0306	1	09/13/2018	Allnex USA, Inc	(S) Protective coating for flatbed and pickup truck liners.	(S) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2-oxiranylmethyl 2-methyl-2-propenoate.
P–18–0307	1	09/14/2018	CBI	(G) Binder resin in coatings	(G) Alkyl alkenoic acid, alkyl ester, telomer with alkyl alkenoate, substituted alkyl alkyl alkenoate, alkylthiol, substituted carbomonocycle, hydroxyalkyl alkyl alkenoate and alkyl alkyl alkenoate.
P–18–0308	2	09/18/2018	CBI	(G) Additive for engineering plastics	(G) Bis[(hydroxyalkoxy)aryl]carbopolycyclic.
P–18–0310	1	09/18/2018	Chitec Technology Co., Ltd.	(G) Polymer additive	(S) Benzenepropanoic acid, 3-(2h-benzotriazol-2-yl)-5-(1,1-dimethylethyl)-4-hydroxy-, 2,2-bis(hydroxymethyl)butyl ester.
P–18–0311	1	09/19/2018	CBI	(G) A component of material for fabrication.	(G) Triarylsulfonium substituted oxatricycloalkyloxycarbonyl dihalo alkane sulfonate.
P–18–0312	1	09/20/2018	CBI	(G) Dispersing agent	(G) Formaldehyde, polymer with 2-phenoxyalkanol and .alpha.-phenyl-.omega. hydroxypoly(oxy-1,2-alkylnediyl), dihydrogen phosphate 2-phenoxyalkyl hydrogen phosphate, alkaline salt.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0313	2	09/26/2018	Ashland, Inc	(G) Adhesive	(G) Alkoxylated glycol ether with 1,2-propanediol, reaction products with alkyl alcohol blocked 1,1′-methylenebis [4-isocyanatobenzene] homopolymer and 1,1′-methylenebis [4-isocyanatobenzene].
P–18–0314	1	09/20/2018	CBI	(G) A component of material for fabrication.	(G) Substituted triarylsulfonium carbopolycyclic heteromonocyclic dihalo sulfoacetate.
P–18–0315	1	09/20/2018	CBI	(G) A component of material for fabrication.	(G) Substituted triarylsulfonium substituted carbopolycyclic carboxylate.
P–18–0316	1	09/20/2018	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Heteropolycycle, alkylaromatic-, salt with dihalo-substituted alkyl carbopolycycle carboxylate.
P–18–0317	1	09/20/2018	CBI	(G) An ingredient used in photoresist manufacture.	(G) Sulfonium, alkanoyl substituted carbomonocyclic aromatic]diaromatic-, trihalotris(polyhaloalkyl)phosphate(1-) (1:1).
P–18–0318	1	09/20/2018	Gelest	(S) Research (S) Surface treatment for added lubricity and anti-static properties.	(S) 1-octadecanaminium, n,n-dimethyl-n-[3-(triethoxysilyl)propyl]- chloride.
P–18–0319	1	09/20/2018	CBI	(G) Intermediate for manufacture of plasticizer.	(G) Plant oil fatty acids, alkyl esters.
P–18–0320	1	09/21/2018	CBI	(G) Hardner	(G) Alkane, diisocyanato-(isocyanatoalkyl)-.
P–18–0321	1	09/21/2018	CBI	(G) Intermediate for use in chemical manufacture.	(G) Poly(oxy-ethanediyl), (methyl ethanediyl)bis[hydroxy-.
P–18–0322	1	09/21/2018	CBI	(G) The notified substance is used as a fragrance ingredient in consumer products.	(G) Heteromonocycle, 4,6-dimethyl-2-(1-phenylethyl)-.
P–18–0322	3	09/28/2018	CBI	(G) The notified substance is used as a fragrance ingredient in consumer products.	(G) Heteromonocycle, 4,6-dimethyl-2-(1-phenylethyl)-.
P–18–0323	1	09/21/2018	Kuraray America, Inc.	(G) Raw material for polymer manufacturing.	(S) 2-propenoic acid, 2-methyl-, 3-methyl-3-buten-1-yl ester.
P–18–0324	2	09/25/2018	CBI	(S) Resin/binder in paint formulations for industrial and architectural applications.	(G) Organic acid dimethyl ester, polymer with mixed alkanediols and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, trimethoxysilylalkylalkanamine-blocked.
P–18–0325	1	09/24/2018	Allnex USA, Inc	(S) Industrial crosslinking catalyst	(G) Benzenesulfonic acid, alkyl-, compd. with 1,1′-iminobis[2-propanol] (1:1).
P–18–0327	3	09/26/2018	CBI	(G) Filler for non-dispersive resins	(G) Mixed metal oxide.
P–18–0328	1	09/25/2018	CBI	(G) Chemical intermediate for the manufacture of plasticizer.	(G) Plant oil fatty acids, alkyl esters.
P–18–0329	1	09/25/2018	CBI	(G) Component of lenses used in electronic applications.	(G) Substituted carbopolycyclic dicarboxylic acid dialkyl ester, polymer with alkanediol and carbopolycyclic bis (substituted carbopolycycle) bisalkanol.
P–18–0330	1	09/25/2018	CBI	(G) Initiator	(G) Formaldehyde, polymer with alkyl aryl ketone.
P–18–0331	1	09/25/2018	Evonik Corporation	(S) Substrate wetting and anti-cratering additive for inks.	(S) Siloxanes and silicones, di-me, 3-(4-hydroxy-3-methoxyphenyl)propyl me, ethoxylated propoxylated.
P–18–0332	1	09/25/2018	CBI	(G) A component in building materials	(S) Canola meal.
P–18–0333	1	09/25/2018	CBI	(G) A component in building materials	(S) Flaxseed meal.
P–18–0334	1	09/26/2018	Sirrus, Inc	(S) Intermediate use	(S) Propanedioic acid, 1,3-dihexyl ester.
P–18–0335	1	09/26/2018	Sirrus, Inc	(S) Intermediate use	(S) Propanedioic acid, 1,3-dicyclohexyl ester.
P–18–0336	1	09/26/2018	Sirrus, Inc	(S) Intermediate use	(S) Propanedioic acid, 2,2-bis(hydroxymethyl)-, 1,3-dihexyl ester.
P–18–0337	1	09/26/2018	Sirrus, Inc	(S) Intermediate use	(S) Propanedioic acid, 2,2-bis(hydroxymethyl)-, 1,3-dicyclohexyl ester.
P–18–0338	1	09/26/2018	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Sulfonium, triaryl-, salt with polyhalo-4-sulfoalkyl polycarbocyclic alkane-1-carboxylate (1:1).
P–18–0339	1	09/26/2018	Hitachi America, Ltd.	(S) The PMN substance is the immobilizing agent for the microbial promoter of nitrogen decomposition.	(G) Alkyl heteromonocycle with heteroatom substituted alkyl cycloalkane and 2-hydroxyethyl heteromonocycle methacrylate-blocked homopolymer.
P–18–0340	1	09/26/2018	Lanxess Solutions US, Inc.	(S) One component thermoset elastomer manufacture.	(S) Poly(oxy-1,4-butanediyl), ¿-hydro-¿-hydroxy-, polymer with hexahydro-2h-azepin-2-one and 1,1′-methylenebis[4-isocyanatobenzene].
P–18–0345	1	09/26/2018	Chitec Technology Co., Ltd.	(S) R-gen 990 is a liquid aminoketone-based photoinitator (PI) intended for use as an ultraviolet (UV) curing agent in highly pigmented inks, photo-resists, and masks.	(S) 1-butanone, 2-(dimethylamino)-1-[4-(2-ethyl-2-methyl-3-oxazolidinyl)phenyl]-2-(phenylmethyl)-
P–18–0346	2	09/29/2018	Chitec Technology Co., Ltd.	(S) Antioxidant compounded into various polymers to be used in extrusion processes to fabricate articles.	(S) 2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, 3,9-bis-[2-(1-methyl-1-phenylethyl)-4-(1,1,3,3-tetramethylbutyl)phenoxy]-.
P–18–0347	1	09/27/2018	Evonik Corporation	(S) Aldehyde scavenger for the manufacture of polyurethane foams.	(S) Amines, polyethylenepoly-, triethylenetetramine fraction, polymers with guanidine hydrochloride (1:1).
P–18–0348	1	09/27/2018	Lanxess Solutions US, Inc.	(S) Thermoplastic elastomer manufacture/Injection Moulding.	(S) Ethanol, 2,2'-[1,4-phenylenebis(oxy)]bis-, polymer with 1,6-diisocyanatohexane and ¿-hydro-¿-hydroxypoly(oxy-1,4-butanediyl).
P–18–0349	1	09/27/2018	Lanxess Solutions US, Inc.	(S) Two component adhesives and protective coatings for marine, infrastructure, etc..	(S) 1,2,3-propanetriol, polymer with 2,4-diisocyanato-1-methylbenzene, methyloxirane and oxirane, nonylphenol blocked
P–18–0350	1	09/27/2018	Evonik Corporation	(S) Filler & pigment treatment, (S) Additive in water-borne UV-curable coatings, (S) Glass fiber treatment.	(G) Aqueous methacrylamido modified polysiloxane.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0351	1	09/27/2018	CBI	(G) UV curable inks	(G) Acrylic acid, tricyclo alkyl ester.
P–18–0352	1	09/27/2018	3M Company	(G) Gap filler	(G) Poly(hetero(alkyl-1,2-alkenyl)], alpha-[[[3-(1-heteromonocycle)alkyl)substituted heteroatom]heteroatom-substituted alkyl]]-omega- [[[[3-(1-heteromonocycle)alkyl]]substituted heteroatom] heteroatom-substituted alkyl]]heteroatom]-.
P–18–0353	1	09/27/2018	CBI	(G) Adhesive	(G) Phenolic resin, alkali, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salts.
P–18–0354	1	09/27/2018	CBI	(G) Adhesive	(G) Phenolic resin, alkali, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salts.
P–18–0355	1	09/27/2018	CBI	(G) Paint	(G) Alkanediol, substituted alkyl, polymer with carbomonocyle, alkanedioate substituted carbomonocycle, ester with substituted alkanoate.
P–18–0356	1	09/27/2018	CBI	(G) Adhesive	(G) Sulfonated phenolic resin salt, polymer with acetone-phenol reactioin products, formaldehyde and phenol, sodium salt.
P–18–0357	1	09/27/2018	CBI	(G) Adhesive	(G) Sulfonated phenolic resin salt, polymer with acetone-phenol reactioin products, formaldehyde and phenol, potassium salt.
P–18–0358	1	09/27/2018	Shikoku International Corporation.	(S) Industrial Adhesive for Electronics, (S) Carbon Fiber Reinforced Plastics (CFRP) Prepreg.	(S) 1h-imidazole-1-propanenitrile,2-ethyl-ar-methyl-.
P–18–0359	1	09/28/2018	CBI	(G) Molded or extruded items	(G) Methoxy vinyl ether- vinylidene fluoride polymer.
P–18–0360	1	09/28/2018	Lanxess Solutions US, Inc.	(S) Two component adhesives and protective coatings for marine, infrastructure, etc.	(S) Oxirane, 2-methyl-, polymer with 2,4-diisocyanato-1-methylbenzene, 2-methyloxirane polymer with oxirane ether with 1,2,3-propanetriol (3:1), and oxirane, cashew nutshell liq.- and pr alc. -blocked.
P–18–0361	1	09/28/2018	Lanxess Solutions US, Inc.	(S) Electrophoretic paint	(S) Hexane, 1,6-diisocyanato-, homopolymer, 2,2-dimethyl-3-hydroxypropanoic acid- and 3,5-dimethyl-1H-pyrazole-blocked.
P–18–0362	1	09/28/2018	Lanxess Solutions US, Inc.	(S) Corrosion protection coatings	(S) 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2,4-diisocyanato-1-methylbenzene, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and alpha,alpha′,alpha″-1,2,3-propanetriyltris[omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)]], me et ketone oxime -blocked.
P–18–0363	1	09/28/2018	CBI	(G) Adhesive	(G) Phenol, polymer with formaldehyde, 5-methyl-1,3-benzenediol-terminated,sodium salts.
P–18–0364	1	09/28/2018	ONA Polymers	(G) Industrial quality control additive	(G) Alkali humates, polymers with substituted acrylamides.
P–18–0369	1	09/28/2018	CBI	(G) Processing aid	(G) Maleic anhydride—substituted alkene copolymer.
P–18–0370	1	09/28/2018	CBI	(G) Processing aid	(G) Salt of a maleic anhydride and substituted alkene copolymer.
P–18–0371	1	09/28/2018	CBI	(G) Processing aid	(G) Salt of a maleic anhydride—substituted alkene copolymer.
P–18–0379	1	09/28/2018	Cardolite Corporation.	(G) Hardener for waterborne epoxy system.	(G) Cashew nutshell liquid polymer with epichlorohydrin, formaldehyde, phenol, amines and glycol.
P–18–0381	1	09/28/2018	The Shepherd Color Company.	(G) For use in exterior paints and plastics, (G) for use in coatings, (G) for use in high temperature engineering polymers, (G) for use in artist materials.	(S) Indium manganese yttrium oxide.
P–18–0382	1	09/28/2018	CBI	(G) Dye for printing ink	(G) Xanthylium, bis[dicarboxycyclic]sulfonylamino-alkylcyclicamino-disulfo-sulfocyclic-, inner salt, monocationic salt.
P–18–0383	1	09/28/2018	CBI	(G) Coatings and inks for commercial use.	(G) Dialkyl-alkanediamine, polymer with [(oxo-alkenyl)oxy]poly(oxy-alkanediyl)ether with bis(hydroxyalkyl)-alkanediol.
P–18–0384	1	09/28/2018	Sigma-Aldrich CO LLC.	(S) Starting material for manufacture of 6Lithium chloride scintillation crystals for use in radiation detection.	(S) Lithium 6.
P–18–0386	1	09/28/2018	CBI	(G) Electronic use	(G) Alkylalkenyldicyclohexane.
P–18–0387	1	09/28/2018	CBI	(G) Plastic Additive	(G) Alkanal, reaction products with alkanediyl bis[alkyl-tris(alkyl-heterocycle)-1,3,5-triazine-2,4,6-triamine and hydrogen peroxide.
P–18–0388	1	09/28/2018	CBI	(G) Plastic additive	(G) 1,3,5-triazine-2,4,6-triamine, alkanediyl bis[alkyl-tris(alkyl-heterocycle)-, allyl derivs., oxidized, hydrogenated.
P–18–0389	1	09/28/2018	CBI	(G) Component in package coatings	(G) Alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide.
P–18–0390	1	09/28/2018	CBI	(S) Lubricant additive for engine oils, industrial oils and greases.	(G) Formaldehyde, reaction products with diphenylamine, heteromonocycle and alkene.
P–18–0391	1	09/28/2018	Colonial Chemical, Inc.	(S) Liquid Laundry Detergent	(S) 1-propanaminium, n-(carboxymethyl)-n, n-dimethyl-3-[(3,5, 5-trimethyl-1-oxohexyl), amino]- inner salt.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0393	1	09/28/2018	CBI	(G) Paint	(G) Alkenoic acid, alkyl, alkyl ester, polymer with alkyl propenoate, vinyl carbomonocyle, substituted alkyl propenoate, alkyl 2-alkyl 2-propenoate, alkanediol mono(2-alkyl-2-propenoate) and bicarbomonocylo alkyl 2-alkyl-2-alkenoate, tertiary alkyl substituted alkane peroxoate initiated.
P–18–0394	1	09/28/2018	CBI	(G) Chemical Intermediate	(G) Substituted benzylic ether polyethylene glycol alkyl ether derivative.
P–18–0395	1	09/28/2018	Shell Chemical, LP	(S) Intermediate for manufacturing a chemical for use in enhanced oil recovery operations.	(S) Alkenes, c17–25, branched and linear.
P–18–0396	1	09/28/2018	CBI	(G) Paint	(G) Alkenoic acid, alkyl, polymer with carbomonocyle alkyl propenoate and substituted alkyl alkenoate, ester with substituted alkyl alkanoate, tert-butyl substituted peroxoate-initiated.
P–18–0397	1	09/29/2018	CBI	(G) Additive in oil field chemicals	(G) Substituted alkanedioic acid, polymer with substituted alkanoic acid.
P–18–0398	1	09/29/2018	CBI	(S) Intermediate	(S) 1,2-ethanediamine, n-(1-methylethyl)-n-[2-[(1-methylethyl)amino]ethyl]-.
P–18–0399	1	09/29/2018	CBI	(G) (c) Open, non-dispersive use additive for industrial use only.	(G) Rosin adduct ester neutralized with amine.
P–18–0400	1	09/29/2018	CBI	(G) Open, non-dispersive use, additive for textile industry.	(G) Rosin adduct ester, neutralized with koh.
P–18–0401	1	09/29/2018	CBI	(G) Additive	(S) Glycerides, c16–18 and ci8-unsatd. mono- and di-, citrates.
P–18–0402	1	09/29/2018	CBI	(G) Fuel additive	(G) Phenol, alkanepolyolbis(heteroalkylene)bis-, polyalkylene derivs..
SN–16–0013A	2	09/27/2018	CBI	(G) Surfactant	(G) Polyfluorinated alkyl quaternary ammonium chloride.
SN–18–0005A	2	09/28/2018	CBI	(G) Monomer for industrial adhesives, coatings and inks.	(S) Butanoic acid, 3-mercapto-, 1,1′-[2-(hydroxymethyl)-2-[(3-mercapto-1-oxobutoxy)methyl]-1,3-propanediyl] ester]; (S) Butanoic acid, 3-mercapto-,1,1′-[2,2-bis[(3-mercapto-1-oxobutoxy)methyl]-1,3-propanediyl] ester.
SN–18–0006A	2	09/20/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(2-methyl-2-propen-1-yl)-.omega.-hydroxy-, c10–16-alkyl ethers.
SN–18–0007A	2	09/20/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), ¿-(2-methyl-2-propen-1-yl)-¿-hydroxy-, c12–16-alkyl ethers.
SN–18–0008A	2	09/20/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(2-methyl-2-propen-1-yl)-.omega.-hydroxy-, c12–15-alkyl ethers.
SN–18–0010	1	09/27/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(2-methyl-2-propen-1-yl)-.omega.-hydroxy-, c10–16-alkyl ethers.
SN–18–0011	1	09/27/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), ¿-(2-methyl-2-propen-1-yl)-¿-hydroxy-, c12–16-alkyl ethers.
SN–18–0012	1	09/27/2018	Colonial Chemical, Inc.	(S) Wetting agent for low foam laundry, home care and industrial cleaning.	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(2-methyl-2-propen-1-yl)-.omega.-hydroxy-, c12–15-alkyl ethers.
SN–18–0013	1	09/28/2018	CBI	(G) Lithiated metal oxide for batteries	(G) Lithiated metal oxide.
SN–18–0014	1	09/29/2018	Hexion, Inc	(S) Reactive monomer for the production of inks, in both aqueous and waterborne systems, (S) Reactive monomer for the production of paints and coatings, in both aqueous and solvent systems, (S) Reactive monomer for the production of adhesives, in both aqueous and waterborne systems..	(S) Neononanoic acid, ethenyl ester.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II—TMEs RECEIVED FROM 9/1/2018 TO 9/30/2018

Case No.	Submission type	Version	Received date	Manufacturer	Use	Chemical substance
T–18–0003A	Test Marketing Exemption Application (TMEA).	3	09/06/2018	CBI	(G) Additive	(G) Alkylated diphenylamines, homopolymers.

In Table III. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE III—NOCS RECEIVED FROM 9/1/2018 TO 9/30/2018

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–15–0024 ...	09/24/2018	09/05/2018	.....	(G) Modified trichoderma reesei.
J–16–0010A	09/24/2018	09/23/2016	Update CBI substantiation	(G) Genetically modified saccharomyces yeast.
J–16–0019 ...	09/24/2018	09/11/2018	.....	(G) Modified trichoderma reesei.
J–16–0020 ...	09/24/2018	09/05/2018	.....	(G) Modified trichoderma reesei.
J–16–0025 ...	09/24/2018	09/11/2018	.....	(G) Modified trichoderma reesei.
J–17–0001 ...	09/11/2018	09/05/2018	.....	(G) Modified saccharomyces cerevisiae.
J–17–0004 ...	09/07/2018	09/05/2018	.....	(G) Modified saccharomyces cerevisiae.
P–11–0432 ...	09/26/2018	09/10/2018	.....	(S) Tricyclo[7.3.3.15,11]heptasiloxane-3,7,14-triol,1,3,5,7,9,11,14-heptaisooctyl-, stereoisomer.
P–13–0051 ...	09/06/2018	09/06/2018	.....	(G) Fatty acid amide.
P–14–0015 ...	09/06/2018	09/06/2018	.....	(G) Fatty acid amide.
P–14–0098A	09/18/2018	10/15/2016	Re-substantiating all CBI claims to comply with the Chemical Safety for the 21st Century Act.	(G) Polyalkylene polymer, anhydride reaction products, imidated.
P–14–0269A	09/07/2018	06/09/2014	The cover letter has been amended to clarify certain language which was unintentionally misleading.	(S) Methanone, bis(4-fluorophenyl)-, polymer with 1,4-benzenediol and [1,1′—biphenyl]-4,4′-diol.
P–14–0347 ...	09/27/2018	09/13/2018	.....	(G) Isocyanic acid, polymethylenepolyphenylene ester, polymer with .alpha.-hydro-.omega.-hydroxypolyether and .alpha., alpha.′-[(alkylimino)di-2,1-ethanediyl]bis[.omega.-hydroxypolyether], acetate (salt) sulfamate (salt).
P–14–0496 ...	09/24/2018	09/13/2018	.....	(G) Polyphosphoric acids, 2-[(alkyl1-oxo-2-propen-1-yl)oxy]ethyl esters, compds. with n-(aminoiminomethyl)urea, polymers with bu acrylate, n-(hydroxymethyl)-propenamide and styrene.
P–15–0150 ...	09/20/2018	09/20/2018	.....	(G) Cyclohexanedicarboxylic acid, dialkyl ester.
P–16–0117A	09/25/2018	10/21/2016	Amending the form to include CBI substantiation, in response to a notice of deficiency, and adding the CASRN to the NOC.	(S) Magnesium hydroxide hypochlorite oxide.
P–16–0331 ...	09/13/2018	09/10/2018	.....	(G) Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[isocyanatobenzene].
P–17–0007 ...	09/27/2018	09/20/2018	.....	(G) Alkyl substituted-dioxa thio substituted-ether diene,.
P–17–0049 ...	09/11/2018	08/17/2018	.....	(G) Haloalkyl substituted carbomonocycle.
P–17–0172 ...	09/18/2018	09/13/2018	.....	(G) Branched alkylphenol, sulfurized, calcium salts, overbased.
P–18–0051 ...	09/06/2018	09/06/2018	.....	(G) Alkenoic acid, reaction products with [oxybis(alkylene)]bis[(substituted alkyl)-alkanediol], polymers with isocyanatoalkane and substituted alkanoic acid, substituted monoacrylate alkanoate-blocked.
P–18–0142 ...	09/27/2018	09/23/2018	.....	(G) Alkenoic acid, alkyl-, alkyl ester, polymer with substituted alkenoates, alkenoic acid, alkyl peroxoate-initiated.
P–87–0910 ...	09/07/2018	04/14/2009	.....	(S) 2-cyclopentene-1-acetic acid, alpha allyl, ethyl ester*.

In Table IV. of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information received by EPA during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE IV—TEST INFORMATION RECEIVED FROM 9/1/2018 TO 9/30/2018

Case No.	Received date	Type of test information	Chemical substance
P–15–0583	9/7/2018	Bioaccumulation in Fish: Aqueous and Dietary Exposure (OECD 305).	(G) butanedioic acid, alkyl amine, dimethylbutyl ester.

TABLE IV—TEST INFORMATION RECEIVED FROM 9/1/2018 TO 9/30/2018—Continued

Case No.	Received date	Type of test information	Chemical substance
P–17–0283	9/11/2018	Local Lymph Node Assay in Mice (LLNA) (OECD 406).	(G) Arenesulfonic acid, alkyl derivatives, metal salts.
P–18–0094	9/11/2018	Particle size analysis	(G) pentacyclo[9.5.1.13,9.15,15.17,13]octasiloxanealkylsubstituted, 3,5,7,9,11,13,15-heptakis(polyfluoroalkyl)-.
P–18–0140	9/9/2018	In Vitro Mammalian Chromosome Aberration Test (OECD 473), Skin sensitization (DEREK modeling), Fish Acute Toxicity Study (OECD 203), Activated Sludge, Respiration Inhibition Test (Carbon and Ammonium Oxidation) (OECD 209), Validation of Analytical Procedures: Text and Methodology (ICH Harmonised Tripartite Guideline Q2).	(G) methyl modified lactam.
P–18–0141	9/9/2018	In Vitro Mammalian Chromosome Aberration Test (OECD 473), ''Activated Sludge, Respiration Inhibition Test (Carbon and Ammonium Oxidation) (OECD 209), Skin sensitization (DEREK modeling).	(G) ethyl modified lactam.
P–18–0150	9/12/2018	Developmental Toxicity Study in Rats After Inhalation.	(G) tertiary amine, compounds with amino sulfonic acid blocked aliphatic isocyanate homopolymer.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 14, 2019.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2019–05376 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2018–0553; FRL–9990–64–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; CEQ–EPA Presidential Innovation Award for Environmental Educators Application (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), CEQ–EPA Presidential Innovation Award for Environmental Educators Application (EPA ICR Number 2524.02, OMB Control Number 2090–0031), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on December 21, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 22, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ–OA–2018–0553, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Javier Araujo, Office of the Administrator, Office of Environmental Education, MC–1704–A, Environmental Protection Agency, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–2642; fax number: 202–564–2753; email address: *araujo.javier@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA, will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The purpose of this information collection request is to collect information from applicants to select recipients for the Presidential Innovation Award for Environmental Educators program. The Environmental Protection Agency (EPA), in conjunction with the White House Council on Environmental Quality (CEQ), established the award program to meet the requirements of Section 8 (e) of the National Environmental Education Act (20 U.S.C. 5507(e)). Teachers can participate by completing and submitting the application form. Information collected includes background about the teacher and his/her experience, completed essay

responses, sample teaching materials, and recommendations from a student, principal, and fellow teacher. The information collected under this ICR will continuously help EPA and CEQ to select the top awardees for the Presidential Innovation Award for Environmental Educators (PIAEE). The selected winners will benefit from small cash prizes, which will help them to continue their mission of advancing innovative approaches to environmental education to grades K–12.

Form Numbers: None.

Respondents/affected entities: K–12 teachers who teach on a full-time basis in a public school that is operated by a local education agency, including schools funded by the Bureau of Indian Affairs. For this program, a local education agency is one as defined by section 198 of the Elementary and Secondary Education Act of 1965 (now codified at 20 U.S.C. 7801(260).

Respondent's obligation to respond: Required to obtain information from the applicants for Presidential Innovation Award for Environmental Educators and assess certain aspects of the PIAEE program as established under Section 8 (e) of the National Environmental Education Act (20 U.S.C. 5507(e)).

Estimated number of respondents: 75 (total).

Frequency of response: Annually.

Total estimated burden: 10 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $32,250 (per year), includes $14,191 annualized capital or operation & maintenance costs.

Changes in the Estimates: We expect that after adjusting the burden numbers that the burden numbers will substantially stay the same. Program requirements are expected to stay the same and the estimates currently consider the use of technology to complete the application.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05314 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9989–64]

Access to Confidential Business Information by Syracuse Research Corporation and Its Identified Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor and subcontractors, Syracuse Research Corporation (SRC) of East Syracuse, New York; BeakerTree Corporation of Arlington, VA; Eastern Research Group (ERG) of Chantilly, VA; Essential Software Inc. of Potomac, MD; and Versar Inc. of Springfield, VA, to access information which has been submitted to EPA under sections 4, 5, 6, 8, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than March 28, 2019.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Recie Reese, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8276; email address: *reese.recie@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number (68HERH19D0022) contractor and subcontractors SRC of 5010 Campuswood Drive, East Syracuse, NY; BeakerTree Corporation of 2451 Crystal Drive, Suite 475, Arlington, VA; Eastern Research Group ERG of 14555 Avion Pkwy., Chantilly, VA; Essential Software Inc. of 9024 Mistwood Drive, Potomac, MD; and Versar Inc. of 6850 Versar Center, Springfield, VA will assist the Office of Pollution Prevention and Toxics (OPPT) by providing support in scientific health and environmental assessments; risk management evaluations; maintenance and enhancement of scientific tools and models; and document processing for new and existing chemicals and products of biotechnology and nanotechnology under TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number (68HERH19D0022), SRC and its subcontractors will require access to CBI submitted to EPA under sections 4, 5, 6, 8, and 21 of TSCA to perform successfully the duties specified under the contract. SRC and its subcontractors will be given access to information submitted to EPA under sections 4, 5, 6, 8, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, and 21 of TSCA that EPA may provide SRC and its subcontractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters; SRC's sites located in Arlington, VA and East Syracuse, NY; ERG's site located in Chantilly, VA; and Versar's site located in Springfield, VA, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until December 19, 2023. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

SRC and its subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 13, 2019.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2019–05405 Filed 3–20–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 18–239; DA 18–834]

Ministerios El Jordan Application for Modification for Station KEJM–LP, Carthage, Missouri

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission) commences a hearing proceeding to determine ultimately whether Ministerios El Jordan is qualified to be and to remain a Commission licensee, and as a consequence whether its license should be revoked, and whether its pending application should be denied.

DATES: Petitions to intervene by parties desiring to participate as a party in the hearing, pursuant to 47 CFR 1.223, may be filed on or before April 22, 2019.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pamela S. Kane, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission at (202) 418–2393.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing (*Order to Show Cause*), EB Docket No. 18–239; DA 18–834, adopted and released on October 11, 2018. The complete text of this document is also available for inspection and copying from 8 a.m. until 4:30 p.m., Monday through Thursday or from 8 a.m. until 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street SW, Washington, DC 20554. The complete text of this document is also available on the internet at the Commission's website through its Electronic Document Management System (EDOCS) at *http://hraunfoss.fcc.gov/edocs_public/*. Alternative formats are available to persons with disabilities (Braille, large print, electronic files, audio format); to obtain, please send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Each document that is filed in this proceeding must display the docket number of this hearing, EB Docket No. 18–239, on the front page.

Synopsis

I. Introduction

1. In the *Order to Show Cause,* Hearing Designation Order, and Notice of Opportunity for Hearing, we commence a hearing proceeding before the Administrative Law Judge to determine whether Ministerios El Jordan (Jordan) is qualified to be and to remain a Commission licensee and, as a consequence thereof, whether its license should be revoked, and whether its pending application should be denied.

2. As discussed more fully below, based on the totality of the evidence, there are substantial and material questions of fact as to whether (i) Jordan repeatedly made misrepresentations to and/or lacked candor with the Commission in its submission of various applications in connection with Low Power FM Station (LPFM) KEJM–LP; (ii) aliens (non-United States citizens) owned or voted more than one-fifth of Jordan's capital stock in violation of section 310(b)(3) of the Communications Act of 1934, as amended (the Act); [1] (iii) Jordan failed to maintain the continuing accuracy and completeness of information furnished in its still pending captioned application for modification of Station KEJM–LP's technical facilities; and (iv) Jordan failed to respond to Commission requests for information.

3. We issue this *Order to Show Cause,* Hearing Designation Order, and Notice of Opportunity for Hearing pursuant to sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c) of the Act,[2] and the delegated authority of the Enforcement Bureau (Bureau).[3]

II. Background

A. Ministerios El Jordan

4. Ministerios El Jordan (Jordan) is a non-profit organization that was first incorporated in Missouri in September 2009, and, as described in its first application with the Commission, desires to serve God, the nation, and the people of Carthage, Missouri, by providing educational family counseling, sermons, and Christian music through live and recorded religious programming.[4] Jordan presently holds a Commission license for Station KEJM–LP in Carthage, Missouri.

5. Jordan first applied for a construction permit for a new LPFM station on October 25, 2013, by submitting Commission Form 318 (October 2013 Application).[5] Section II, Question 3(a) of the Commission's Form 318 asks the applicant to identify, *inter alia,* ''each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests'' and their citizenship.[6] In the October 2013 Application, Jordan responded to Section II, Question 3(a) by identifying as ''board members'' with an equal percentage of votes, the following five (5) individuals: Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua. In response to the citizenship inquiry in Section II, Question 3(a), Jordan answered ''US'' for each of these five individuals.[7]

6. On January 10, 2017, Jordan filed a minor modification application (January 2017 Modification).[8] In the January 2017 Modification, Jordan notified the Commission that the transmitter site specified in the October 2013 Application was unavailable. The January 2017 Modification therefore specified new transmitter coordinates and stated that the station was ready to broadcast at the new coordinates.[9] In response to Section II, Question 3(a), Jordan again identified Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua as board members and again responded that each was a United States citizen.[10]

7. Jordan filed a modification application on November 20, 2017 (November 2017 Modification).[11] In the November 2017 Modification, Jordan

[1] *See* 47 U.S.C. 310(b)(3).

[2] *See id.* at sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), 312(c).

[3] *See* 47 CFR 0.111 and 0.311.

[4] *See* Missouri Nonprofit Corporation Details for Charter No. N00994664 as of June 15, 2018. *https://bsd.sos.mo.gov/BusinessEntity/BusinessEntityDetail.aspx?page=beSearch&ID=2864628; see also* Articles of Incorporation of a Nonprofit Corporation for Charter No. N00994664 (filed Sept. 8, 2009) *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=6437643&version=1*; File No. BNPL–20131025ACN, at Exh. 2 (filed Oct. 25, 2013) (October 2013 Application).

[5] *See* October 2013 Application.

[6] October 2013 Application at Section II, Question 3(a).

[7] *See id.*

[8] *See* File No. BMPL–20170110AAI (filed Jan. 10, 2017) (January 2017 Modification).

[9] *See id.* at Exh. 1.

[10] *See id.* at Section II, Question 3(a).

[11] *See* File No. BPL–20171121AAB (filed Nov. 10, 2017) (November 2017 Modification).

notified the Commission that the studio location and mailing address had changed and requested certain engineering changes.[12] In the November 2017 Modification, Jordan similarly identified Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua in response to Section II, Question 3(a) and again responded that each was a United States citizen.[13] This application is pending before the Commission's Media Bureau.

B. Enforcement Bureau Investigation

8. On January 24, 2017, the Commission received a complaint through its electronic Consumer Complaint Center asserting that four of the five board members that Jordan had identified in each of its Commission applications were not United States citizens.[14] Specifically, associated with Commission licensee, asserted that Eliud Villatoro, Johana Villatoro, Timoteo Garcia, and Tomas Calgua were Guatemalan citizens and that Marlon Fuentes ''became a US citizen just last year.'' [15] The Commission referred the Complaint to the Bureau.

9. The Bureau uncovered additional information concerning the citizenship of at least two of the board members that Jordan had identified: Eliud Villatoro and Johana Villatoro. On January 4, 2017, the United States Court of Appeals for the Eighth Circuit affirmed an order issued by the Board of Immigration Appeals denying Eliud Villatoro's motion to reopen proceedings to remove him from the United States.[16] This decision referred to Mr. Villatoro as a citizen of Guatemala.[17] In addition, father,, informed Bureau staff that Mr. Villatoro's wife—Johana Villatoro—had been deported.[18]

10. The Bureau also located documents filed with the Missouri Secretary of State indicating that at the time Jordan filed its various applications with the Commission, its officers and board members were different than those Jordan had identified in its Commission filings. Jordan's 2012 Annual Registration Report indicates that, as of February 14, 2013, Jordan's officers were Eliud H. Villatoro O. (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and that its board of directors were Genaro Cifuentes, Doris Paxtor, and Edy Fuentes.[19] Jordan's 2016 Annual Registration Report indicates that, as of August 25, 2016, its board of directors were comprised of Ruth Cifuentes, Samuel Hernandez, and Eddy Fuentes.[20] Jordan's 2017–2018 Biennial Registration Report indicates that, as of October 5, 2017, its Vice-President was Edilma J. Reyes and its Treasurer was Tony Shadden.[21] It also indicates that its board of directors were Ruth Cifuentes, Samuel Hernandez, and Dixi Villatoro.[22] Other than Eliud Villatoro, Jordan never identified any of these various officers or board of director members on any of the applications it filed with the Commission between October 2013 and November 2017.

11. On November 14, 2017, the Bureau directed a letter of inquiry (LOI) to Jordan seeking, among other things, the name and citizenship of each of Jordan's officers and board members from October 1, 2013, to the present, and putting Jordan on notice of the Bureau's concerns that Jordan may have violated section 310(b) of the Act and misrepresented information to the Commission concerning its board of directors.[23] Six days later, Jordan filed its November 2017 Modification, identifying a different mailing address than had previously been on file with the Commission. On December 6, 2017, the Bureau issued a second LOI to Jordan at the new mailing address, enclosing the November 14, 2017 LOI, and requiring a response within seven calendar days.[24] Although Bureau staff had preliminary conversations with Jordan's counsel after the LOIs were issued, Jordan did not respond to either LOI.

III. Discussion

12. Pursuant to section 309(e) of the Act, the Commission is required to designate an application for evidentiary hearing if a substantial and material question of fact is presented regarding whether grant of the application would serve the public interest, convenience, and necessity.[25] The character of an applicant is among those factors that the Commission considers in determining whether the applicant has the requisite qualifications to be a Commission licensee.[26] Section 312(a)(2) of the Act provides that the Commission may revoke any license if ''conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application.'' [27] Because the character of the applicant is among those factors that the Commission considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought,[28] any character defect that would warrant the Commission's refusal to grant a license

[12] *See id.* at Exh. 1.

[13] *See id.* at Section II, Question 3(a).

[14] *See* Complaint No. 1415080 (filed Jan. 24, 2017) (Complaint).

[15] *Id.*

[16] *See Villatoro-Ochoa* v. *Lynch,* 844 F.3d 993 (8th Cir. 2017) (*Villatoro-Ochoa).* We note that, in this Eighth Circuit decision, Mr. Villatoro's first name appears as ''Eluid'' rather than as ''Eliud.'' However, there is little doubt that it refers to the same individual as identified in Jordan's Commission filings. The caption of the decision, for example, identifies the petitioner as ''Eluid Harodi Villatoro-Ochoa.'' *Id.* During the Bureau's investigation, it uncovered documents filed with the Missouri Secretary of State which identified Jordan's president as ''Eliud H. Villatoro O.'' *See* 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013) *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=9744099&version=1.* Additionally, the Eighth Circuit decision acknowledges that it refers to a pastor from Guatemala. *See Villatoro-Ochoa,* 844 F.3d at 994. The website for Jordan states that its founder, Eliud Villatoro, had been a pastor in Guatemala. *https://ministerioseljordan.weebly.com/historia.html.*

[17] *See Villatoro-Ochoa,* 844 F.3d at 994.

[18] *See* Decloration [sic] of, dated Aug. 6, 2017; *see also* website for Jordan identifying Johana Villatoro as the wife of Eliud Villatoro. *https://ministeriosel jordan.weebly.com/historia.html.*

[19] *See* 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013) *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=9744099&version=1.*

[20] *See* 2016 Annual Registration Report, Charter No. N00994664 (filed Aug. 25, 2016) *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=12289036&version=5.*

[21] *See* 2017–2018 Biennial Registration Report, Charter No. N00994664 (filed Oct. 5, 2017) *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=13206145&version=5.*

[22] *See id.*

[23] *See* Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau to Mr. Eliud Villatoro, President, Ministerios el Jordan (Nov. 14, 2017) (on file in EB–IHD–17–00024261).

[24] *See* Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau to Mr. Eliud Villatoro, President, Ministerios el Jordan (Dec. 6, 2017) (on file in EB–IHD–17–00024261).

[25] *See* 47 U.S.C. 309(e).

[26] *See, e.g., Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees,* Report, Order and Policy Statement, 102 FCC 2d 1179 (1986), *recons. denied,* 1 FCC Rcd 421 (1986), *appeal dismissed sub nom., National Ass'n for Better Broadcasting* v. *FCC,* No. 86–1179 (D.C. Cir. 1987) (*1986 Character Policy Statement*); *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Broadcast Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees,* Policy Statement and Order, 5 FCC Rcd 3252 (1990), *recons. on other grounds,* 6 FCC Rcd 3448 (1991), *modified on other grounds,* 7 FCC Rcd 6564 (1992).

[27] 47 U.S.C. 312(a)(2).

[28] *See* 47 U.S.C. 308(b).

or permit in the original application would likewise warrant the Commission's determination to revoke a license or permit.

13. *Misrepresentation/Lack of Candor and Section 1.17.* The Commission and the courts have recognized that ''[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing.'' [29] In considering an applicant's character, one of the Commission's primary purposes is to ensure that licensees will be truthful in their future dealings with the Commission. Full and clear disclosure of all material facts in every application is essential to the efficient administration of the Commission's licensing process, and proper analysis of an application is critically dependent on the accuracy and completeness of information and data that only the applicant can provide. Misrepresentation and lack of candor raise serious concerns as to the likelihood that the Commission can rely on an applicant, permittee, or licensee to be truthful.[30]

14. Section 1.17(a)(1) of the Commission's rules (Rules) states that no person shall, in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading.[31] We note that a misrepresentation is a false statement of fact made with the intent to deceive the Commission.[32] Lack of candor is a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission.[33] A necessary and essential element of both misrepresentation and lack of candor is intent to deceive.[34] Fraudulent intent can be found from ''the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity.'' [35] Intent can also be found from motive or logical desire to deceive.[36]

15. Section 1.17(a)(2) of the Rules further requires that no person may provide, in any written statement of fact, ''material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.'' [37] Thus, even absent an intent to deceive, a false statement may constitute an actionable violation of § 1.17 of the Rules if provided without a reasonable basis for believing that the material factual information it contains is correct and not misleading.[38]

16. In the instant case, Jordan represented to the Commission in each of its applications that its ''officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests'' were the following five people, each of whom held a 20 percent voting interest: Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua.[39] As discussed above, records from the Missouri Secretary of State suggest that, at the time Jordan filed its various applications with the Commission, only Eliud Villatoro held any sort of positional interest with Jordan.

17. According to Jordan's Missouri 2012 Annual Registration Report, as of February 14, 2013, Jordan's officers were Eliud Villatoro (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and its board of directors were Genaro Cifuentes, Doris Paxtor, and Edy Fuentes.[40] Of these individuals, the only one Jordan disclosed to the Commission in its October 2013 Application was Eliud Villatoro, whom it described only as a board member.[41] In addition, according to Jordan's Missouri 2016 Annual Registration Report, as of August 25, 2016, Jordan's officers were Eliud Villatoro (President), Edilma J. Villatoro (Vice-President), Edgar Poroj (Secretary), and Efrain Coquij (Treasurer) and that its board of directors were comprised of Ruth Cifuentes, Samuel Hernandez, and Edy Fuentes.[42] Here again, the only one of these individuals whom Jordan disclosed to the Commission in its January 2017 Modification was Eliud Villatoro and again only as a board member.[43] Similarly, Jordan's Missouri 2017–2018 Biennial Registration Report suggests that, as of October 5, 2017, a little more than a month before Jordan filed its November 2017 Modification, its officers were Eliud Villatoro (President), Edilma J. Reyes (Vice-President), Edgar Poroj (Secretary), and Tony Shadden (Treasurer) and that its board of directors were Ruth Cifuentes, Samuel Hernandez, and Dixi Villatoro.[44] Nevertheless, in its November 2017 Modification, Jordan disclosed only Eliud Villatoro and again only as a board member.[45] Thus, the information before the Commission raises a substantial and material question of fact as to whether Jordan misrepresented the identification of its ''officers, directors, five percent or greater stockholders, non-insulated

[29] *Contemporary Media Inc.* v. *FCC,* 214 F.3d 187, 193 (D.C. Cir. 2000) (citation omitted).

[30] *See 1986 Character Policy Statement,* 102 FCC 2d at 1209–11. The fundamental importance of truthfulness and candor on the part of applicants and licensees in their dealings with the Commission is well established. *See FCC* v. *WOKO, Inc.,* 329 U.S. 223 (1946); *Nick J. Chaconas,* Decision, 28 FCC 2d 231 (1971); *Lebanon Valley Radio, Inc.,* Decision, 35 FCC 2d 243 (Rev. Bd. 1972).

[31] *See* 47 CFR 1.17(a)(1).

[32] *See Fox River Broadcasting, Inc.,* Order, 93 FCC 2d 127, 129 (1983) (*Fox River*); *Discussion Radio, Inc.,* Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7435 (2004) (*Discussion Radio*).

[33] *See Fox River,* 93 FCC 2d at 129; *Discussion Radio,* 19 FCC Rcd at 7435.

[34] *See Trinity Broadcasting of Florida, Inc.,* Initial Decision, 10 FCC Rcd 12020, 12063 (1995), *subsequent history omitted; Discussion Radio,* 19 FCC Rcd at 7435.

[35] *David Ortiz Radio Corp.* v. *FCC,* 941 F.2d 1253, 1260 (D.C. Cir. 1991) (quoting *Leflore Broadcasting Co.* v. *FCC,* 636 F.2d 454, 462 (D.C. Cir. 1980)); *see also Discussion Radio,* 19 FCC Rcd at 7435.

[36] *See Discussion Radio,* 19 FCC Rcd at 7435; *Black Television Workshop of Los Angeles, Inc.,* Decision, 8 FCC Rcd 4192, 4198, n.41 (1993) (citing *California Public Broadcasting Forum* v. *FCC,* 752 F.2d 670, 679 (D.C. Cir. 1985); *Joseph Bahr,* Memorandum Opinion and Order, 10 FCC Rcd 32, 33 (Rev. Bd. 1994); *Scott & Davis Enterprises, Inc.,* Decision, 88 FCC 2d 1090, 1100 (Rev. Bd. 1982)). Intent to deceive can also be inferred when the surrounding circumstances clearly show the existence of an intent to deceive. *See Commercial Radio Service, Inc.,* Order to Show Cause, 21 FCC Rcd 9983, 9986 (2006) (citing *American International Development, Inc.,* Memorandum Opinion and Order, 86 FCC 2d 808, 816, n.39 (1981), *aff'd sub nom. KXIV, Inc.* v. *FCC,* 704 F.2d 1294 (D.C. Cir. 1983)).

[37] 47 CFR 1.17(a)(2).

[38] *See Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission,* Report and Order, 18 FCC Rcd 4016, 4017, para. 4 (2003) (stating that the revision to § 1.17 is intended to ''prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive''), *recons. denied,* Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recons. denied,* Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004).

[39] October 2013 Application at Section II, Question 3(a); *see also* January 2017 Modification at Section II, Question 3(a); and November 2017 Modification at Section II, Question 3(a).

[40] *See* 2012 Annual Registration Report, Charter No. N00994664 (filed Feb. 14, 2013). *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=9744099&version=1.*

[41] *See* October 2013 Application at Section II, Question 3(a).

[42] *See* 2016 Annual Registration Report, Charter No. N00994664 (filed Aug. 25, 2016). *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=12289036&version=5.*

[43] *See* January 2017 Modification at Section II, Question 3(a).

[44] *See* 2017–2018 Biennial Registration Report, Charter No. N00994664 (filed Oct. 5, 2017). *https://bsd.sos.mo.gov/Common/CorrespondenceItemViewHandler.ashx?IsTIFF=true&filedDocumentid=13206145&version=5.*

[45] *See* November 2017 Modification at Section II, Question 3(a).

partners, members, and all other persons and entities with attributable interests'' in its various Commission applications.

18. In addition, in its various applications with the Commission, Jordan asserted that each of the five board members it identified in response to Section II, Question 3(a)—Eliud Villatoro, Johana Villatoro, Timoteo Garcia, Marlon Fuentes, and Tomas Calgua—were United States citizens.[46] The Eighth Circuit's January 2017 decision in *Villatoro-Ochoa* v. *Lynch,* affirmed an order by the Board of Immigration Appeals denying Eliud Villatoro's motion to reopen proceedings to remove him from the United States to Guatemala and refers to him as a citizen of Guatemala.[47] The complaint that the Commission received from in January 2017 asserted that Eliud Villatoro, Johana Villatoro, Timoteo Garcia, and Tomas Calgua were Guatemalan citizens and that Marlon Fuentes only became a United States citizen in 2016.[48] In addition, the declaration provided by asserted that Johana Villatoro had been deported.[49] Collectively, this information raises substantial and material questions of fact as to whether any of these individuals were United States citizens when Jordan filed its applications. Thus, the information before the Commission raises a substantial and material question of fact as to whether Jordan misrepresented the citizenship of its ''officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests'' in its Commission filings.

19. We therefore designate for hearing appropriate issues to determine whether Jordan misrepresented and/or lacked candor in its dealings with the Commission either with an intent to deceive and/or in willful and repeated violation of Section 1.17 of the Rules.

20. *Violation of Alien Ownership Limitations.* Section 310(b)(3) of the Act prohibits non-stock, noncommercial incorporated entities with alien ownership or voting percentage greater than 20 percent from obtaining or controlling a broadcast license.[50] The Commission will dismiss applications that do not comply with the statutory citizenship requirements of section 310 of the Act [51] and designate for hearing permittees or licensees who seek or obtain a Commission license based on false statements of citizenship.[52]

21. As discussed above, in each of its Commission filings, Jordan identified five (5) ''board members'' with an equal percentage of votes, each of whom Jordan identified as United States citizens.[53] As also set forth above, there are substantial and material questions of fact as to whether these five (5) individuals were Jordan's ''officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests'' at the time it filed its various applications with the Commission.[54] If indeed they were, then as discussed above, there is a substantial and material question of fact concerning the citizenship of each of these five (5) individuals.[55] In light of Jordan's certification that each of these individuals held 20 percent of the voting interest, the information before the Commission raises a substantial and material question of fact as to whether Jordan is/was owned or controlled by non-United States citizens in excess of the statutory limitations allowed by section 310(b)(3) of the Act.

22. We therefore designate for hearing appropriate issues to determine whether Jordan is/was owned or controlled by non-United States citizens in excess of the one-fifth allowed by section 310(b)(3) of the Act.

23. *Failure to Maintain Completeness and Accuracy of Pending Applications.* Under § 1.65 of the Rules, an applicant is responsible for the continuing accuracy and completeness of the information furnished in a pending application or in Commission proceedings involving a pending application.[56] Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant must, as promptly as possible and in any event within 30 days, amend its application so as to furnish the additional or correct information.[57] For the purposes of § 1.65, an application is ''pending'' before the Commission from the time it is accepted for filing until a Commission grant (or denial) is no longer subject to reconsideration by the Commission or review by any court.[58]

24. In the instant case, Jordan's November 2017 Modification remains pending.[59] Thus, Jordan has been under a continuing obligation to ensure the accuracy of this application and to amend it as appropriate. Even after receiving the Bureau's LOIs, and being put on notice that there may be an issue with the individuals whom it identified in its Commission filings, Jordan did not amend its pending application. Accordingly, we designate for hearing an appropriate issue to determine whether Jordan willfully and/or repeatedly violated § 1.65 of the Rules.

25. *Failure to Respond to Commission Inquiries.* Section 73.1015 of the Rules, in relevant part, provides the Commission, or its representatives, with the authority to ''require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked.'' [60]

26. In the instant case, the Bureau sent Jordan two LOIs requesting information concerning the identification and citizenship of Jordan's officers and board of directors.[61] These LOIs notified Jordan, *inter alia,* that the Bureau was concerned that Jordan may have violated the alien ownership limitation set forth in section 310(b) of the Act and/or misrepresented information to the Commission in violation of § 1.17 of the Rules.[62] Such information is, at a minimum, relevant to whether Jordan's pending application should be granted or denied. Jordan failed to respond to either of the Bureau's LOIs.

27. We therefore designate for hearing an appropriate issue to determine whether Jordan violated § 73.1015 of the Rules.

IV. Ordering Clauses

28. Accordingly, *it is ordered*, pursuant to sections 309(e), 312(a)(1),

[46] *See* October 2013 Application at Section II, Question 3(a); January 2017 Modification at Section II, Question 3(a); and November 2017 Modification at Section II, Question 3(a).

[47] *See Villatoro-Ochoa* v. *Lynch,* 844 F.3d 993 (8th Cir. 2017).

[48] *See supra* n.14.

[49] *See* Decloration [sic] of, dated Aug. 6, 2017.

[50] *See* 47 U.S.C. 310(b)(3).

[51] *See, e.g., Caribbean Festival Ass'n, Inc.,* Letter, 22 FCC Rcd 19238, 19239–19241 (MB 2007) (affirming dismissal of application for new LPFM station because alien ownership exceeded the 20 percent benchmark imposed by the statutory limit in 47 U.S.C. 310(b)(3)).

[52] *See, e.g., Pan Pacific Television, Inc. (Transferor), and Silver King Broadcasting of Northern California, Inc. (Transferee),* Memorandum Opinion and Order and Hearing Designation Order, 3 FCC Rcd 6629 (1988) (designating a broadcasting construction permit for hearing to determine whether the permittee had made misrepresentations concerning its alien ownership and thus whether the permittee was owned or controlled by aliens in violation of section 310(b) of the Communications Act).

[53] *See supra* at 6, para. 16.

[54] *See supra* at 6–7, paras. 16–17.

[55] *See supra* at 7, para. 18.

[56] *See* 47 CFR 1.65.

[57] *See id.*

[58] *See id.*

[59] *See* File No. BPL–20171121AAB.

[60] 47 CFR 73.1015.

[61] *See supra* at 4, para. 11.

[62] *See id.*

312(a)(2), 312(a)(4), and 312(c) of the Act, 47 U.S.C. 309(e), 312(a)(1), 312(a)(2), 312(a)(4), 312(c), that Ministerios El Jordan *shall show cause* why the authorization for which it is the licensee should not be revoked, and that the above-captioned application filed by Ministerios El Jordan is *designated for hearing* in a consolidated proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether Ministerios El Jordan engaged in misrepresentation and/or lack of candor in its applications with the Commission.

(b) To determine whether Ministerios El Jordan is/was owned or controlled by non-United States citizens in excess of the one-fifth allowed by section 310(b)(3) of the Act.

(c) To determine whether Ministerios El Jordan failed to amend its pending application, in willful and/or repeated violation of § 1.65 of the Commission's rules.

(d) To determine whether Ministerios El Jordan failed to respond to Commission inquiries in willful and/or repeated violation of § 73.1015 of the Commission's rules.

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Ministerios El Jordan is qualified to be and remain a Commission licensee.

(f) To determine, in light of the foregoing issues, whether the authorization for which Ministerios El Jordan is the licensee should be revoked.

(g) To determine, in light of the foregoing issues, whether the captioned application filed by or on behalf of Ministerios El Jordan should be granted.

29. *It is further ordered* that, in addition to the resolution of the foregoing issues, it shall be determined, pursuant to section 503(b)(1) of the Act, 47 U.S.C. 503(b)(1), whether an *order of forfeiture* should be issued against Ministerios El Jordan in an amount not to exceed the statutory limit for the willful and/or repeated violation of each Commission rule section above for which the statute of limitations in section 503(b)(6) of the Act, 47 U.S.C. 503(b)(6), has not lapsed.

30. *It is further ordered* that, pursuant to section 312(c) of the Act and §§ 1.91(c) and 1.221(c) of the Commission's rules, 47 U.S.C. 312(c) and 47 CFR 1.91(c), 1.221(c), to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Ministerios El Jordan, in person or by an attorney, *shall file* with the Commission, within 20 calendar days of the release of this Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

31. *It is further ordered* that, pursuant to §§ 1.91 and 1.92 of the Commission's rules, 47 CFR 1.91 and 1.92, if Ministerios El Jordan fails to file a timely appearance, its right to a hearing shall be deemed to be waived. If a hearing is waived under §§ 1.92(a)(1) or (3) of the Commission's rules, Ministerios El Jordan may, within 20 calendar days of the release of this Order, submit a written, signed statement denying or seeking to mitigate or justify the circumstances or conduct described herein. In the event the right to a hearing is waived, the Chief Administrative Law Judge (or presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. In addition, pursuant to § 1.221 of the Commission's rules, 47 CFR 1.221, if any applicant to the captioned application fails to file, within 20 calendar days of the release of this Order, a written appearance, a petition to dismiss without prejudice, or a petition to accept for good cause shown an untimely written appearance, the captioned application shall be dismissed with prejudice for failure to prosecute.

32. *It is further ordered* that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

33. *It is further ordered* that, pursuant to section 312(d) of the Act, 47 U.S.C. 312(d), and § 1.91(d) of the Commission's rules, 47 CFR 1.91(d), the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Enforcement Bureau as to the issues at paragraph 28(a)–(f) above, and that, pursuant to section 309(e) of the Act, 47 U.S.C. 309(e), and § 1.254 of the Commission's rules, 47 CFR 1.254, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon Ministerios El Jordan as to the issue at paragraph 28(g), above.

34. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this document *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service copy *shall be addressed* to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

35. *It is further ordered* that copies of this document shall be sent via Certified Mail—Return Receipt Requested to the following:

Mr. Eliud Villatoro, Ministerios El Jordan, 1721 South Baker Boulevard, Carthage, MO 64836–3004

Steven Hays, Esq., 622 South Main Street, Joplin, MO 64801

Aaron Scott, Cedar Creek Consulting, 14117 W Travis Lane, Malakoff, TX 75148–3570

36. *It is further ordered* that a copy of this document, or a summary thereof, shall be published in the **Federal Register**.

Federal Communications Commission.

Jeffrey Gee,

Chief, Investigations & Hearings Division, Enforcement Bureau.

[FR Doc. 2019–05308 Filed 3–20–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, March 26, 2019 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.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2019–05537 Filed 3–19–19; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or

bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 18, 2019.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *Pioneer Bancorp, MHC and Pioneer Bancorp, Inc., both of Albany, New York;* to become bank holding companies by acquiring 100 percent of the voting shares of Pioneer Bank, Albany, New York, upon its conversion to a stock savings bank.

In connection to this application, Applicant also has applied to engage in extending credit and servicing loans, pursuant to section 225.25(b)(1) of Regulation Y.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Minier Financial, Inc. Employee Stock Ownership Plan with 401 (k) of Provisions, Minier, Illinois;* to acquire an additional 6.37 percent, for a total of 51 percent of the voting shares of Minier Financial, Inc., Minier, Illinois, and thereby indirectly acquire shares of First Farmers State Bank, Minier, Illinois.

Board of Governors of the Federal Reserve System, March 18, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05401 Filed 3–20–19; 8:45 am]

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FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposal by BB&T Corporation To Acquire SunTrust Banks, Inc. and its Subsidiary, SunTrust Bank, and To Merge SunTrust Bank With and Into Branch Banking and Trust Company

AGENCIES: Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of public meetings.

SUMMARY: Two public meetings will be held regarding the proposal by BB&T Corporation, Winston-Salem, North Carolina, to acquire SunTrust Banks, Inc., and thereby indirectly acquire SunTrust Bank, both of Atlanta, Georgia, pursuant to the Bank Holding Company Act and related statutes. As part of the proposal, BB&T Corporation would merge SunTrust Bank with and into its subsidiary state non-member bank, Branch Banking and Trust Company, Winston-Salem, North Carolina, pursuant to the Bank Merger Act and related statutes. The purpose of the meetings is to collect information related to factors the Board and FDIC (agencies) are required to consider under the Bank Holding Company Act and the Bank Merger Act.

DATES: The meeting dates are:

(1) Thursday, April 25, 2019, from 8:30 a.m. to 5:00 p.m. EDT, Charlotte, North Carolina.

(2) Friday, May 3, 2019, from 8:30 a.m. to 5:00 p.m. EDT, Atlanta, Georgia.

ADDRESSES: The public meeting locations are:

(1) Charlotte, North Carolina—Charlotte Branch of the Federal Reserve Bank of Richmond, 530 East Trade Street, Charlotte, North Carolina.

(2) Atlanta, Georgia—Federal Reserve Bank of Atlanta, 1000 Peachtree Street NE, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT:

Board: For the Charlotte meeting: Matthew Martin, Vice President, Research Department Microeconomics and Research Communications, Federal Reserve Bank of Richmond, 530 East Trade Street, Charlotte, North Carolina, 28202; by email to: *Publicmeeting.Charlotte@rich.frb.org*; or by facsimile: 704–358–2300.

For the Atlanta meeting: Karen Leone de Nie, Vice President Community and Economic Development, Federal Reserve Bank of Atlanta, 1000 Peachtree Street NE, Atlanta, Georgia 30309–4470; by email to: *atlfedcomdev@atl.frb.org*; or by facsimile: 404–498–8956.

FDIC: Michael J. Dean, Regional Director, Federal Deposit Insurance Corporation, 10 10th Street NW, Suite 800, Atlanta, GA 30309–3906; by email to *BankMergerApplication@fdic.gov*; or by facsimile: 678–916–2451.

SUPPLEMENTARY INFORMATION:

Background and Public Meetings Notice

On March 8, 2019, BB&T Corporation, Winston-Salem, North Carolina (BB&T), requested the Board's approval under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) to acquire SunTrust Banks, Inc., and thereby indirectly acquire SunTrust Bank, both of Atlanta, Georgia (Holding Company Application). Also on March 8, 2019, Branch Banking and Trust Company, Winston-Salem, North Carolina (Branch Bank) applied to the FDIC to merge SunTrust Bank with and into Branch Bank pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) (Bank Application). The agencies hereby announce that public meetings on the applications will be held in Atlanta, Georgia, and Charlotte, North Carolina.[1]

Purpose and Procedures

The purpose of the public meetings is to collect information relating to the convenience and needs of the communities to be served. Convenience and needs considerations include a review of the records of performance of the insured depository institutions involved in the proposal under the Community Reinvestment Act, which requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. 12 U.S.C. 2903. The agencies also consider other factors in acting on the applications, including the effects of the proposal on the stability of the U.S. banking or financial system, the financial and managerial resources and future prospects of the companies and banks involved in the proposal, and competition in the relevant markets. The agencies also will be collecting information relating to these factors.

Testimony at the public meetings will be presented to a panel consisting of Presiding Officers and other panel members appointed by the Presiding Officers. The Presiding Officers will have the authority and discretion to

[1] The public meetings are being held as informal proceedings by the FDIC pursuant to 12 CFR 303.10(*l*).

ensure that the meetings proceed in a fair and orderly manner. The rules for taking evidence in an administrative proceeding will not apply to the public meetings. Panel members may question witnesses, but no cross-examination of witnesses will be permitted. The public meetings will be transcribed, and the transcripts will be posted on the respective public websites of the Board and the FDIC.[2] Information regarding the procedures for obtaining a copy of the transcripts will be announced at the public meetings.

Charlotte, North Carolina: All persons wishing to testify at the public meeting in Charlotte should submit a written request no later than 5:00 p.m. EDT on Monday, April 15, 2019. A request to testify at the Charlotte public meeting may be sent by mail to: Matthew Martin, Vice President, Research Department Microeconomics and Research Communications, Federal Reserve Bank of Richmond, 530 East Trade Street, Charlotte, North Carolina, 28202; by online form at: *https://fedsurvey2.frbatlanta.org/Survey.aspx?s=7169b12f832e42278c1789f8b8ff5524*; by email to: *Publicmeeting.Charlotte@rich.frb.org*; or by facsimile: 704–358–2300.

Atlanta, Georgia: All persons wishing to testify at the public meeting in Atlanta should submit a written request no later than 5:00 p.m. EDT on Tuesday, April 23, 2019. A request to testify at the Atlanta public meeting may be sent by mail to: Karen Leone de Nie, Vice President Community and Economic Development, Federal Reserve Bank of Atlanta, 1000 Peachtree Street NE, Atlanta, Georgia, 30309–4470; by online form at: *https://fedsurvey2.frbatlanta.org/SunTrustBBT-Meeting-Atl.aspx*; by email to: *atlfedcomdev@atl.frb.org*; or by facsimile: 404–498–8956.

The Board will provide a copy of each request to the FDIC.

The request to testify should include the following information: (i) A brief statement of the nature of the expected testimony (including whether the testimony will support or oppose the proposed transactions or provide other comment on them); (ii) the address and telephone number (email address and facsimile number, if available) of the person testifying; and (iii) the identification of any special needs, such as translation services, physical disabilities requiring assistance, or presentations requiring visual aids. Translators will be provided to the extent available if a need for such services is noted in the request to testify. Persons interested only in attending the meetings, but not testifying, need not submit a written request to attend.

The Presiding Officers will prepare a schedule for persons wishing to testify and establish the order of presentation. To ensure an opportunity for all interested commenters to present their views, the Presiding Officers may limit the time for presentations and may establish other procedures related to the conduct of the public meetings as appropriate. Persons not listed on the schedule may be permitted to speak at the public meetings, if time permits, at the conclusion of the schedule of witnesses in the discretion of the Presiding Officers. Copies of testimony may, but need not, be filed with the Presiding Officers before a person's presentation.

All individuals who wish to attend either public meeting must present a valid, government-issued photo identification. In addition, X-ray and metal detection devices will be in use and there will be limitations on materials that may be brought into the building (*i.e.,* no objects that could raise security or safety concerns).

The Board is extending the comment period on the Holding Company Application through the close of business on Friday, May 3, 2019. The FDIC also has determined that there is good cause to extend the comment period on the Bank Application through the close of business on Friday, May 3, 2019. The Board will make the public record of the Holding Company Application, including all comments received and the transcripts of the public meetings, available on the Board's public website. The FDIC will make the public record of the Bank Application, including all comments received and the transcripts of the public meetings, available on the FDIC's public website.

By order of the Board of Governors of the Federal Reserve System, effective March 13, 2019.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, on March 14, 2019.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–05330 Filed 3–20–19; 8:45 am]

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[2] Materials related to the applications will be made available on the Board's website *https://www.federalreserve.gov/foia/bbt-suntrust-application-materials.htm* and the FDIC's website *https://www.fdic.gov/regulations/applications/bbt-suntrust/.*

FEDERAL RETIREMENT THRIFT INVESTMENT

Board Member Meeting

77 K Street NE, 10th Floor, Washington, DC 20002
March 25, 2019, 8:30 a.m.

Open Session

1. Approval of the Minutes of the February 25, 2019 Board Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
   (c) Investment Performance
3. Quarterly Report: Vendor Risk Management Update
4. Office of External Affairs Annual Report
5. Additional Withdrawals Project Update

Closed Session

Information covered under 5 U.S.C. 552b(c)(4) and (c)(9)(B).

Contact Person for More Information: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: March 15, 2019.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2019–05375 Filed 3–20–19; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 83 FR 48424–48428, dated September 25, 2018) is amended to reflect the reorganization of the National Center for Health Statistics, Office of Public Health Scientific Services, Centers for Disease Control and Prevention. This reorganization will streamline the current organizational structure, improve the overall employee/supervisor ratio, eliminate workflow inefficiencies, and improve customer service.

I. Under Part C, Section C–B, Organization and Functions, make the following organizational change:

• Retitle the Office of Analysis and Epidemiology (CPCB) to the Division of Analysis and Epidemiology (CPCB).

II. Under Part C, Section C–B, Organization and Functions, make the following change:

• Division of Analysis and Epidemiology (CPCB). (1) Participates in the development of policy, long-range plans, and programs of the Center, with emphasis on advancing the use of Center data systems; (2) plans, directs, and coordinates the Analysis and Epidemiology Program of the Center; (3) conducts developmental and evaluation research and analysis in the areas of epidemiology, health status, health services utilization, health promotion, and health economics, including methodological issues related to conceptualization and measurement; (4) provides leadership and expertise in the application of statistical techniques to integrate, analyze and report data from multiple and diverse sources; (5) provides consultation and technical assistance to the Center, CDC, the Department and other public and private health agencies at the national and international level on activities on the analysis and interpretation of health statistics; (6) augments the methodological and policy analysis activities of the Center; and (7) focuses on complex methods, analyses, and tools that integrate health data from diverse sources, including research on measurement, linkage, and surveillance of population health and health promotion.

• Health Promotion Statistics Branch (CPCBB). (1) Develops policies, plans, and strategies for the implementation of surveillance and data systems in support of the Department's health promotion and disease prevention objectives; (2) coordinates the health promotion and disease prevention related data collection activities of the Center; (3) serves as liaison with the Department's Office of Disease Prevention and Health Promotion; (4) provides support and technical assistance to state and local health agencies in the areas of statistical assessment and the use of data for policy development and program planning; (5) coordinates Center activities that assess the progress on the elimination of health disparities; (6) establishes consensus-building processes involving CDC, the Department, state and local agencies, and the private sector to identify priority data gaps on national health promotion objectives and recommends solutions to fill these gaps; and (7) designs, develops, and implements computer data processing systems and software and produces statistical data for analysis.

• Measures Research and Evaluation Branch (CPCBD). (1) Develops and conducts a research program designed to examine significant public health problems, as well as the sources of data available and needed to inform their use in the evaluation of population health initiatives both in the U.S. and internationally; (2) uses statistical data from multiple sources, with an emphasis on Center data and the measures used to collect data for major areas of programmatic interest; (3) conducts multi-disciplinary research focusing on population health and functioning to examine areas of interest including methodological issues related to conceptualization and measurement; (4) collaborates with, and provides leadership, consultation and technical assistance to, others within the Center, the Federal government and internationally; and (5) prepares research and analytic reports for publication and dissemination.

• Data Linkage Methodology and Analysis Branch (CPCBE). (1) Plans, directs, and manages the Center's multi-faceted methodological research program on major public health issues including data linkage and geocoding activities; (2) develops and executes center-wide data linkage and geocoding activities to collect additional information to maximize the scientific value of the Center's population-based cross-sectional and longitudinal health surveys while maintaining respondent confidentiality; (3) develops, plans, and implements studies evaluating the methodology used for the Center's data linkage projects; (4) provides leadership and expert consultation to the Center's data divisions on best practices and methodologies used for data linkage; (5) provides consultation and technical assistance to the research community utilizing the NCHS survey linked data files; and (6) prepares methodological and research reports for publication and dissemination to support the Center's data linkage projects.

• Population Health Reporting and Dissemination Branch (CPCBG). (1) Serves as a focal point for a Center-wide analytical program aimed at the assessment and development of health data from multiple sources designed to facilitate the analysis of population health and emerging public health issues; (2) conducts and coordinates in-depth statistical analyses of special population groups relating to their health characteristics and their health care needs; (3) directs preparation of the Secretary's annual report, Health, United States, on the health status of the Nation to the President and the Congress in compliance with Section 308 of the PHS Act and other recurring and special reports requested by the Department; (4) provides leadership and expertise in the application of sophisticated statistical techniques related to the problem of integrating, analyzing, and reporting data from diverse sources; and (5) conducts research on selected aspects of health status and health services for publication and dissemination.

IV. Delegations of Authority: All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101).

Alex M. Azar II,

Secretary.

[FR Doc. 2019–05365 Filed 3–20–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Physical Sciences-Oncology.

Date: May 9, 2019.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Eduardo E. Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center

Drive, Room 7W254, Bethesda, MD 20892–9750, 240–276–7975, *chufanee@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–9: NCI Clinical and Translational R21 and Omnibus R03.

Date: May 22, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Shakeel Ahmad, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W102, Bethesda, MD 20892–9750, 240–276–6349, *ahmads@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05334 Filed 3–20–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Eye Institute Special Emphasis Panel, April 2, 2019, 2:00 p.m. to April 2, 2019, 4:00 p.m., National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 which was published in the **Federal Register** on March 14, 2019, 84–9365.

The meeting notice is amended to change the date of the meeting from April 2, 2019 to April 5, 2019 the meeting is closed to the public.

Dated: March 15, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05335 Filed 3–20–19; 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 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: Center for Scientific Review Special Emphasis Panel; Small Business: Psycho/Neuropathology Lifespan Development, STEM Education.

Date: April 15, 2019.

Time: 4:00 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 (Telephone Conference Call).

Contact Person: Elia E. Femia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, 301–827–7189, *femiaee@csr.nih.gov.*

(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: March 15, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05332 Filed 3–20–19; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Clinical Trials in Diabetes.

Date: April 3, 2019.

Time: 9:00 a.m. to 11:30 a.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: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.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.

(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: March 18, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05414 Filed 3–20–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0077]

Agency Information Collection Activities: Customs-Trade Partnership Against Terrorism (C–TPAT) and the Trusted Trader Program

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request

to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 20, 2019) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0077 in the subject line and the agency name. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Customs-Trade Partnership Against Terrorism (C–TPAT) and the Trusted Trader Program.

OMB Number: 1651–0077.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Abstract: The C–TPAT Program is designed to safeguard the world's trade industry from terrorists and smugglers by prescreening its participants. The C–TPAT Program applies to United States importers, customs brokers, consolidators, port and terminal operators, carriers, and foreign manufacturers.

Respondents apply to participate in the Trusted Trader Program and C–TPAT using an on-line application at: *https://ctpat.cbp.dhs.gov/trade-web/index.* The C–TPAT Program application requests an applicant's contact and business information, including the number of company employees, the number of years in business, and a list of company officers. This collection of information is authorized by the SAFE Port Act (Pub. L. 109–347).

The Trusted Trader Program involves a unification of supply chain security aspects of the C–TPAT Program and the internal controls of the Importer Self-Assessment (ISA) Program to integrate supply chain security and trade compliance. The Trusted Trader Program strengthens security by leveraging the C–TPAT supply chain requirements and validation, identifying low-risk trade entities for supply chain security and trade compliance, and increasing the overall efficiency of trade by segmenting risk and processing by account. The Trusted Trader Program applies to importer participants who have satisfied C–TPAT supply chain security and trade compliance requirements.

After an importer obtains Trusted Trader Program membership, the importer will be required to submit an Annual Notification Letter to CBP confirming that they are continuing to meet the requirements of the Trusted Trader Program. This letter should include: personnel changes that impact the Trusted Trader Program; organizational and procedural changes; a summary of risk assessment and self-testing results; a summary of post-entry amendments and/or disclosures made to CBP; and any importer activity changes within the last 12-month period.

C–TPAT Program Application:

Estimated Number of Respondents: 750.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 15,000.

Trusted Trader Program Application:

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Trusted Trader Program's Annual Notification Letter:

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Dated: March 14, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–05384 Filed 3–20–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0005]

Individual Assistance Declarations Factors Guidance

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of the final

Individual Assistance Declarations Factors Guidance. The Federal Emergency Management Agency (FEMA) published a notice of availability and request for comment for the proposed guidance on September 22, 2016.

DATES: This policy is effective on June 1, 2019.

ADDRESSES: This final guidance is available online at *http://www.regulations.gov* and on FEMA's website at *http://www.fema.gov.* The proposed and final guidance, all related **Federal Register** Notices, and all public comments received during the comment period are available at *http://www.regulations.gov* under docket ID FEMA–2014–0005. You may also view a hard copy of the final guidance at the Office of Chief Counsel, Federal Emergency Management Agency, Room 8NE, 500 C Street SW, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Mark Millican, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (phone) 202–212–3221 or (email) *FEMA-IA-Regulations@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 1109 of the Sandy Recovery Improvement Act of 2013 requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48(b) that FEMA uses to determine whether to recommend provision of Individual Assistance during a major disaster. On November 12, 2015, FEMA published a notice of proposed rulemaking (NPRM) proposing to implement the requirements of section 1109. 80 FR 70116. On September 22, 2016, FEMA sought comment on its proposed Individual Assistance Declarations Factors Guidance, which is intended to provide additional information to the public regarding the manner in which FEMA is proposing to evaluate a request for a major disaster declaration authorizing Individual Assistance. 81 FR 65369.

Public Comments on the Proposed Guidance

FEMA received 23 comments on the proposed Individual Assistance Declarations Factors Guidance. The majority of the comments were duplicative of comments that were received on the NPRM and are addressed in the *Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster* final rule, which is published elsewhere in today's **Federal Register**. Several comments were specific to the guidance document and are discussed below.

One commenter suggested that Table 2: Number of IA Requests and Granted IA Requests by ICC Ratio could be broken up from a 10–25 range into 10–15, 15–20 and 20–25 ranges for the future. FEMA believes that the ICC ratios should not be stratified any further at this point. Any further stratification is likely to be incorrectly viewed as a threshold by the States which is not what FEMA intended ICC to be used for. FEMA is providing this information to States as a historical reference to help guide States for planning in future disaster situations. FEMA will update the table as necessary to provide trends and historic data to the States in a timely manner to guide States on what level of damage they should likely be prepared to handle on their own without supplemental Federal assistance. However, it should be noted that there are various other circumstances and factors that may impact the President's determination of whether a major disaster declaration is necessary that are not captured in the ICC ratio.

Another commenter suggested that FEMA modify Table 1: Estimated Cost of Assistance to Declaration Decision Comparative, to use a 50 percent benchmark instead of the breakdown of $7.5 million or more, $1.5 to $7.5 million, and $1.5 million or less. FEMA has also declined to use a 50 percent benchmark because we feel that the three different benchmarks are more helpful to States for planning purposes. A 50 percent benchmark may inevitably lead to certain individuals or States use that benchmark as a hard threshold which FEMA seeks to avoid. In addition, it should be noted that there are various other circumstances and factors that may impact the President's determination of whether a major disaster declaration is necessary that are not captured in the single data point of the estimated cost of assistance.

One commenter asked whether the factors were weighted differently depending on the IA program. In addition, they suggested casualties should have a higher weight for a program such as Crisis Counseling. With respect to IA programs other than IHP, FEMA has not identified a formula similar to the ICC approach described elsewhere in the guidance. Instead, FEMA considers the factors holistically to determine which IA programs would best suit the needs of a community after a disaster. In addition, there is a table in the guidance correlating each Individual Assistance program with the factors that FEMA will consider when evaluating a Governor's request for a major disaster declaration authorizing such program. States may use this table to better understand how the new IA declaration factors align with the various IA programs.

A commenter requested that FEMA include a statement that not all of the IA programs will be available as soon as a major disaster is declared. FEMA added a clarifying statement to the guidance that authorization of Individual Assistance programs under a major disaster declaration means that such programs are available for the State. FEMA further clarified that a State may be required to submit an additional application or additional information post major disaster declaration to determine which IA programs are necessary, the scope of each IA program, or the amount of each IA program funding.

Another commenter requested that FEMA clarify that the Transportation Infrastructure and Utilities sub-factor to the Impact to Community Infrastructure factor encompasses private roads, bridges, and tunnels as well as public roads, bridges, and tunnels. The commenters felt that this clarification would address situations in rural or other areas where a private road allows individuals access to publicly owned transportation infrastructure. FEMA agrees with the commenter that this clarification was needed and made the requested change to the guidance document.

A commenter proposed that FEMA should use metropolitan statistical areas or census tract-level data instead of county-level data to identify per capita income or the true impact to a local area and the communities within it. Major disasters are generally declared by the President on the county or parish level for ease of administration because county- or parish-level designations clearly delineate which areas within a State are or are not eligible for supplemental Federal assistance. Census tracts are not as well known by disaster survivors. FEMA has chosen to continue to use county-level data to match with how disasters are declared. However, a State is always welcome to provide any additional relevant information at the census tract level, or at any other level, if such information illustrates the disaster impacted local area or community in a different light than the county-level data.

A commenter requested clarification of what a reasonable commuting distance from the impacted area was for

rental resources under the State, Tribal, and Local Government; Non-Governmental Organizations (NGO); and Private Sector Activity sub-factor for the Resource Availability factor. Reasonable commuting distance is defined in regulation at 44 CFR 206.111 as a distance that does not place undue hardship on an applicant. The regulatory definition also takes into consideration the traveling time involved due to road conditions, *e.g.,* mountainous regions or bridges out and the normal commuting patterns of the area.

Another commenter stated that the Disaster Impacted Population Profile factor violates Section 308 of the Stafford Act and recommended that FEMA exclude this factor. Section 308 of the Stafford Act covers nondiscrimination in disaster assistance and states that activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status. FEMA notes that in the current practice and regulation, FEMA considers how a disaster impacts ''special populations'' such as low-income, the elderly, or the unemployed, and whether such populations may have a greater need for assistance. 44 CFR 206.48(b)(3). FEMA believes that it is important to consider how disasters may disproportionality have a negative impact on certain populations. For instance, a disaster may disproportionality impact individuals who are 65 years or older because they may live on a fixed income with less disposable income and therefore may have a difficult time paying for repairs to a disaster damaged home. Information on the percentage of the population that are non-English speaking assists FEMA in structuring their outreach efforts to ensure that any messaging is conducted in the appropriate language for the disaster impacted population.

Another comment stated that with respect to the Impact to Community Infrastructure factor, FEMA should define what ''impact'' to community infrastructure means, and what a ''significant'' disruption is. The commenter also requested that FEMA provide additional guidance regarding how it would assess this factor. For purposes of evaluating the impact of a major disaster on a community's infrastructure, FEMA considers any covered activity (such as search and rescue) or disruption (such as power loss) to be sufficiently significant to fall under this factor if that activity or disruption lasts for more than 72 hours. With respect to impact of the disaster on life-saving and life-sustaining services, FEMA is specifically seeking information on disruption to services such as, but not limited to, police, fire/EMS, hospital/medical, sewage, and water treatment services because prolonged disruption may affect the viability of a community and necessitate survivor relocation. Regarding the impact of the disaster on transportation infrastructure and utilities, FEMA is seeking information on the number of roads, bridges, tunnels, and public transit closures and utility outages of water, power, sewage, and gas that last longer than 72 hours. A State is welcome to provide any additional information that highlights the impact of the disaster on the State and local community infrastructure.

A commenter stated that FEMA should exclude the ''casualties'' factor or explain how it is weighted. FEMA does not believe that it is appropriate to exclude the casualties factor because it is an important factor to help determine the level of trauma that a community and State suffered from a disaster. A large amount of injured, missing, or deceased individuals can indicate a heightened need for supplemental Federal assistance because casualties are indicative of the level of trauma in the disaster affected areas. Regarding the weight given to the casualties factor, FEMA has not assigned any percentage or given weight to the factor. FEMA considers casualties holistically along with the other factors in the final rule to determine the need of supplemental Federal assistance for a State and local community.

A commenter recommended that FEMA move the table that correlates each IA program to the factors considered earlier in the guidance as well as add a column with a tentative timeline for each IA program. FEMA declined to move table earlier in the document because it is important to have an understanding of the factors considered in evaluating the need for a major disaster authorizing IA before associating each factor with the applicable IA program. In addition, FEMA has declined to add a tentative timeline because the timeline of the IA programs varies from disaster to disaster based on numerous factors such as the size and scope of the recovery.

A commenter asked that FEMA include in the guidance the calculations that are used to determine the estimated cost of assistance so that States can do the calculation themselves based on local and State level damage assessments to assist in their evaluation of whether or not to request a joint FEMA-State preliminary damage assessment. Currently, the estimated cost of assistance is calculated by FEMA during completion of the joint FEMA-State preliminary damage assessment. Previously, FEMA was not consistent in sharing the results of the estimated cost of assistance with the affected States. FEMA clarified in the guidance that it would provide the estimated cost of assistance to the State during and after the preliminary damage assessment. Regarding the calculations, that is beyond the scope of the Individual Assistance Declarations Factors guidance and is more appropriately considered in any potential future updates to the preliminary damage assessment guidance and materials.

A commenter to the proposed guidance recommended that FEMA include in the regulation and guidance sub-factors related to the number of rental units impacted, the degree of damage, the percent of disaster impacted rental units occupied by persons of low and moderate income, and other similar data. FEMA has declined to include this sub-factor because during the disaster response phase it may be hard to capture this granularity of detail especially the percent of disaster impacted rental units occupied by persons of low and moderate income. If a State is able to collect this level of detailed data during the preliminary damage assessment phase they are welcome to provide this information and FEMA will consider it when evaluating the State's request for supplemental Federal assistance.

Changes to the Proposed Guidance

FEMA made four changes to the proposed guidance based on comments received on both the NPRM and the proposed guidance. First, as discussed above, FEMA added a clarifying statement that a major disaster declaration merely authorizes Individual Assistance; additional applications or additional information are required to determine the program scope or program funding amount. Second, also as discussed above, FEMA clarified that it will evaluate the impact of the disaster on both private and public roads under the ''Transportation Infrastructure and Utilities'' sub-factor in the ''Impact to Community Infrastructure'' factor. Third, as discussed the in the final rule preamble, FEMA removed the ''Planning After Prior Disasters'' and the ''State Services'' sub-factors in the ''Resource Availability'' factor based on comments received on the NPRM. Fourth, as discussed above in the *Public*

Comments on the Proposed Guidance section FEMA clarified that it would provide the estimated cost of assistance to the State during and after the Preliminary Damage Assessment. Finally, FEMA also made changes to the two tables that are found in the guidance document based on an updated data set that was used in the final rule.

The final guidance does not have the force or effect of law.

Authority: Pub. L. 113–2.

Peter Gaynor,

Deputy Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05396 Filed 3–20–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No.: DHS–2018–0073]

Project 25 Compliance Assessment Program (P25 CAP)

AGENCY: Science and Technology Directorate, Department of Homeland Security.

ACTION: 60-Day notice of information collection; request for comment. (Extension of a currently approved collection, 1640–0015).

SUMMARY: The Department of Homeland Security (DHS) invites the general public to comment on updated data collection forms for DHS Science and Technology (S&T) Directorate's Project 25 (P25) Compliance Assessment Program (CAP): Supplier's Declaration of Compliance (SDoC) (DHS Form 10044 (6/08)) and an accompanying Summary Test Report (STR) (DHS Form 10056 (9/08)). The collections are posted on the *dhs.gov* website (*https://www.dhs.gov/science-and-technology/p25-cap*). The attacks of September 11, 2001, and the destruction of Hurricane Katrina made apparent the need for emergency response radio systems that can interoperate, regardless of which organization manufactured the equipment. Per congressional direction, DHS and the National Institute of Standards and Technology (NIST) developed the P25 CAP to improve the emergency response community's confidence in purchasing land mobile radio (LMR) equipment built to P25 LMR standards. Equipment suppliers provide the information to publicly attest to their products' compliance with a specific set of P25 standards. The SDoC, and its STR, which substantiates the declaration, constitutes a company's formal, public attestation of compliance with the standards for the equipment. In turn, first responders at local, tribal, state, and federal levels across multiple disciplines including law enforcement, fire, and emergency medical services personnel, will use this information to identify P25 compliant communications system products. The P25 CAP Program Manager performs a simple administrative review to ensure the documentation is complete and accurate in accordance with the current P25 CAP processes.

DATES: Comments are encouraged and accepted until May 20, 2019.

ADDRESSES: You may submit comments, identified by docket number DHS–2018–0073, at:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Mail and hand delivery or commercial delivery:* Science and Technology Directorate, ATTN: Chief Information Office—Mary Cantey, 245 Murray Drive, Mail Stop 0202, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number DHS–2018–0073. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: DHS/S&T System Owner: Sridhar Kowdley, *Sridhar.kowdley@HQ.DHS.GOV,* (202) 254–8804 (Not a toll free number).

SUPPLEMENTARY INFORMATION: DHS, in accordance with the PRA (6 U.S.C. 193), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collection of information. DHS is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Homeland Security 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 Collections: Project 25 (P25) Compliance Assessment Program (CAP): Supplier's Declaration of Compliance (SDoC) (DHS Form 10044 (6/08) and Summary Test Report (STR) (DHS Form 10056 (9/08)).

Type of Review: Renewal of an information collection.

Respondents/Affected Public: Federal, State, Local, and Tribal Governments.

Frequency of Collections: The SDOC is once per month and the STR is once annually.

Average Burden per Response: 60 minutes.

Total Estimated Number of Annual Responses: 156.

Total Estimated Number of Annual Burden Hours: 156.

Dated: March 6, 2019.

Rick Stevens,

Chief Information Officer, Science and Technology Directorate.

[FR Doc. 2019–05395 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Approval From OMB of One New Public Collection of Information: Surface Transportation Stakeholder Survey

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on a new Information Collection Request (ICR) abstracted below that we will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of information via a survey regarding resource challenges, including the availability of Federal funding, associated with securing surface transportation assets.

DATES: Send your comments by May 20, 2019.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration,

601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

Purpose and Description of Data Collection

The Transportation Security Administration (TSA) has broad statutory authority for ''security in all modes of transportation . . . including security responsibilities . . . over modes of transportation that are exercised by the Department of Transportation.'' [1] Consistent with this authority, TSA is the Federal agency responsible for ''assess[ing] the security of each surface transportation mode and evaluat[ing] the effectiveness and efficiency of current Federal Government surface transportation security initiatives.'' [2]

Section 1983 of the FAA Reauthorization Act of 2018 (H.R. 302, Pub. L. 115–254, 132 Stat. 3186, Oct. 5, 2018) (the ''Act'') directs the Secretary of Homeland Security to conduct a survey [3] of public and private stakeholders responsible for securing surface transportation assets regarding resource challenges including unmet security needs. The Act also requires reporting to the appropriate congressional committees regarding the survey results and the efforts of DHS to address any identified security vulnerabilities.

The Federal Emergency Management Agency (FEMA) is the fiduciary agent and Federal awarding agency for grant funding appropriate to DHS for surface transportation security enhancements. As memorialized in a memorandum of understanding between FEMA and TSA, TSA supports the grant process for surface transportation through numerous activities, including stakeholder outreach and soliciting feedback for program improvements from surface transportation security partners.

Consistent with the above authorities and agreements with FEMA, TSA is now seeking approval to conduct the survey. TSA estimates that 641 industry stakeholders will submit a response to the survey, which will take approximately 2 hours to complete. TSA estimates the total annual burden for this one-time collection is 1,282.8 hours.

Use of Results

The information collected in this one-time survey will be used as follows:

1. To develop a baseline understanding of surface transportation operators' security budgets and of the gap, if any, between available funding and stakeholders' perceived security needs.

2. To identify resources across the Department available to stakeholders to address any identified security vulnerabilities.

3. To report to leadership in TSA, DHS, and Congress on those resource needs, in order to inform future Federal budget formulation and grant making decisions.

4. To inform TSA's development of security strategies, priorities, and programs, as well as stakeholder outreach efforts, that ensure the most effective application of available resources.

Dated: March 15, 2019.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2019–05394 Filed 3–20–19; 8:45 am]

BILLING CODE 9110–05–P

[1] *See* section 101 of the Aviation and Transportation Security Act (ATSA), Public Law 107–71, 115 Stat. 597 (Nov. 19, 2001), codified at 49 U.S.C. 114 (ATSA created TSA and established the agency's primary federal role to enhance security for all modes of transportation). Section 403(2) of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135 (Nov. 25, 2002), transferred all functions related to transportation security, including those of the Secretary of Transportation and the Under Secretary of Transportation for Security, to the Secretary of Homeland Security. Pursuant to Department of Homeland Security (DHS) Delegation Number 7060.2, the Secretary delegated to the Administrator, subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in sec. 403(2) of the HSA.

[2] *See* Executive Order (E.O.) 13416, section 3(a) (Dec. 5, 2006); 49 U.S.C. 114(d)(3) and (4).

[3] The provision reads:

(a) In General.—Not later than 120 days after the date of enactment of this Act, the Secretary shall begin conducting a survey of public and private stakeholders responsible for securing surface transportation assets regarding resource challenges, including the availability of Federal funding, associated with securing such assets that provides an opportunity for respondents to set forth information on specific unmet needs.

(b) Report.—Not later than 120 days after beginning the survey required under subsection (a), the Secretary shall report to the appropriate committees of Congress regarding the results of such survey and the Department of Homeland Security's efforts to address any identified security vulnerabilities.

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N028; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill Final Restoration Plan 1 and Environmental Assessment, and Finding of No Significant Impact; Florida Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the Consent Decree, the Federal and State natural resource trustee agencies for the Florida Trustee Implementation Group (FL TIG) have prepared the *Final Restoration Plan 1 and Environmental Assessment: Habitat Projects on Federally Managed Lands; Nutrient Reduction; Water Quality; and Provide and Enhance Recreational Opportunities* (RP1/EA) and a *Finding of No Significant Impact* (FONSI). The Final RP1/EA describes the restoration

project alternatives considered by the FL TIG intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The FL TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Final RP1/EA.

ADDRESSES: *Obtaining Documents:* You may download the Final RP1/EA from either of the following websites:

- *http://www.gulfspillrestoration*.noaa.gov
- *http://www.doi.gov/deepwaterhorizon/adminrecord*

Alternatively, you may request a CD of the Final RP1/EA (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at *nanciann_regalado@fws.gov*, via telephone at 678–296–6805, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Florida Restoration Area are now selected and implemented by the Florida Trustee Implementation Group (TIG). The FL TIG is composed of the following Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA); and
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission.

Background

On November 4, 2016, the FL TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov* requesting new or revised natural resource restoration project ideas by December 5, 2016, for the Florida Restoration Area. The notice stated that the FL TIG was seeking project ideas for the following Restoration Types: (1) Habitat Projects on Federally Managed Lands; (2) Nutrient Reduction; (3) Water Quality; and (4) Provide and Enhance Recreational Opportunities.

On September 29, 2017, the FL TIG announced that it had initiated drafting of its first post-settlement draft restoration plan, and that the first plan would include restoration projects for Habitat Projects on Federally Managed Lands; Nutrient Reduction; Water Quality; and Provide and Enhance Recreational Opportunities.

The project submissions received through this process, along with projects previously submitted during prior restoration planning processes, resulted in the alternatives evaluated in the Draft RP1/EA.

The FL TIG released the Draft RP1/EA on September 20, 2018. Notice of availability of the Draft RP1/EA was published in the **Federal Register** on October 9, 2018 (83 FR 50679). The Draft RP1/EA provided the FL TIG's analysis of alternatives that would meet the Trustees' goals to restore and conserve habitat, restore water quality, and provide and enhance recreational opportunities under OPA and NEPA, and identified the alternatives that were proposed as preferred for implementation. The FL TIG provided the public with 99 days to review and comment on the Draft RP1/EA. To facilitate public understanding of the document, the FL TIG held a public meeting in Tallahassee on October 2, 2018, and a public webinar on December 13, 2018, and accepted public comments during both the meeting and the webinar. The FL TIG considered the public comments received, which informed the FL TIG's analysis of alternatives in the Final RP1/EA. A summary of the public comments received and the FL TIG's responses to those comments are addressed in Chapter 6 of the Final RP1/EA.

Overview of the FL TIG Final RP1/EA

The Final RP1/EA is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, and the Final PDARP/PEIS.

In the Final RP1/EA and FONSI, the FL TIG selected 23 restoration projects

to be funded. Specifically, the FL TIG selected the following projects:

Habitat Projects on Federally Managed Lands

- Gulf Islands National Seashore (Florida) Night Sky Restoration (P&D),
- Gulf Islands National Seashore (Florida) Beach and Dune Habitat Protection,
- Gulf Islands National Seashore (Florida) Invasive Plant Removal, and
- St. Vincent National Wildlife Refuge Predator Control.

Nutrient Reduction

- Pensacola Bay and Perdido River Watersheds—Nutrient Reduction, and
- Lower Suwannee River Watershed—Nutrient Reduction.

Water Quality

- Carpenter Creek Headwaters Water Quality Improvements,
- Pensacola Beach Reclaimed Water System Expansion,
- Rattlesnake Bluff Road and Riverbank Restoration,
- Pensacola Bay Unpaved Roads Initiative (P&D),
- Alligator Lake Coastal Dune Lake Hydrologic Restoration,
- City of Port St. Joe Stormwater Improvements,
- City of Carrabelle's Lighthouse Estates: Septic Tank Abatement Phase II,
- Lower Suwannee National Wildlife Refuge Hydrologic Restoration (P&D), and
- Lower Charlotte Harbor Flatwoods Hydrologic Restoration Initiative, Yucca Pens Unit (P&D).

Provide and Enhance Recreational Opportunities

- Perdido River and Bay Paddle Trail,
- Carpenter Creek Headwaters Park Amenities,
- Gulf Islands National Seashore (Florida) Rehabilitation of Okaloosa Unit Recreational Facilities,
- Joe's Bayou Recreation Area Improvements,
- Topsail Hill Preserve State Park Improvements,
- Camp Helen State Park Improvements,
- St. Andrews State Park Improvements, and
- St. Marks National Wildlife Refuge Coastal Trail Connection, Spring Creek to Port Leon.

The FL TIG also analyzed nine additional alternatives, as well as a no action alternative. In accordance with NEPA, as part of the Final RP1/EA, the Trustees issued a FONSI. The FONSI is available in Appendix G of the Final RP1/EA.

The FL TIG determined that the restoration projects selected for funding will continue the process of restoring the natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost for the 23 selected restoration projects is $61,282,740. Additional restoration planning for the Florida Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Draft RP1/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Mary Josie Blanchard,

Director of Gulf of Mexico Restoration, Department of the Interior.

[FR Doc. 2019–05377 Filed 3–20–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N027; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill Final Phase 2 Restoration Plan/ Environmental Assessment #1.1: Queen Bess Island Restoration and Finding of No Significant Impact; Louisiana Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act (OPA), the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (PDARP/PEIS), Record of Decision, and the Consent Decree, the Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a *Final Phase 2 Restoration Plan/Environmental Assessment #1.1: Restoration of Queen Bess Island* (Phase 2 RP/EA #1.1) and *Finding of No Significant Impact* (FONSI). The Phase 2 RP/EA #1.1 describes the restoration project design alternatives considered by the Louisiana TIG to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill. The purpose of this notice is to inform the public of the availability of the final Phase 2 RP/EA #1.1 and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Phase 2 RP/EA #1.1 and FONSI from any of the following websites:

- *http://www.gulfspillrestoration.noaa.gov*
- *https://www.doi.gov/deepwaterhorizon/adminrecord*
- *http://www.la-dwh.com*

Alternatively, you may request a CD of the Phase 2 RP/EA #1.1 and FONSI (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at *nanciann_regalado@fws.gov,* via telephone at 678–296–6805, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource

quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now selected and implemented by the Louisiana Trustee Implementation Group (TIG). The Louisiana TIG is composed of the following Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA); and
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources.

Background

The Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) provides for TIGs to propose phasing restoration projects across multiple restoration plans. A TIG may propose funding a planning phase (*e.g.,* initial engineering, design, and compliance) in one plan for a conceptual project. This would allow the TIG to develop information needed to fully consider a subsequent implementation phase of that project in a future restoration plan. In 2016, the Louisiana TIG included the Queen Bess Island Restoration Project as a preferred alternative to fund for engineering and design (E&D) in a restoration plan entitled *Louisiana Trustee Implementation Group Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds* (Phase 1 RP #1). After approval, the Queen Bess Island Restoration Project began E&D. The Louisiana TIG then evaluated several design alternatives and prepared a draft Phase 2 RP/EA #1.1.

Notice of availability of the draft Phase 2 RP/EA #1.1 was published on the Louisiana TIG website on December 7, 2018, and in the **Federal Register** and *Louisiana State Register* on December 20, 2018 (83 FR 65360, *Louisiana Register* Volume 44, No. 7). The draft Phase 2 RP/EA #1.1 provided the Louisiana TIG's analysis of design alternatives that would meet the Trustees' goal to replenish and protect living coastal and marine resources under OPA and NEPA, and identified one design alternative that was proposed as preferred for implementation. The Louisiana TIG provided the public a comment period from December 7, 2018, through January 22, 2019. The Louisiana TIG also hosted a public meeting on January 3, 2019, in Baton Rouge to facilitate public review and comment. The Louisiana TIG considered the public comments received, which informed their analysis and decision making, and finalized the Phase 2 RP/EA #1.1. A summary of the public comments received and the Louisiana TIG's responses to those comments are addressed in Section 7 of the Phase 2 RP/EA #1.1.

Overview of the LA TIG Final RP/EA #1.1

The Phase 2 RP/EA #1.1 is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, and the Final PDARP/PEIS and Record of Decision.

In the Phase 2 RP/EA #1.1 and FONSI, the Louisiana TIG selects one restoration alternative, Design Alternative 2B, for final design and construction for Queen Bess Island restoration, to be funded under the Birds restoration type allocation.

The Louisiana TIG also analyzed one additional design alternative, as well as a no action alternative in the Phase 2 RP/EA #1.1. In accordance with NEPA, as part of the Phase 2 RP/EA #1.1, the Trustees issued a FONSI. The FONSI is available in Appendix E of the Phase 2 RP/EA #1.1.

The Louisiana TIG determined that the restoration project selected for final design and funding will continue the process of restoring the natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated project cost for the selected restoration project is $18,710,000. Additional restoration planning for the Louisiana Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Phase 2 RP/EA #1.1 can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Mary Josie Blanchard,

Director of Gulf of Mexico Restoration, Department of the Interior.

[FR Doc. 2019–05378 Filed 3–20–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N026; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill Final Restoration Plan 1 and Environmental Assessment: Birds and Sturgeon, and Finding of No Significant Impact; Open Ocean Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), Record of Decision, and the Consent Decree, the Federal natural resource

trustee agencies for the Open Ocean Trustee Implementation Group (Open Ocean TIG) have prepared a *Final Restoration Plan 1 and Environmental Assessment* (Final RP1/EA) and *Finding of No Significant Impact* (FONSI). The Final RP1/EA describes the restoration project alternatives for the Birds and Sturgeon restoration types considered by the Open Ocean TIG to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill. The purpose of this notice is to inform the public of the availability of the Final RP1/EA and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final RP1/EA and FONSI from either of the following websites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.doi.gov/deepwaterhorizon/adminrecord*

Alternatively, you may request a CD of the Final RP1/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at *nanciann_regalado@fws.gov,* via telephone at 678–296–6805, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Open Ocean Restoration Area are now selected and implemented by the Open Ocean Trustee Implementation Group (TIG). The Open Ocean TIG is composed of the following Federal Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA); and
- U.S. Environmental Protection Agency (EPA).

Background

On March 31, 2017, the Open Ocean TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov* requesting new or revised natural resource restoration project ideas by May 15, 2017, for the Open Ocean Restoration Area for the 2017–2020 planning years. The notice stated that the Open Ocean TIG was seeking project ideas for the following Restoration Types: (1) Birds, (2) Sturgeon, (3) Sea Turtles, (4) Marine Mammals, (5) Fish and Water Column Invertebrates, and (6) Mesophotic and Deep Benthic Communities.

On February 7, 2018, the Open Ocean TIG announced that it had initiated drafting of its first and second post-settlement draft restoration plans; and that the first plan would include restoration projects for Birds and Sturgeon, while the second plan would include restoration projects for Sea Turtles, Marine Mammals, Fish and Water Column Invertebrates, and Mesophotic and Deep Benthic Communities.

The project submissions received through this process, along with projects previously submitted during prior restoration planning processes, resulted in the alternatives evaluated in the Draft RP1/EA.

Notice of availability of the Draft RP1/EA was published in the **Federal Register** on October 9, 2018 (83 FR 50681). The Draft RP1/EA provided the Open Ocean TIG's analysis of alternatives that would meet the Trustees' goal to replenish and protect living coastal and marine resources under OPA and NEPA, and identified the alternatives that were proposed as preferred for implementation. The Open Ocean TIG provided the public with 30 days to review and comment on the Draft RP1/EA. The Open Ocean TIG also held two public webinars in October 2018 to facilitate public understanding of the document. The Open Ocean TIG considered the public comments received, which informed the Open Ocean TIG's analysis of alternatives in the Final RP1/EA. A summary of the public comments received and the Open Ocean TIG's responses to those comments are addressed in Chapter 6 of the Final RP1/EA.

Overview of the OO TIG Final RP1/EA

The Final RP1/EA is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, and the Final PDARP/PEIS.

In the Final RP1/EA and FONSI, the Open Ocean TIG selected the following

three restoration projects from the Birds and Sturgeon restoration types:

- Restoration of Common Loons in Minnesota, USA,
- Restoration of Black Terns in North and South Dakota, and
- Characterizing Gulf Sturgeon Spawning Habitat, Habitat Use and Origins of Juvenile Sturgeon in the Pearl and Pascagoula River Systems.

The Open Ocean TIG also analyzed three additional alternatives, as well as a no action alternative. In accordance with NEPA, as part of the Final RP1/EA, the Trustees issued a FONSI. The FONSI is available in Appendix E of the Final RP1/EA.

The Open Ocean TIG determined that the restoration projects selected for funding will continue the process of restoring the natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost for the three selected restoration projects is $16,000,000. Additional restoration planning for the Open Ocean Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final RP1/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Mary Josie Blanchard,

Director of Gulf of Mexico Restoration, Department of the Interior.

[FR Doc. 2019–05379 Filed 3–20–19; 8:45 am]

BILLING CODE 4310–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–27470; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before March 9, 2019, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by April 5, 2019.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before March 9, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

COLORADO

Larimer County

Dunraven Cottage-Camp Dunraven, 898 Fish Creek Rd., Estes Park vicinity, SG100003644

Mineral County

Wagon Wheel Gap Fluorspar Mine and Mill (Mining Industry in Colorado, MPS), 1 Goose Creek Rd., Creede vicinity, MP100003643

ILLINOIS

Cook County

Leaning Tower of Niles, The 6280 W Touhy Ave., Niles, SG100003645

Forum, The 318–328 E 43rd St., Chicago, SG100003646

Edgar County

Paris High School and Gymnasium, 309 S Main St., Paris, SG100003647

Kane County

Copley Hospital, 301 Weston Ave., Aurora, SG100003648

Lake County

Frederick, Louis, House, 19 W County Line Rd., Barrington Hills, SG100003649

MARYLAND

Baltimore County

Lime Kiln Bottom, 2177 Cromwell Bridge Rd., Parkville, SG100003655

Frederick County

Oakland, 1902 Jefferson Pike, Knoxville, SG100003656

NEW YORK

Albany County

Normanskill Farm, 5 Mill Rd., Albany, SG100003625

Chenango County

Willcox, Hazard Jr., Farm, 549 Co. Rd. 14, Earlville, SG100003626

Franklin County

Hotel Saranac, 100 Main St., Saranac Lake, SG100003627

Montgomery County

St. Johnsville Historic District, Generally E & W Main, N & S Division, Bridge, Lion, Falling, Monroe, Center, Kingsbury, Church, William, Hough & Sanders Sts., St. Johnsville, SG100003628

Onondaga County

North Salina Street Historic District (Boundary Increase), Portions of Ash, Butternut, Catawba, E Laurel, E Willow, Pearl, & N Salina Sts.; E Belden & Gephardt Aves., Syracuse, BC100003623

Rensselaer County

Rensselaer Society of Engineers House, 1501 Sage Ave., Troy, SG100003629

Schoharie County

Schoharie Village Historic District, Portions of Main, Bridge, Fair, Grand, Orchard & Prospect Sts., Fort Rd., Academy, Furman & Sunset Drs., Birchez, Depot, Estenes, Mix & Quilt Lns., Johnson, Knower & Shannon Aves., Schoharie, SG100003624

Vroman, Col. Peter, House, 112 Covered Bridge Rd., Schoharie, SG100003630

Ulster County

Ashokan Field Campus Historic District, 477 Beaverkill Rd., Olive Bridge, SG100003622

Washington County

Dresden District School No. 2, North Rd., Clemons vicinity, SG100003631

Westchester County

Robinwood Historic District, Tavano & Somerstown Rds., Ossining, SG100003632

PENNSYLVANIA

Berks County

Updike, John, Childhood Home, 117 Philadelphia Ave., Shillington, SG100003635

Philadelphia County

Oaks Cloister, 5829 Wissahickon Ave. & 3 Lehman Ln., Philadelphia, SG100003636

WISCONSIN

Jefferson County

Lake Mills Downtown Commercial Historic District, 102–131 E Lake, 113–203 W Lake, 103–211 N Main & 101–202 S Main Sts., Lake Mills, SG100003634

Owner objections have been received for the following resources:

CALIFORNIA

Los Angeles County

Mirlo Gate Lodge Tower, 4420 Via Valmonte, Palos Verdes Estates, SG100003633

Santa Clara County

Air Base Laundry, 954 Villa St., Mountain View, SG100003641
Weilheimer, Julius, House, 938 Villa St., Mountain View, SG100003642

Additional documentation has been received for the following resources:

ARIZONA

Maricopa County

Town and Country Scottsdale Residential Historic District, 2218 N 72nd Pl. & 7307 E Cypress St., Scottsdale, AD09000694
Willo Historic District, 25 W. Wilshire Dr., Phoenix, AD90002099

Pima County

San Clemente Historic District, 3934 S Calle de Jardin, Tucson, AD04001156
Winterhaven Historic District, 3518 N Fox Ave., Tucson, AD05001466

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

MICHIGAN

Monroe County

River Raisin Battlefield Site (Boundary Increase), 1403 E Elm Ave., Monroe vicinity, BC100003658

Authority: Section 60.13 of 36 CFR part 60.

Dated: March 11, 2019.

Kathryn G. Smith,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2019–05358 Filed 3–20–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1057 (Advisory Opinion Proceeding)]

Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts; Institution of an Advisory Opinion Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute an advisory opinion proceeding in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted an investigation on May 23, 2017, based on a complaint filed by iRobot Corporation of Bedford, Massachusetts (''iRobot''). 82 FR 23593–94. The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain robotic vacuum cleaning devices and components thereof that infringe certain claims of, *inter alia,* U.S. Patent No. 9,038,233 (''the '233 patent''). *Id.* The Commission's notice of investigation named as a respondent, *inter alia,* Shenzhen Silver Star Intelligent Technology Co., Ltd., of Shenzhen, China (''Silver Star''). *Id.* at 23593. The Office of Unfair Import Investigations did not participate in the investigation. *Id.*

On November 30, 2018, the Commission found, *inter alia,* that Silver Star violated section 337 with respect to the '233 patent, and issued a limited exclusion order (''LEO'') against, *inter alia,* Silver Star with respect to claims 1, 10, 11, and 14–16 of the '233 patent. 83 FR 63186–87. The Commission also issued cease and desist orders (''CDOs'') against two of Silver Star's customers, Hoover Inc. and bObsweep, Inc., regarding those same claims. *Id.*

On January 30, 2019, Silver Star filed a request for an advisory opinion that eight of its products do not violate the LEO and CDOs. On February 11, 2019, iRobot opposed the advisory opinion request on numerous grounds.

On February 22, 2019, Silver Star requested leave to file a reply in support of its request for an advisory opinion. On February 27, 2019, iRobot argued that Silver Star's request for leave should be denied, or alternatively, iRobot should be given leave to file the attached sur-reply.

The Commission has determined that Silver Star's request complies with the requirements for institution of an advisory opinion proceeding under Commission Rule 210.79. The Commission finds that proceeding requires sufficient factfinding to warrant the delegation of the proceeding to an administrative law judge. Accordingly, the Commission has determined to institute an advisory opinion proceeding and has referred Silver Star's request to the Chief Administrative Law Judge to designate a presiding administrative law judge. The following entities are named as parties to the proceeding: (1) Complainant iRobot; (2) respondent Silver Star; and (3) the Office of Unfair Import Investigations. The Commission has also determined to deny Silver Star's request for leave to file a reply in support of its advisory opinion request.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 15, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–05343 Filed 3–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–592 and 731–TA–1400 (Final)]

Plastic Decorative Ribbon From China

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 plastic decorative ribbon from China, provided for in subheadings 3920.10.00; 3920.20.00;

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

3920.30.00; 3920.43.50; 3920.49.00; 3920.62.00; 3920.69.00; 3921.90.11; 3921.90.15; 3921.90.19; 3921.90.40; 3926.90.99; 4601.99.90; 4602.90.00; 5404.90.00; 5609.00.30; 5609.00.40; 6307.90.98; and 9505.90.40 of the Harmonized Tariff Schedule of the United States, 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 China.

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective December 27, 2017, following receipt of petitions filed with the Commission and Commerce by Berwick Offray LLC, Berwick, Pennsylvania. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of plastic decorative ribbon from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(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** on August 30, 2018 (83 FR 44302). The hearing was held in Washington, DC, on December 13, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel. Due to the lapse in appropriations and ensuing cessation of Commission operations, all import injury investigations conducted under authority of Title VII of the Tariff Act of 1930 accordingly have been tolled pursuant to 19 U.S.C 1671d(b)(2), 1673d(b)(2). A revised schedule was published on February 8, 2019 (84 FR 2926).

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 March 15, 2019. The views of the Commission are contained in USITC Publication 4875 (March 2019), entitled *Plastic Decorative Ribbon from China: Investigation Nos. 701–TA–592 and 731–TA–1400 (Final).*

By order of the Commission.

Issued: March 15, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–05344 Filed 3–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1076]

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (II); Notice of a Commission Determination To Review in Part a Final Initial Determination Finding a Violation of Section 337; and Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the ''Commission'') has determined to review in part the final initial determination (''ID'') of the administrative law judge (''ALJ''), which was issued on October 25, 2018.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (''EDIS'') (*https://edis.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 25, 2017, on a complaint filed by FUJIFILM Corporation of Tokyo, Japan and FUJIFILM Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, ''Fujifilm''). 82 FR 49421–22 (Oct. 25, 2017). The complaint alleges violations of 19 U.S.C. 1337, as amended (''Section 337''), in the importation into the United States, sale for importation, and sale in the United States after importation of certain magnetic data storage tapes and cartridges that infringe one or more of the asserted claims of U.S. Patent Nos. 6,630,256 (''the '256 patent''), 6,835,451 (''the '451 patent''), 7,011,899 (''the '899 patent''), 6,462,905 (''the '905 patent''), and 6,783,094 (''the '094 patent''). *Id.* The notice of investigation named Sony Corporation of Tokyo, Japan; Sony Storage Media Solutions Corporation of Tokyo, Japan; Sony Storage Media Manufacturing Corporation of Miyagi, Japan; Sony DADC US Inc. of Terre Haute, Indiana; and Sony Latin America Inc. of Miami, Florida (collectively, ''Sony'') as respondents. *Id.* The Office of Unfair Import Investigations (''OUII'') was also named a party to the investigation. *Id.*

The Commission previously terminated the investigation as to the '094 patent and certain claims of the '905, '256, '451, and '899 patents. Comm'n Notice (Apr. 17, 2018) (aff'g Order No. 11); Comm'n Notice (July 9, 2018) (aff'g Order No. 17); Comm'n Notice (July 27, 2018) (aff'g Order No. 22).

The ALJ held an evidentiary hearing from June 25–29, 2018. On October 25, 2018, the ALJ issued his final ID, in which he found Sony in violation of Section 337 as to the '256 and '899 patents, but not the '905 or '451 patents. The ALJ recommended that the Commission issue a limited exclusion order and cease and desist orders to each of the Sony respondents.

The parties filed their respective petitions for review on November 9, 2018. The parties filed their respective responses to the petitions on November 20, 2018.

Having reviewed the record in this investigation, including the ALJ's orders and final ID, as well as the parties' petitions and responses thereto, the Commission has determined to review the final ID in part, as follows.

With regard to the '256 patent, the Commission has determined to review the ID's finding that Fujifilm has satisfied the technical prong of the domestic industry requirement.

With regard to the '899 patent, the Commission has determined to review the ID's construction and application of the claimed ranges expressed in terms of ''per 6400 μm^2'' and related issues of infringement and the technical prong of domestic industry requirement. The Commission has also determined to review the ID's findings as to whether the asserted claims are invalid as obvious.

With regard to the '905 patent, the Commission has determined to review the ID's findings regarding whether claim 3 of the patent is invalid as anticipated or obvious.

The Commission has determined not to review the remaining findings in the ID.

The parties are asked to provide additional briefing on the following issues regarding the '256, '899, and '905 patents, with appropriate reference to the applicable law and the existing evidentiary record. For each argument presented, the parties' submissions should set forth whether and/or how that argument was presented and preserved in the proceedings before the ALJ, in conformity with the ALJ's Ground Rules (Order No. 2), with citations to the record:

A. With regard to the '256 patent, please identify any technical specifications, instructions from the manufacturer, vendor specifications, or any other evidence as to whether the sample LTO tapes tested by Fujifilm are representative of other Fujifilm tapes in the same product generations.

B. With regard to the '899 patent, please explain how a person skilled in the art would construe the claimed projection densities expressed in terms of ''per 6400 μm^2'' in the context of the patent.

C. Using your claim construction in (B), above, explain how a skilled artisan would determine whether a tape product, which may be 100 meters long or more, satisfies that claim limitation, particularly if different measurements taken from a sample tape yield results both inside and outside the claimed ranges. Based on your interpretation and application of the claimed projection densities ''per 6400 μm^2'', explain whether Fujifilm has demonstrated by a preponderance of the evidence that the '899 patent claims are infringed or practiced by Sony or Fujifilm, respectively.

D. With regard to claim 2 of the '899 patent, explain whether the evidence of record supports a finding that the sample Sony LTO–6 tape examined during the earlier investigation *Certain Magnetic Tape Cartridges and Components Thereof,* Inv. No. 337–TA–1036, was sufficiently representative of Sony tapes being manufactured today such that the measurements taken from that earlier tape (*e.g.,* of coefficients of length variation) can provide reliable evidence in the present investigation.

E. With regard to the '899 patent, explain whether a person skilled in the art would have been motivated to apply a Gaussian curve or other statistical analysis to the measurements disclosed in the Sueoka reference (Japanese Patent Application No. 2001–273623); whether such an analysis was performed properly in this case; and whether the asserted claims are invalid as obvious over Sueoka in combination with such an analysis or other knowledge in the art.

F. With regard to the '899 patent, explain whether a person skilled in the art would have been motivated to combine Sueoka with the Aonuma reference (Japanese Patent Application No. 2003–36520), particularly in view of the different materials they use, and whether the asserted claims are invalid as obvious over Sueoka in combination with Aonuma.

G. With regard to the '905 patent, explain whether Sony has demonstrated by clear and convincing evidence that the LTO tapes previously sold by Fujifilm expressly or inherently practiced all of the limitations of claim 3, and whether those private sales constituted an on-sale bar for purposes of anticipation.

H. With respect to the '905 patent, explain whether Sony has shown by clear and convincing evidence that the McAllister-I patent (U.S. Patent No. 5,901,916) expressly or inherently discloses the relative gear sizes recited in claim 3, and whether the McAllister-I patent anticipates claim 3. If there is no anticipation, explain whether the figures and other teachings of the McAllister-I patent provide clear and convincing evidence that claim 3 is obvious.

The parties are requested to brief only the discrete issues identified above, with reference to the applicable law and evidentiary record. The parties are not to brief any other issues on review, which have already been adequately presented in the parties' previous filings.

In connection with the final disposition of this investigation, the Commission may issue: (1) An exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) a cease-and-desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease-and-desist order would have on: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to this investigation are requested to file written submissions on the issues identified in this Notice and on the issues of remedy, the public interest, and bonding. Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the patents expire and the HTSUS numbers under which the accused products are imported. Complainant is further requested to supply the names of known importers of the Respondents' products at issue in this investigation. The parties' written submissions and proposed remedial orders must be filed no later than the close of business on March 29, 2019. Reply submissions must be filed no later than the close of business on April 5, 2019. Opening submissions are limited to 50 pages. Reply submissions are limited to 40 pages. Such submissions should address the ALJ's recommended determination on remedy and bonding. Interested government agencies and any other interested parties are also encouraged to

file written submissions on the issues of remedy, the public interest, and bonding. Third-party submissions should be filed no later than the close of business on March 29, 2019. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day, pursuant to section 201.4(f) of the Commission's Rule of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1076'') in a prominent place on the cover page and/or first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 15, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–05353 Filed 3–20–19; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on April 12, 2019, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at Willis Towers Watson, 500 N Akard Street, 41st Floor, Dallas, TX 75201.

FOR FURTHER INFORMATION CONTACT: Elizabeth Van Osten, Designated Federal Officer, Advisory Committee on Actuarial Examinations, at (202) 317–3648.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Willis Towers Watson, 500 N Akard Street, 41st Floor, Dallas, TX 75201, on April 12, 2019, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 14, 2019.

Thomas V. Curtin, Jr.,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2019–05402 Filed 3–20–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Siemens Healthcare Diagnostics Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on Dec 12, 2018, Siemens Healthcare Diagnostics Inc., 100 GBC Drive, Mailstop 514, Newark, Delaware 19702–2461 applied to be registered as a bulk manufacturer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Ecgonine	9180	II

The company plans to produce the listed controlled substance in bulk to be used in the manufacture of DEA exempt products.

Dated: March 6, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–05392 Filed 3–20–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 22, 2019. Such persons may also file a written request for a hearing on the application on or before April 22, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on August 17, 2018, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Methylphenidate	1724	II
Levorphanol	9220	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to import the listed controlled substances for clinical trials.

Dated: March 6, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–05389 Filed 3–20–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0317]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2020/2022 Identity Theft Supplement (ITS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 20, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Harrell, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Erika.Harrell@usdoj.gov;* telephone: 202–307–0758).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement of the Identity Theft Supplement, with changes, a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2020/2022 Identity Theft Supplement.

The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number for the questionnaire is ITS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(3) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The ITS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The ITS is primarily an effort to measure the prevalence of identity theft among persons, the characteristics of identity theft victims, and patterns of reporting to the police, credit bureaus, and other authorities. The ITS was also designed to collect important characteristics of identity theft such as how the victim's personal information was obtained; the physical, emotional and financial impact on victims; offender information; and the measures people take to avoid or minimize their risk of becoming an identity theft victim. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the

media, and others interested in criminal justices statistics.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 111,600. About 90% of respondents (100,670) will have no identity theft and will complete the short interview with an average burden of six minutes. Among the 10% of respondents (10,940) who experience at least one incident of identity theft, the time to ask the detailed questions regarding the aspects of the most recent incident of identity theft is estimated to take an average of fifteen minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimate is based on data from prior administrations of the ITS.

(5) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 12,800 total burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 18, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–05361 Filed 3–20–19; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 15, 2019, a proposed Consent Decree in *United States* v. *Apogent Transition Corp., et al.,* Civil Action No. 2:19–8654, was filed with the United States District Court for New Jersey.

The proposed Consent Decree between the United States of America, Apogent Transition Corp., Beazer East, Inc., Cooper Industries, LLC, and Occidental Chemical Corporation resolves the claims between the parties relating to the cleanup of the Standard Chlorine Superfund Site in Kearny, New Jersey under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.* The proposed Consent Decree requires the settling defendants to undertake work to clean up the Standard Chlorine Site and pay a large portion of the United States' costs.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Apogent Transition Corp., et al.,* Civil Action No. 2:19–8654, D.J. Ref. No. 90–11–3–11827. 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.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed 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 $113.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–05333 Filed 3–20–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Agency Information Collection Activities; Announcement of OMB Approvals

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employee Benefits Security Administration (EBSA) announces that the Office of Management and Budget (OMB) has approved certain collections of information, listed in the Supplementary Information section below, following EBSA's submission of requests for such approvals under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). This notice describes the approved or re-approved information collections and provides their OMB control numbers and current expiration dates.

FOR FURTHER INFORMATION CONTACT: G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PRA and its implementing regulations require Federal agencies to display OMB control numbers and inform respondents of their legal significance after OMB has approved an agency's information collections. In accordance with those requirements, EBSA hereby notifies the public that the following information collections have been re-approved by OMB following EBSA's submission of an information collection request (ICR) for extension of a prior approval:

- OMB Control No. 1210–0089, Delinquent Filer Voluntary Compliance Program. The expiration date for this information collection is January 31, 2021.
- OMB Control No. 1210–0146, Request for Assistance from the Department of Labor, Employee Benefits Security Administration. The expiration date for this information collection is January 31, 2021.
- OMB Control No. 1210–0034, Alternative Method of Compliance for Certain Simplified Employee Pensions. The expiration date for this information collection is February 28, 2021.
- OMB Control No. 1210–0060, Employee Retirement Income Security Act of 1974 Section 408(a) Prohibited Transaction Provisions Exemption Application Procedure. The expiration date for this information collection is February 28, 2021.
- OMB Control No. 1210–0153, Alternative Reporting Methods for Apprenticeship and Training Plans and Top Hat Plans. The expiration date for this information collection is February 28, 2021.
- OMB Control No. 1210–0134, Investment Advice Participants and Beneficiaries. The expiration date for this information collection is February 28, 2021.

• OMB Control No. 1210–0121, Consent to Receive Employee Benefit Plan Disclosures Electronically. The expiration date for this information collection is May 31, 2021.

• OMB Control No. 1210–0112, Furnishing Documents to the Secretary of Labor on Request Under Employee Retirement Income Security Act Section 104(a)(6). The expiration date for this information collection is June 30, 2021.

• OMB Control No. 1210–0126, Annual Funding Notice for Defined Benefit Pension Plans. The expiration date for this information collection is August 31, 2021.

• OMB Control No. 1210–0133, Employee Retirement Income Security Act Section 408(b)(2) Regulation. The expiration date for this information collection is August 31, 2021.

• OMB Control No. 1210–0066, Employee Retirement Income Security Act Procedure 1976–1 Advisory Opinion Procedure. The expiration date for this information collection is November 30, 2021.

• OMB Control No. 1210–0114, Disclosures by Insurers to General Account Policyholders. The expiration date for this information collection is November 30, 2021.

• OMB Control No. 1210–0122, Employee Retirement Income Security Act Blackout Period. The expiration date for this information collection is November 30, 2021.

• OMB Control No. 1210–0084, Employee Retirement Income Security Act of 1974 Technical Release 1991–1. The expiration date for this information collection is November 30, 2021.

• OMB Control No. 1210–0110, Annual Information Return/Report of Employee Benefit Plan. The expiration date for this information collection is November 30, 2021.

• OMB Control No. 1210–0117, Registration for EFAST–2 Credentials, The expiration date for this information collection is November 30, 2021.

EBSA hereby notifies the public that the following information collection has been approved by OMB following EBSA's submission of an information collection request (ICR) for a revision of a currently approved collection:

• OMB Control No. 1210–0150, Coverage of Certain Preventative Services Under the Affordable Care Act—Private Sector. The expiration date for this information collection is November 30, 2021.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Publication of this notice satisfies this requirement with respect to the above-listed information collections, as provided in 5 CFR 1320.5(b)(2)(C).

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2019–05347 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than April 1, 2019.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 1, 2019.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, on March 5, 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

149 TAA PETITIONS INSTITUTED BETWEEN 1/1/19 AND 2/28/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94434	Crane Co. ChemPharma & Energy Pacific Valves (State/One-Stop)	Signal Hill, CA	01/03/19	01/02/19
94435	Gannett Satellite Information Network, LLC (Workers)	Greenville, SC	01/03/19	01/02/19
94436	MacKay Mitchell Envelope Company, LLC (State/One-Stop)	Portland, OR	01/03/19	01/02/19
94437	NUCAP US, Inc. (State/One-Stop)	Wolcott, CT	01/03/19	01/03/19
94438	Tangoe US, Inc. (State/One-Stop)	Parsippany, NJ	01/03/19	01/02/19
94439	Ten Oaks LLC (State/One-Stop)	Stuart, VA	01/03/19	01/02/19
94440	Wells Fargo (State/One-Stop)	West Des Moines, IA ...	01/03/19	01/02/19
94441	Hon Hai/Foxconn Technology Group (Company)	Plainfield, IN	01/04/19	01/03/19
94442	Swisher International, Inc. (Company)	Jacksonville, FL	01/04/19	01/03/19
94443	TMG Health (Workers)	Jessup, PA	01/04/19	01/03/19
94444	Nestle USA Inc. (Workers)	Fort Worth, TX	01/07/19	01/04/19
94445	Brownstown Battery Assembly (State/One-Stop)	Brownstown Charter Township, MI.	01/08/19	01/07/19
94446	Honeywell International Inc. (State/One-Stop)	Albuquerque, NM	01/08/19	01/07/19
94447	A.R.E. Manufacturing, Inc. (State/One-Stop)	Newberg, OR	01/09/19	01/08/19
94448	GM Allison Transmissions (State/One-Stop)	White Marsh, MD	01/09/19	01/08/19
94449	Stoneridge (Company)	Canton, MA	01/09/19	01/09/19
94450	Crane ChemPharma & Energy (Company)	Montgomery, TX	01/11/19	01/10/19
94451	Xeros, Inc. (State/One-Stop)	Providence, RI	01/11/19	01/09/19
94452	Zodiac Electrical Inserts USA (State/One-Stop)	Huntington Beach, CA	01/11/19	01/10/19

149 TAA PETITIONS INSTITUTED BETWEEN 1/1/19 AND 2/28/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94453	GY Agemni, LLC (State/One-Stop)	Salt Lake City, UT	01/14/19	01/11/19
94454	GCL Solar Materials US I, LLC (State/One-Stop)	Pasadena, TX	01/14/19	01/11/19
94455	IKEA Industry Danville LLC (State/One-Stop)	Ringgold, VA	01/14/19	01/11/19
94456	Buffalo Weaver, Inc. (Company)	Waterloo, IA	01/15/19	01/14/19
94457	GM Detroit Hamtramck Assembly Plant (State/One-Stop)	Detroit, MI	01/15/19	01/15/19
94458	IBM, Inc. (State/One-Stop)	Armonk, NY	01/15/19	01/15/19
94459	PVH Neckwear, Inc. (State/One-Stop)	Los Angeles, CA	01/15/19	01/14/19
94460	PVH Neckwear, Inc. (State/One-Stop)	Los Angeles, CA	01/15/19	01/14/19
94461	Aptos, Inc. (State/One-Stop)	Newburgh, NY	01/16/19	01/15/19
94462	Axeon Specialty Products LLC (State/One-Stop)	Paulsboro, NJ	01/16/19	01/15/19
94463	Bose Corporation (Company)	Stow, MA	01/16/19	01/15/19
94464	Harley-Davidson of New York City (State/One-Stop)	Long Island City, NY	01/16/19	12/31/18
94465	Aqua Products, Inc. (State/One-Stop)	Cedar Grove, NJ	01/17/19	01/16/19
94466	BNY Mellon (State/One-Stop)	Jersey City, NJ	01/17/19	01/16/19
94467	Kmart Distribution Center (State/One-Stop)	Warren, OH	01/17/19	01/16/19
94468	MOL (America) Inc. (State/One-Stop)	Woodbridge, NJ	01/17/19	01/16/19
94469A ..	ShopKo (State/One-Stop)	Bellevue, NE	01/18/19	01/17/19
94469B ..	ShopKo (State/One-Stop)	Lincoln, NE	01/18/19	01/17/19
94469C ..	ShopKo (State/One-Stop)	Lincoln, NE	01/18/19	01/17/19
94469D ..	ShopKo (State/One-Stop)	Lincoln, NE	01/18/19	01/17/19
94469E ..	ShopKo (State/One-Stop)	Lincoln, NE	01/18/19	01/17/19
94469F ..	ShopKo Hometown (State/One-Stop)	Ord, NE	01/18/19	01/17/19
94469G ..	ShopKo Hometown (State/One-Stop)	Plattsmouth, NE	01/18/19	01/17/19
94469H ..	ShopKo Hometown (State/One-Stop)	Kimball, NE	01/18/19	01/17/19
94469	ShopKo Stores Operating Co., LLC (State/One-Stop)	Green Bay, WI	01/18/19	01/17/19
94470	Bushwacker, Inc. (State/One-Stop)	Portland, OR	01/22/19	01/18/19
94471	Lexmark International, Inc. (Workers)	Lexington, KY	01/22/19	01/21/19
94472	MSCI (Workers)	Portland, ME	01/22/19	01/22/19
94473	Sugarfina, Inc. (State/One-Stop)	El Segundo, CA	01/22/19	01/18/19
94474	Tangoe US, Inc. (Workers)	Parsippany, NJ	01/22/19	01/18/19
94475	American Fasteners Company Limited (State/One-Stop)	Jurupa Valley, CA	01/23/19	01/22/19
94476	AXA Equitable Life Insurance Company (State/One-Stop)	Syracuse, NY	01/23/19	01/22/19
94477	East Coast Seafood LLC, doing business as Garbo Lobster (State/One-Stop).	Groton, CT	01/23/19	01/22/19
94478	Keystone Tailored Manufacturing LLC (Union)	Brooklyn, OH	01/23/19	01/14/19
94479	Renwood Acquisitions, LLC dba Heckethorn Manufacturing (Company)	Dyersburg, TN	01/23/19	01/22/19
94480	Globe Metallurgical Inc. (State/One-Stop)	Niagara Falls, NY	01/24/19	01/24/19
94481	Tenneco Automotive Operating Inc. (Workers)	Hartwell, GA	01/24/19	01/23/19
94482	Xerox Business Services (State/One-Stop)	Webster, NY	01/24/19	01/23/19
94483	Xerox Corporation (State/One-Stop)	Webster, NY	01/24/19	01/23/19
94484	Bank of the West (State/One-Stop)	San Ramon, CA	01/25/19	01/24/19
94485	Ditech Holding Corporation (State/One-Stop)	Rapid City, SD	01/25/19	01/24/19
94486	Hubbell Lenoir City, Inc. (State/One-Stop)	Palatka, FL	01/25/19	01/24/19
94487	Integrated Device Technology Inc. (IDT) (State/One-Stop)	San Jose, CA	01/25/19	01/24/19
94488	IBM Global Services (State/One-Stop)	Endicott, NY	01/28/19	01/25/19
94489	Loud Audio LLC (State/One-Stop)	Auburn, WA	01/28/19	01/18/19
94490	Medtronic Plc. (Company)	Plainfield, IN	01/28/19	01/27/19
94491	Prince Hydraulics (State/One-Stop)	Sioux City, IA	01/28/19	01/25/19
94492	R1 RCM (State/One-Stop)	Evansville, IN	01/29/19	01/28/19
94493	Conformis, Inc. (State/One-Stop)	Billerica, MA	01/30/19	01/29/19
94494	Global Safety Textiles, LLC (State/One-Stop)	South Hill, VA	01/30/19	01/30/19
94495	State Street Corporation (State/One-Stop)	Boston, MA	01/30/19	01/30/19
94496	Walmart Optical Lab, #9419 (Workers)	Fayetteville, AR	01/30/19	01/29/19
94497	American Buildings Company (State/One-Stop)	Carson City, NV	01/31/19	01/30/19
94498	R1 RCM (State/One-Stop)	Tulsa, OK	01/31/19	01/30/19
94498A ..	R1 RCM (State/One-Stop)	Appleton, WI	01/31/19	01/30/19
94499	Dignity Health, Dominican Hospital (Workers)	Santa Cruz, CA	02/01/19	01/31/19
94500	Ferro Corporation (Company)	Washington, PA	02/01/19	01/31/19
94501	Objective Systems Integrators, Inc. (Company)	Folsom, CA	02/01/19	01/31/19
94502	AECOM Technical Services, Inc. (Company)	Austin, TX	02/04/19	02/01/19
94502A ..	AECOM Technical Services, Inc. (Company)	Glen Allen, VA	02/04/19	02/01/19
94503	Nestle USA Inc. (Workers)	Breinigsville, PA	02/04/19	02/01/19
94504	Populus Group (Workers)	Troy, MI	02/04/19	01/31/19
94505	SQS North America, LLC (Workers)	Lexington, KY	02/04/19	01/31/19
94506	Transamerica Life Insurance Company (State/One-Stop)	Little Rock, AR	02/04/19	02/01/19
94507	Afgritech, LLC (State/One-Stop)	Watertown, NY	02/05/19	02/04/19
94508	Smith & Nephew (State/One-Stop)	Mansfield, MA	02/05/19	02/05/19
94509	Bureau of National Affairs—Bloomberg BNA (State/One-Stop)	Arlington, VA	02/06/19	02/04/19
94510	ECi Software Solutions (State/One-Stop)	San Mateo, CA	02/06/19	02/04/19
94511	FDP Virginia Inc. (State/One-Stop)	Tappahannock, VA	02/06/19	02/05/19
94511A ..	FDP Virginia Inc. (State/One-Stop)	Tappahannock, VA	02/06/19	02/05/19

149 TAA PETITIONS INSTITUTED BETWEEN 1/1/19 AND 2/28/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94512	Maxim Integrated Products Inc. (State/One-Stop)	Beaverton, OR	02/06/19	02/05/19
94513	R1 Revenue Cycle Management (Workers)	Austin, TX	02/06/19	02/05/19
94514	Wide Open West Illinois LLC (State/One-Stop)	Colorado Springs, CO	02/06/19	02/05/19
94515	Windstream Communications (State/One-Stop)	Little Rock, AR	02/06/19	02/05/19
94516	Burke Industries (State/One-Stop)	San Jose, CA	02/07/19	02/06/19
94517	Ferro Corporation (Company)	Cleveland, OH	02/07/19	02/06/19
94518	Sigma Design Inc. (State/One-Stop)	Vancouver, WA	02/07/19	02/04/19
94519	N & L Enterprises (State/One-Stop)	Winchester, VA	02/07/19	02/06/19
94520	Pfizer (State/One-Stop)	Rouses Point, NY	02/07/19	02/06/19
94521	Xerox Corporation (State/One-Stop)	Webster, NY	02/07/19	01/23/19
94522	Boston Scientific Corporation (Company)	Campbell, CA	02/08/19	02/07/19
94523	Dole Food Company, Information Technology Department (State/One-Stop).	Westlake, CA	02/08/19	02/07/19
94524	Full Beauty Brands (State/One-Stop)	New York, NY	02/08/19	02/07/19
94525	REO Distribution Services/REO Logistics Company (State/One-Stop)	Waynesboro, VA	02/08/19	02/07/19
94526	ABB, Inc. (State/One-Stop)	Memphis, TN	02/11/19	02/08/19
94527	Conformis, Inc. (State/One-Stop)	Wilmington, MA	02/11/19	01/29/19
94528	HSBC Technology and Services, USA (State/One-Stop)	Arlington Heights, IL	02/11/19	02/08/19
94529	LSC Communications (State/One-Stop)	Lynchburg, VA	02/11/19	02/11/19
94530	Nypro Inc Jabil (State/One-Stop)	Rochester, NY	02/11/19	02/08/19
94531	Park Ohio Products, Inc. (State/One-Stop)	Cleveland, OH	02/11/19	02/08/19
94532	Adams Publishing Group (State/One-Stop)	Coon Rapids, MN	02/12/19	02/11/19
94533	Concentrix CVG Corporation (State/One-Stop)	Watertown, NY	02/12/19	02/11/19
94534	Elavon Merchant Services (Workers)	Knoxville, TN	02/12/19	02/11/19
94535	Kimberly Clark (Company)	Neenah, WI	02/12/19	02/11/19
94536	CSC Holdings, LLC (State/One-Stop)	Bethpage, NY	02/13/19	02/12/19
94537	Source Providers, Inc. (Union)	Austintown, OH	02/13/19	02/12/19
94538	ABC–I Corporation (State/One-Stop)	Dexter, NY	02/14/19	02/13/19
94539	Jeld-Wen Inc. (State/One-Stop)	Yakima, WA	02/14/19	02/13/19
94540	Schneider Electric (State/One-Stop)	Peru, IN	02/14/19	02/13/19
94541	A.L.P. Lighting Components—Olive Branch MS Location (Company)	Olive Branch, MS	02/15/19	02/12/19
94542	Balboa Water Group, LLC (State/One-Stop)	Tustin, CA	02/15/19	02/14/19
94543	Epiq Systems Inc. (State/One-Stop)	Seattle, WA	02/15/19	02/12/19
94544	Ardagh Group (State/One-Stop)	Lincoln, IL	02/19/19	02/15/19
94545	Granges Americas, Inc. (State/One-Stop)	Newport, AR	02/19/19	02/15/19
94546	Gunlocke (State/One-Stop)	Wayland, NY	02/19/19	02/15/19
94547	IBM (Workers)	Chicago, IL	02/19/19	02/15/19
94548	Omega Engineering/Newport Electronic Inc. (State/One-Stop)	Santa Ana, CA	02/19/19	02/12/19
94549	ArcelorMittal Tailored Blanks Americas (State/One-Stop)	Pioneer, OH	02/20/19	02/19/19
94550	CA Technologies (Broadcom) (State/One-Stop)	Santa Clara, CA	02/20/19	02/19/19
94551	Philips North America (Company)	Kennesaw, GA	02/20/19	02/19/19
94552	Teamwork Athletic Apparel (State/One-Stop)	San Marcos, CA	02/20/19	02/19/19
94553	Western Digital (State/One-Stop)	Irvine, CA	02/20/19	02/19/19
94554	Jagger Brothers (State/One-Stop)	Springvale, ME	02/21/19	02/20/19
94555	MACOM Technology Solutions, Inc. (State/One-Stop)	Ithaca, NY	02/21/19	02/15/19
94556	Aleris Davenport Casting Mill (State/One-Stop)	Davenport, IA	02/25/19	02/22/19
94557	Aleris Davenport Rolling Mill (State/One-Stop)	Davenport, IA	02/25/19	02/22/19
94558	Arconic Alcoa (State/One-Stop)	Bettendorf, IA	02/25/19	02/22/19
94559	AT&T—Technology and Operations Department ATO (Workers)	Wichita, KS	02/25/19	02/19/19
94560	Copland Industries Inc. (State/One-Stop)	Burlington, NC	02/25/19	02/22/19
94561	Corry Forge (State/One-Stop)	Corry, PA	02/25/19	02/22/19
94562	Harsco Rail (Company)	Ludington, MI	02/25/19	02/23/19
94563	Pyramid Consulting, Inc. (State/One-Stop)	Alpharetta, GA	02/26/19	02/25/19
94564	R & M Sea Level LLC (Company)	Davie, FL	02/26/19	02/25/19
94565	Safran Electronics and Defense (State/One-Stop)	Grand Prairie, TX	02/26/19	02/25/19
94566	EY (Workers)	Dallas, TX	02/27/19	02/26/19
94567	GM Technical Center (State/One-Stop)	Warren, MI	02/27/19	02/26/19
94568	Xerox Corporation (Workers)	Webster, NY	02/27/19	02/26/19
94569	Atlas Tube (State/One-Stop)	Chicago, IL	02/28/19	02/28/19
94570	Matthews Aurora Funeral Solutions (Workers)	Richmond, IN	02/28/19	02/28/19
94571	Walmart Global Business Services (State/One-Stop)	Derby, KS	02/28/19	02/27/19

[FR Doc. 2019–05304 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *January 1, 2019 through February 28, 2019.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path

(i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C)of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,466	Wellman Advanced Materials, LLC, CMS Labor Services	Johnsonville, SC	January 26, 2017.
93,497	WKW Extrusion-Bowers Manufacturing Company, WKW Erbsloeh North America Holding, Inc., Employment Group, Manpower.	Portage, MI	January 26, 2017.
93,672	OSI Electronics, Inc., OSI Systems, Inc., Express Employment Professionals	Hawthorne, CA	March 22, 2017.
94,070	Learjet, Inc., Bombardier, Inc., Aerotek, DACA Interational, Hi-Tek Professional, etc.	Wichita, KS	October 22, 2018.
94,070A	Leased Workers from PDS Tech, Inc. and MSB Global Resources, Learjet, Inc., Bombardier, Inc.	Wichita, KS	August 21, 2017.
94,221	Peak Sports USA Inc	Los Angeles, CA	October 9, 2017.
94,256	TRW Automotive US, LLC, Active & Passive Safety Division, ZF Group, AtWork Personnel Services, etc.	Atkins, VA	October 19, 2017.
94,318	Invento Americas Inc., Invento Sp. z o.o., SEEK Careers/Staffing Inc	Sheboygan, WI	November 7, 2017.
94,335	Synoptos Inc.	Reston, VA	November 13, 2017.
94,363	Pretium Packaging, Gen Star Private Equity, Staffmark Staffing, People Link Staffing.	Walterboro, SC	November 27, 2017.
94,372	Alphi Manufacturing, Vari-Form Group LLC, Elwood Staffing Service, Manpower.	Jonesville, MI	November 30, 2017.
94,382	ADC Die Casting, LLC, Aerotek Commercial Staffing	Elk Grove Village, IL	December 5, 2017.
94,386	Progress Rail Service	Gering, NE	December 4, 2017.
94,422	Textron Outdoor Power Equipment, Textron Specialized Vehicles, Manpower	Coatesville, IN	December 20, 2017.
94,422A	Textron Outdoor Power Equipment, Textron Specialized Vehicles, Manpower	Fillmore, IN	December 20, 2017.
94,437	NUCAP US, Inc., NUCAP Industries, Monroe Staffing, Jaci Carroll Staffing, etc	Wolcott, CT	January 3, 2018.
94,511	FDP Virginia Inc., 1290 Mt. Landing Road	Tappahannock, VA	February 5, 2018.
94,511A	FDP Virginia Inc., 1076 Airport Road	Tappahannock, VA	February 5, 2018.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,752	North Haven, Medtronic, Covidien, Kelly Services	North Haven, CT	April 23, 2017.
93,817	Star Forge LLC, Jorgensen Forge, CE Start Holdings, Beacon Hill Finance, Madden Machinists.	Seattle, WA	May 10, 2017.
93,825	Alorica	Omaha, NE	May 18, 2017.
94,044	Amphenol Corporation, Information, Communications, and Commercial Productions, Spectra-Strip.	Hamden, CT	August 6, 2017.
94,169	Pioneer Magnetics, Inc., Aerotek, Exact Staff	Santa Monica, CA	September 24, 2017.
94,193	Boston Scientific Corporation, Product Surveillance Department (Quality Function), Talent Choice.	Minnetonka, MN	October 2, 2017.
94,195	CCX Corporation	Lafayette, CO	October 2, 2017.
94,202	DLR Group a/k/a Epsilon/Catapult Marketing, Alliance Data	Minneapolis, MN	October 3, 2017.
94,236	Virginian Pilot-Media Companies, LLC, IT Division, Tribune Publishing Company, Slait Consulting.	Norfolk, VA	October 15, 2017.
94,248	Loud Audio, LLC, Express Employment Professionals	Woodinville, WA	October 16, 2017.
94,257	AIG Technologies, Inc., AIG Global Testing Services—U.S., American International Group, etc.	Livingston, NJ	October 22, 2017.
94,257A	AIG Technologies, Inc., AIG Global Testing Services—U.S., American International Group, etc.	New York, NY	October 22, 2017.
94,257B	AIG Technologies, Inc., AIG Global Testing Services—U.S., American International Group, etc.	Houston, TX	October 22, 2017.
94,257C	AIG Technologies, Inc., AIG Global Testing Services—U.S., American International Group, etc.	Charlotte, NC	October 22, 2017.
94,257D	AIG Technologies, Inc., AIG Global Testing Services—U.S., American International Group, etc.	Berkley Heights, NJ	October 22, 2017.
94,277	Phoenix Trim Works	Williamsport, PA	October 24, 2017.
94,296	Westcon Group North America, SYNNEX Corporation, Kforce Corp HQ, Workspend.	Chantilly, VA	October 31, 2017.
94,305	H Granados Communications, Inc., Dispatch Unit, ADP LLC (ADP Total Source).	Laguna Hills, CA	November 5, 2017.
94,316	Columbia Forest Products	Boardman, OR	December 28, 2018.

TA–W No.	Subject firm	Location	Impact date
94,323	Virgin Atlantic Airways, LTD., Staff Travel Unit, Human Resources/People Department.	Norwalk, CT	November 7, 2017.
94,325	BJC Health System d/b/a BJC HealthCare, IT Security	St. Louis, MO	November 8, 2017.
94,339	TIDI Products, LLC	Arcadia, CA	November 14, 2017.
94,361	Retech Systems LLC, Seco Warwick, The Works, Mendo Lake Staffing and Management Connections.	Ukiah, CA	November 26, 2017.
94,362	ECi Macola/Max, LLC, Product Development, Manufacturing Division, ECi Software Solutions, etc.	Dublin, OH	November 27, 2017.
94,364	Ditech Financial LLC, Loan Servicing Group, Walter Investment Management Corp., etc.	St. Paul, MN	November 27, 2017.
94,377	Baker Manufacturing Co., Inc., Spherion Staffing	Pineville, LA	December 3, 2017.
94,379	Tech Mahindra Network Services International, Inc., LCC International, Inc., Tech Mahindra Americas.	Overland Park, KS	May 21, 2018.
94,385	Openlink Financial LLC	Uniondale, NY	December 4, 2017.
94,385A	Openlink Financial LLC	New York, NY	December 4, 2017.
94,388	Halliburton Energy Services, Inc., Finance and Accounting—Duncan Business Service Center, Genuent, etc.	Duncan, OK	December 6, 2017.
94,390	Teradata Corporation	Dayton, OH	December 7, 2017.
94,395	nThrive Solutions, Inc., nThrive, Doctus USA, Eclat Health Solutions, Medusind Solutions, etc.	Alpharetta, GA	December 10, 2017.
94,396	ABB, Inc., Robotics & Motors Division, Penmac Staffing, TEC Staffing Services.	Clarksville, AR	December 11, 2017.
94,399	Windstream Services, LLC, Fairport IT Services Division	Fairport, NY	December 11, 2017.
94,400	Qualcomm Technologies, Inc., Corporate Engineering & QCT Configuration Management Group, Qualcomm, Inc.	San Diego, CA	December 12, 2017.
94,404	Ledvance, LLC, Osram Sylvania, Lamp Division, Remedy, Manpower, Aerotek	Versailles, KY	April 22, 2019.
94,405	Milco Industries, Inc., Apparel Division	Bloomsburg, PA	December 17, 2017.
94,411	Bayer CropScience LP, Bayers, Bayer U.S., Belcan, CDI Engineering Group, etc.	Institute, WV	December 14, 2018.
94,412	Carbonite, Inc., Customer Service Support Unit, Advantage, Bonney Staffing, Mozy, Inc.	Lewiston, ME	December 19, 2017.
94,413	Citibank, N.A., Finance/Inter-Affiliate Global Process Owner, Citicorp LLC, GPO, etc.	Uniondale, NY	December 19, 2017.
94,414	CMG Mortgage DBA CMG Financial, CMG Financial Services	Lake Oswego, OR	December 19, 2017.
94,415	Mattex Group, Mattex Industrial S.A.R.L., 2 Works Staffing, LLC	Chatsworth, GA	December 19, 2017.
94,416	New Era Cap Corp., Inc., Derby Facility	Derby, NY	December 20, 2017.
94,419	Blackhawk Engagement Solutions Inc., Blackhawk Network Inc	Lewisville, TX	December 20, 2017.
94,420	Core Health & Fitness, LLC, Workforce Unlimited, The Reserve Network, @ Work Personnel.	Independence, VA	December 20, 2017
94,421	HSBC Technology and Services, USA (HTSU), Risk Division, HSBC North America Holdings Inc.	Depew, NY	December 20, 2017.
94,423	Allstate Insurance Company, Enterprise Services Division, Imaging Department.	Lincoln, NE	December 26, 2017.
94,425	Deluxe Media Inc., Deluxe Entertainment Services Group, Digital Distribution Group, etc.	Burbank, CA	December 21, 2017.
94,426	Excelitas Technologies, Express Employment Professionals	Wheeling, IL	December 21, 2017.
94,429	Thomson Reuters (Tax & Accounting) Inc., Thomson Reuters U.S., LLC, Tax & Accounting Division, Talent Net.	Lake Oswego, OR	December 21, 2017.
94,431	Crabtree & Evelyn, LTD., Advantage Resourcing, Expert Staffing, Masis Staffing Solutions, etc.	Woodstock, CT	December 28, 2017.
94,432	Radisson Hospitality, Inc., Contact Center	Omaha, NE	December 28, 2017.
94,434	Crane Co. ChemPharma & Energy Pacific Valves, Crane Co., Fluid Handling Division, TalentZÃ¶k, Ajobstaff, Inc., etc.	Signal Hill, CA	January 2, 2018.
94,435	Gannett Satellite Information Network, LLC, Greenville Call Center, Gannett Co., Inc., Robert Half.	Greenville, SC	January 2, 2018.
94,438	Tangoe US, Inc., Operations Service Excellence Organization	Parsippany, NJ	January 2, 2018.
94,441	Hon Hai/Foxconn Technology Group, Q-Edge, Foxconn HonHai Logistics California, Assemblix Staffing, etc..	Plainfield, IN	January 3, 2018.
94,442	Swisher International, Inc.	Jacksonville, FL	December 16, 2018.
94,443	TMG Health, Cognizant Technologies Company, Aerotek, Kelly Services, Manpower, etc..	Jessup, PA	January 3, 2018.
94,450	Crane ChemPharma & Energy, Crane Co., Fluid Handling, Express, Staff Force, Spherion, TPI Staffing.	Montgomery, TX	January 10, 2018.
94,455	IKEA Industry Danville LLC, IKEA Industry AB, AmeriStaff, Adecco	Ringgold, VA	January 11, 2018.
94,458	IBM, Inc., Global Technology Services Division, CDI Corporation	Armonk, NY	January 15, 2018.
94,459	PVH Neckwear, Inc., PVH Corp., Reliable Resources, Inc	Los Angeles, CA	January 14, 2018.
94,461	Aptos, Inc., Help Desk, Hardware Install Services and Facilities Newburgh Division, etc.	Newburgh, NY	January 15, 2018.
94,463	Bose Corporation	Stow, MA	January 15, 2018.
94,465	Aqua Products, Inc., Fluidra USA, U.S. Pool Holdings, Job Connections Services, etc.	Cedar Grove, NJ	January 16, 2018.
94,477	East Coast Seafood LLC, doing business as Garbo Lobster, East Coast Seafood Group, HW Staffing, Empire Staffing.	Groton, CT	January 22, 2018.
94,480	Globe Metallurgical Inc., Ferroglobe PLC, Adecco	Niagara Falls, NY	January 24, 2018.

TA–W No.	Subject firm	Location	Impact date
94,481	Tenneco Automotive Operating Inc., Tenneco Inc., Elite Logistics, ProLink Staffing Services.	Hartwell, GA	January 23, 2018.
94,484	Bank of the West, BancWest Holding, Transaction Processing Group, Allegis Global Solutions.	San Ramon, CA	January 24, 2018.
94,485	Ditech Holding Corporation, Ditech Financial, DF Insurance Agency, Accounting Principals, Adecco, etc.	Rapid City, SD	January 24, 2018.
94,486	Hubbell Lenoir City, Inc., Hubbell Power Systems, Inc., Hubbell Incorporated, Spherion Staffing, LLC.	Palatka, FL	January 24, 2018.
94,492	R1 RCM	Evansville, IN	January 28, 2018.
94,493	Conformis, Inc., King & Bishop	Billerica, MA	January 29, 2018.
94,494	Global Safety Textiles, LLC, Penmac, Ameristaff	South Hill, VA	January 30, 2018.
94,495	State Street Corporation, Corporate Actions Accounting	Boston, MA	January 30, 2018.
94,496	Walmart Optical Lab, #9419, Walmart, Inc	Fayetteville, AR	January 29, 2018.
94,498	R1 RCM	Tulsa, OK	January 30, 2018.
94,498A	R1 RCM	Appleton, WI	January 30, 2018.
94,500	Ferro Corporation, Medix	Washington, PA	January 31, 2018.
94,501	Objective Systems Integrators, Inc., Mysoft Holdings USA, Inc	Folsom, CA	January 31, 2018.
94,502	AECOM Technical Services, Inc., Global Business Services, AECOM, Accountemps.	Austin, TX	February 1, 2018.
94,502A	AECOM Technical Services, Inc., Global Business Services, AECOM, Accountemps, Insight Global, etc.	Glen Allen, VA	February 1, 2018.
94,503	Nestle USA Inc., Customer Service Unit, Kelly Services	Breinigsville, PA	February 1, 2018.
94,505	SQS North America, LLC, Lexington Delivery Center	Lexington, KY	January 31, 2018.
94,514	Wide Open West Illinois LLC, Customer Care/Sales, Wide Open West LLC	Colorado Springs, CO	February 5, 2018.
94,517	Ferro Corporation, Aerotek	Cleveland, OH	February 6, 2018.
94,522	Boston Scientific Corporation, Rhythm Management Division, Apama Facility, Talent Choice.	Campbell, CA	February 7, 2018.
94,527	Conformis, Inc., King & Bishop	Wilmington, MA	January 29, 2018.
94,535	Kimberly Clark, Global Nonwovens, Strom Engineering, FLS, E-Trans, Bartech, Guidant Global.	Neenah, WI	February 11, 2018.
94,542	Balboa Water Group, LLC, Staffmark, Andek	Tustin, CA	February 14, 2018.
94,547	IBM, Department B2AA, GBS Division	Chicago, IL	February 15, 2018.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,417	Parthenon Metal Works, LLC, Vari-Form Group LLC, Wood Personnel	LaVerne, TN	December 19, 2017.
94,417A	Parthenon Metal Works, LLC, Vari-Form Group LLC, Wood Personnel	Nashville, TN	December 19, 2017.
94,445	Brownstown Battery Assembly, General Motors Subsystems Manufacturing, General Motors Company.	Brownstown Charter Township, MI.	January 7, 2018.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,154	Schmidbauer Lumber Inc	Eureka, CA	December 28, 2016.
94,156	Sierra Pacific Industries	Arcata, CA	December 28, 2016.
94,175	West Fraser, Inc., West Fraser Timber Co. Ltd	Leola, AR	December 28, 2016.
94,176	West Fraser, Inc., West Fraser Timber Co. Ltd	Mansfield, AR	December 28, 2016.
94,177	West Fraser, Inc., West Fraser Timber Co. Ltd	Russellville, AR	December 28, 2016.
94,178	Weyerhaeuser NR, Manpower	Dierks, AR	December 28, 2016.
94,180	Anthony Forest Products Company LLC, Canfor Southern Pine, Esa-El Dorado.	Strong, AR	December 28, 2016.
94,192	West Fraser, Inc., West Fraser Timber Co. Ltd	Huttig, AR	December 28, 2016.
94,261	Grayson Lumber Corporation	Houston, AL	December 28, 2016.
94,265	Weyerhaeuser NR Company, Adecco	Millport, AL	December 28, 2016.
94,267	West Fraser, Inc., West Fraser Timber Co. Ltd	Opelika, AL	December 28, 2016.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms

identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
94,108	Infitech, Inc., Intel Corporation	Hillsboro, OR.	
94,155	Sierra Forest Products	Terra Bella, CA.	
94,157	Sierra Pacific Industries	Burney, CA.	
94,171	PotlatchDeltic, Deltic Timber Corporation, Express Employment Professionals.	Ola, AR.	
94,172	PotlatchDeltic, Deltic Timber Corporation, Manpower Magnolia	Waldo, AR.	
94,173	PotlatchDeltic, Potlatch Corporation, Express Employment Professionals, ESA.	Warren, AR.	
94,193A	Boston Scientific Corporation, Human Resources Department, Talent Choice.	Minnetonka, MN.	
94,264	Johnson Controls Security Solutions, Johnson Controls, Agile 1	Alexandria, VA.	
94,344	Pacific Cargo Control, Inc., Pacific Industries, Inc., Integrity Staffing	Tualatin, OR.	
94,351	Shasta Litho, Inc	Klamath Falls, OR.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,066	International Business Machines (IBM), Dept QV4A MSS Deployment and Integration, IBM Security Division.	Sandy Springs, GA.	
94,140	Xero, Inc., US Payments Team, Xero Limited	San Francisco, CA.	
94,269	The Westervelt Company, Westervelt Lumber Division	Moundville, AL.	
94,373	BRT Inc. DBA Bend Roof Truss	Bend, OR.	
94,439	Ten Oaks LLC	Stuart, VA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
93,468	First Guaranty Mortgage Corporation, Mortgage and Loan Service Division, K-Force Professional Staffing, etc.	Frederick, MD.	
93,684	PurEnergy Operating Services, PurEnergy LLC, Charles P. Crane Generating Station, NAES Staffing Services.	Baltimore, MD.	
93,791	Demag Cranes & Components Corporation, KCI Holding	Solon, OH.	
93,818	Toys R Us—Delaware, Inc., Toys R Us, Inc	Sioux Falls, SD.	
93,818A	Babies R Us, Inc., Toys R Us—Delaware, Inc., Toys R Us, Inc	Rapid City, SD.	
93,827	Toys R Us—Delaware, Inc., Toys R Us, Inc	Lafayette, IN.	
93,857	Toys R Us—Delaware, Inc., Toys R Us, Inc	Sevierville, TN.	
93,857A	Toys R Us—Delaware, Inc., Toys R Us, Inc., 8009 Kingston Pike	Knoxville, TN.	
93,857B	Toys R Us—Delaware, Inc., Toys R Us, Inc., 9626 Kingston Pike	Knoxville, TN.	
93,857C	Toys R Us—Delaware, Inc., Toys R Us, Inc	Chattanooga, TN.	
93,857D	Toys R Us—Delaware, Inc., Toys R Us, Inc., 7676 Polo Ground Boulevard.	Memphis, TN.	
93,857E	Toys R Us—Delaware, Inc., Toys R Us, Inc., 8060 Giacosa Place	Memphis, TN.	
93,857F	Toys R Us—Delaware, Inc., Toys R Us, Inc	Jackson, TN.	
93,857G	Toys R Us—Delaware, Inc., Toys R Us, Inc	Nashville, TN.	
93,857H	Toys R Us—Delaware, Inc., Toys R Us, Inc., 2205 Gallatin Pike N	Madison, TN.	
93,857I	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1800 Gallatin Pike N	Madison, TN.	
93,857J	Toys R Us—Delaware, Inc., Toys R Us, Inc	Clarksville, TN.	
93,857K	Toys R Us—Delaware, Inc., Toys R Us, Inc	Franklin, TN.	
93,857L	Toys R Us—Delaware, Inc., Toys R Us, Inc	Murfreesboro, TN.	
93,860	Toys R Us—Delaware, Inc., Toys R Us, Inc	Columbia, SC.	
93,860A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Florence, SC.	
93,860B	Toys R Us—Delaware, Inc., Toys R Us, Inc	North Charleston, SC.	
93,860C	Toys R Us—Delaware, Inc., Toys R Us, Inc	Anderson, SC.	
93,860D	Toys R Us—Delaware, Inc., Toys R Us, Inc	Myrtle Beach, SC.	
93,860E	Toys R Us—Delaware, Inc., Toys R Us, Inc	Spartanburg, SC.	
93,860F	Toys R Us—Delaware, Inc., Toys R Us, Inc	Greenville, SC.	

TA–W No.	Subject firm	Location	Impact date
93,860G	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Columbia, SC.	
93,860H	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	North Charleston, SC.	
93,861	Toys R Us—Delaware, Inc., Toys R Us, Inc., 975 Hanes Mall Boulevard.	Winston-Salem, NC.	
93,861A	Toys R Us—Delaware, Inc., Toys R Us, Inc., 3200 Silas Creek Parkway.	Winston-Salem, NC.	
93,861B	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1856 Catawba Valley Boulevard.	Hickory, NC.	
93,861C	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1840 Highway 70 SE	Hickory, NC.	
93,861D	Toys R Us—Delaware, Inc., Toys R Us, Inc., 3728 W Gate City Boulevard.	Greensboro, NC.	
93,861E	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1214 Bridford Parkway	Greensboro, NC.	
93,861F	Toys R Us—Delaware, Inc., Toys R Us, Inc., 8050 Concord Mills Boulevard.	Concord, NC.	
93,861G	Toys R Us—Delaware, Inc., Toys R Us, Inc., 8062 Concord Mills Boulevard.	Concord, NC.	
93,861H	Toys R Us—Delaware, Inc., Toys R Us, Inc	Gastonia, NC.	
93,861I	Toys R Us—Delaware, Inc., Toys R Us, Inc	Pineville, NC.	
93,861J	Toys R Us—Delaware, Inc., Toys R Us, Inc	Charlotte, NC.	
93,861K	Toys R Us—Delaware, Inc., Toys R Us, Inc	Asheville, NC.	
93,861L	Toys R Us—Delaware, Inc., Toys R Us, Inc	Smithfield, NC.	
93,861M	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fayetteville, NC.	
93,861N	Toys R Us—Delaware, Inc., Toys R Us, Inc	Wilmington, NC.	
93,861O	Toys R Us—Delaware, Inc., Toys R Us, Inc	Greenville, NC.	
93,861P	Toys R Us—Delaware, Inc., Toys R Us, Inc	Cary, NC.	
93,861Q	Toys R Us—Delaware, Inc., Toys R Us, Inc	Raleigh, NC.	
93,861R	Toys R Us—Delaware, Inc., Toys R Us, Inc	Jacksonville, NC.	
93,878	Toys R Us—Delaware, Inc., Toys R Us, Inc	Silver Spring, MD.	
93,878A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Waldorf, MD.	
93,878B	Toys R Us—Delaware, Inc., Toys R Us, Inc	Townson, MD.	
93,878C	Toys R Us—Delaware, Inc., Toys R Us, Inc	National Harbor, MD.	
93,878D	Toys R Us—Delaware, Inc., Toys R Us, Inc	Clarksburg, MD.	
93,878E	Toys R Us—Delaware, Inc., Toys R Us, Inc	Gaithersburg, MD.	
93,878F	Toys R Us—Delaware, Inc., Toys R Us, Inc	Owings Mills, MD.	
93,878G	Toys R Us—Delaware, Inc., Toys R Us, Inc	Annapolis, MD.	
93,878H	Toys R Us—Delaware, Inc., Toys R Us, Inc	Hagerstown, MD.	
93,878I	Toys R Us—Delaware, Inc., Toys R Us, Inc	Bel Air, MD.	
93,878J	Toys R Us—Delaware, Inc., Toys R Us, Inc	Glen Burnie, MD.	
93,878K	Toys R Us—Delaware, Inc., Toys R Us, Inc	Baltimore, MD.	
93,878L	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fredrick, MD.	
93,878M	Toys R Us—Delaware, Inc., Toys R Us, Inc	Columbia, MD.	
93,878N	Toys R Us—Delaware, Inc., Toys R Us, Inc	Salisbury, MD.	
93,878O	Toys R Us—Delaware, Inc., Toys R Us, Inc	Pasadena, MD.	
93,878P	Toys R Us—Delaware, Inc., Toys R Us, Inc	Waldorf, MD.	
93,890	MICO, Inc., WABCO Group Inc., WABCO Holdings Inc. Company	North Mankato, MN.	
93,896	Safco Products, Co., 619 and 705 North Commerce Street, Liberty Diversified International, etc.	Sheboygan, WI.	
93,896A	Safco Products, Co., 1213A–1310 Pennsylvania Avenue, Liberty Diversified International, etc.	Sheboygan, WI.	
93,896B	Safco Products, Co., 4350 Tower Drive, Liberty Diversified International, Locate, SEEK, etc.	Sheboygan, WI.	
93,946	Toys R Us—Delaware, Inc., Toys R Us, Inc	Newport News, VA.	
93,946A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fredericksburg, VA.	
93,946B	Toys R Us—Delaware, Inc., Toys R Us, Inc	Chesapeake, VA.	
93,946C	Toys R Us—Delaware, Inc., Toys R Us, Inc., 400 N Military Highway	Norfolk, VA.	
93,946D	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1600 Premium Outlets Blvd.	Norfolk, VA.	
93,946E	Toys R Us—Delaware, Inc., Toys R Us, Inc	Virginia Beach, VA.	
93,946F	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Newport News, VA.	
93,946G	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Chesapeake, VA.	
93,971	Toys R Us—Delaware, Inc., Toys R Us, Inc	Clackamas, OR.	
93,971A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Eugene, OR.	
93,971B	Toys R Us—Delaware, Inc., Toys R Us, Inc	Medford, OR.	
93,971C	Toys R Us—Delaware, Inc., Toys R Us, Inc	Portland, OR.	
93,971D	Toys R Us—Delaware, Inc., Toys R Us, Inc	Salem, OR.	
93,971E	Toys R Us—Delaware, Inc., Toys R Us, Inc	Tigard, OR.	
93,971F	Toys R Us—Delaware, Inc., Toys R Us, Inc	Lincoln City, OR.	
93,998	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fayetteville, AR.	
93,998A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fort Smith, AR.	
93,998B	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Little Rock, AR.	
93,998C	Toys R Us—Delaware, Inc., Toys R Us, Inc	Little Rock, AR.	
93,998D	Toys R Us—Delaware, Inc., Toys R Us, Inc	North Little Rock, AR.	
94,034	The Boeing Company, Satellite Systems, Chipton Ross, Iconma, Moseley Technical Services, etc.	El Segundo, CA.	

TA–W No.	Subject firm	Location	Impact date
94,132	REC Solar Grade Silicon LLC, REC Silicon Inc., NEMO IT Solutions	Moses Lake, WA.	
94,143	Verizon Business Network Services, Customer Service Call Center	Richmond, VA.	
94,143A	Verizon Business Network Services, Customer Service Call Center	Ashburn, VA.	
94,165	Langsam Health Services, LLC, NeighborCare Pharmacy Services, Inc., Omnicare, Inc., CVS Pharmacy, Inc.	Oklahoma City, OK.	
94,181	Jet Aviation St. Louis, Inc., Jet Professionals, LLC	Cahokia, IL.	
94,198	Sandoz, Inc., Broomfield Plant, Novartis AG, Aerotek	Broomfield, CO.	
94,222	S–T Industries, Inc	Saint James, MN.	
94,226	The Outsource Group, Parallon, Medicaid Eligibility Division, Medicredit, Inc.	Irvine, CA.	
94,233	Del Monte Foods Inc., Crystal City Plant	Crystal City, TX.	
94,245	Wargaming (Seattle), Inc., Redmond Studio, Wargaming (USA), Inc	Redmond, WA.	
94,253	Hemlock Semiconductor Corporation Operations LLC, Adecco USA, Inc., Qualified Staffing Services.	Hemlock, MI.	
94,297	Block Steel Corp., Block Industries Inc	Skokie, IL.	
94,303	Copland Industries, Inc., Hire Alternatives, 1714 Carolina Mill Road	Burlington, NC.	
94,304	Copland Fabrics, Inc., Hire Alternatives	Burlington, NC.	
94,314	Quad Graphics, Inc	Sidney, NE.	
94,322	Toys R Us—Delaware, Inc., Toys R Us, Inc	Terra Haute, IN.	
94,324	Bak USA Technologies Corp	Buffalo, NY.	
94,331	Trelleborg Marine Systems Berryville, Inc., Manpower, Augmentation	Berryville, VA.	
94,334	QSC, LLC, QSC Holdings, Inc	San Luis Obispo, CA.	
94,336	Caliber Home Loans, Inc., Retail Underwriting Group, Quality Assurance, LSF6 Services Operations.	Coppell, TX.	
94,336A	Caliber Home Loans, Inc., 9095 Rio San Diego Drive, Retail Underwriting, Quality Assurance, etc.	San Diego, CA.	
94,336B	Caliber Home Loans, Inc., 16745 West Bernardo Drive, Retail Underwriting, Quality Assurance, etc.	San Diego, CA.	
94,341	Alorica	Terre Haute, IN.	
94,352	Verizon Wireless, Customer Service Call Center	Little Rock, AR.	
94,354	iMedX, Inc.	Atlanta, GA.	
94,364A	Ditech Financial LLC, Risk & Compliance group, Walter Investment Management Corp.	St. Paul, MN.	
94,366	Compass Manufacturing NWO, Compass Manufacturing Services	Tualatin, OR.	
94,367	Conduent Commercial Solutions LLC, Conduent Business Services, LLC.	Colorado Springs, CO.	
94,378	Infinite Electronics International, Inc., L-Com, Inc., Tech Needs	North Andover, MA.	
94,380	Payless ShoeSource Worldwide, Inc., Merchandising Department, Payless, Inc.	Topeka, KS.	
94,381	Qualcomm Technologies, Inc., Software Program Management, Qualcomm, Inc.	San Diego, CA.	
94,383	Chaucer Foods, Inc., Carter Recruiting and Staffing, Aerotek, Flex Force Personnel Services.	Forest Grove, OR.	
94,384	Ichor Systems, Inc., Cal-Weld	Tualatin, OR.	
94,430	Toys R Us—Delaware, Inc., Toys R Us, Inc	Lincoln, NE.	
94,430A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Omaha, NE.	
94,436	MacKay Mitchell Envelope Company, LLC, Gliss Staffing, Terra Staffing, NW Staffing.	Portland, OR.	
94,444	Nestle USA Inc., Customer Service Center	Fort Worth, TX.	
94,446	Honeywell International Inc., Aerospace-Albuquerque Defense, US Tech Solutions, PDS Tech, etc.	Albuquerque, NM.	
94,451	Xeros, Inc., Xeros Technology Group, Microtech Staffing Group, Accountemps, MRI Network.	Providence, RI.	
94,469	ShopKo Stores Operating Co., LLC, ShopKo Holding Company, LLC, Adecco, Kforce, 700 Pilgrim Way.	Green Bay, WI.	
94,469A	ShopKo, ShopKo Stores Operating Co., ShopKo Holding Company, 601 Galvin Road South.	Bellevue, NE.	
94,469B	ShopKo, ShopKo Stores Operating Co., ShopKo Holding Company, 4200 South 27th Street.	Lincoln, NE.	
94,469C	ShopKo, ShopKo Stores Operating Co., ShopKo Holding Company, 100 South 66th Street.	Lincoln, NE.	
94,469D	ShopKo, ShopKo Stores Operating Co., ShopKo Holding Company, 3400 North 27th Street.	Lincoln, NE.	
94,469E	ShopKo, ShopKo Stores Operating Co., ShopKo Holding Company, 6845 South 27th Street.	Lincoln, NE.	
94,469F	ShopKo Hometown, ShopKo Stores Operating Co., ShopKo Holding Company, 133 Trotter Avenue.	Ord, NE.	
94,469G	ShopKo Hometown, ShopKo Stores Operating Co., ShopKo Holding Company, 211 South 23rd Street.	Plattsmouth, NE.	
94,469H	ShopKo Hometown, ShopKo Stores Operating Co., ShopKo Holding Company, 1217 South Highway 71.	Kimball, NE.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
94,299	Copland Industries, Inc., Distribution Center, Hire Alternatives	Burlington, NC.	
94,299A	Copland Industries, Inc., Hire Alternatives	Burlington, NC.	
94,299B	Copland Fabrics, Inc., Hire Alternatives	Burlington, NC.	
94,313	Insight Global	San Diego, CA.	
94,360	DST Systems, Inc.	Kansas City, MO.	
94,365	Callen Manufacturing Corporation	Northlake, IL.	
94,391	CA Technologies, Broadcom Inc.	New York, NY.	
94,433	Tangoe US, Inc.	Parsippany, NJ.	
94,507	Afgritech, LLC	Watertown, NY.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
93,345	Dex Media, Inc., Dex YP	Maryland Heights, MO.	
93,731	GE MDS	Rochester, NY.	
93,918	Lexis Nexis, RELX Division, Reed Elsevier Lexis Nexis (RELX), Allegis.	Albany, NY.	
93,981	Nike, Inc., WHQ-Beaverton	Beaverton, OR.	
93,986	Electrolux Home Products, Inc., Freezer Division	Saint Cloud, MN.	
94,098	Caterpillar Inc., dba Dyersburg Transmission Facility, Advanced Components Manufacturing, Manpower, AECom, Vonochen Services, etc..	Dyersburg, TN.	
94,111	Dex Media, Inc., d/b/a Dex YP	DFW Airport, TX.	
94,231	Arjo, Inc, Arjo AB, Entegee, Patriot Technical, Contract Tech, Adecco NA.	San Antonio, TX.	
94,343	IQVIA Inc., Quintiles IMS, IQVIA Holdings, Chief Information Office, etc..	Collegeville, PA.	
94,346	Amesbury Group, Inc. (DBA AmesburyTruth)	Amesbury, MA.	
94,350	ICON Information Consultants, NRG Energy, Inc., Homer City Generating Station, NRG Energy.	Homer City, PA.	
94,369	Zebra Technologies, Inc.	El Paso, TX.	
94,393	Grays Harbor Community Hospital, Patient Accounts, Billing Unit, Grays Harbor Public Hospital, District #2.	Aberdeen, WA.	
94,452	Zodiac Electrical Inserts USA, Zodiac Electrical Inserts (ZEIU) Reporting Unit, Zodiac Aerospace, etc..	Huntington Beach, CA.	
94,454	GCL Solar Materials US I, LLC, Kelly Services, ADP TotalSource	Pasadena, TX.	
94,462	Axeon Specialty Products LLC, Axeon Refining LLC, Associated Asphalt Partners (AAP).	Paulsboro, NJ.	
94,474	Tangoe US, Inc., Operations Service Excellence Organization	Parsippany, NJ.	

The following determinations terminating investigations were issued because the petitioning group of workers is covered by an earlier petition that is the subject of an ongoing investigation for which a determination has not yet been issued.

TA–W No.	Subject firm	Location	Impact date
94,374	DXC Technology	Tysons, VA.	
94,460	PVH Neckwear, Inc., PVH Corp.	Los Angeles, CA.	

I hereby certify that the aforementioned determinations were issued during the period of *January 1, 2019 through February 28, 2019*. These determinations are available on the Department's website *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington DC this 4th day of March 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–05305 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligiblity To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *January 1st, 2019 through February 28th, 2019.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Notice of Revised Certifications of Eligibility

Revised certifications of eligibility have been issued with respect to cases where affirmative determinations and certificates of eligibility were issued initially, but a minor error was discovered after the certification was issued. The revised certifications are issued pursuant to the Secretary's authority under section 223 of the Act and 29 CFR 90.16. Revised Certifications of Eligibility are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a).

Notice of Determinations on Reconsideration

Post-initial determinations have been issued with respect to cases where affirmative determinations regarding applications for reconsideration were granted. For cases where the worker group eligibility requirements are met, Revised Certifications of Eligibility or Revised Determinations have been issued. Revised Certifications of Eligibility and Revised Determinations are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a). *See* 29 CFR 90.18(h). Negative Determinations on Reconsideration have been issued with respect to cases where the worker group eligibility requirements are not met. Negative Determinations on Reconsideration are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a). *See* 29 CFR 90.18(i).

Notice of Determination on Remand

Post-initial determinations have also been issued with respect to cases where negative determinations regarding eligibility to apply for TAA were issued initially or on reconsideration and were appealed to the Court of International Trade and remanded by the court to the Secretary for the taking of additional evidence. See 29 CFR 90.19(a) and (c). For cases where the worker group eligibility requirements are met, the previous determination was modified and Revised Determinations on Remand have been issued. For cases where the worker group eligibility requirements are not met, the previous determination is affirmed and Negative Determinations on Remand have been issued. The Secretary will certify and file the record of the remand proceedings in the Court of International Trade. Determinations on Remand are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395).

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
92,754	Axeon Specialty Products LLC	Paulsboro, NJ	3/24/2016	Ownership Change of a Successor Firm.
92,754A	Axeon Refining LLC	San Antonio, TX	3/24/2016	Ownership Change of a Successor Firm.
92,754B	Axeon Refining LLC	Stamford, CT	3/24/2016	Ownership Change of a Successor Firm.
93,202	Dex Media, Inc.	Tucker, GA	10/3/2016	Worker Group Clarification.
93,202A	Dex Media, Inc.	DFW Airport, TX	10/3/2016	Worker Group Clarification.
93,202B	Dex Media, Inc.	Maryland Heights, MO	10/3/2016	Worker Group Clarification.
93,267	Caterpillar Inc., dba Dyersburg Transmission Facility.	Dyersburg, TN	11/1/2016	Worker Group Clarification.
93,450	Nike, Inc.	Beaverton, OR	1/23/2017	Worker Group Clarification.
93,450A	Nike, Inc.	Beaverton, OR	9/7/2018	Worker Group Clarification.
93,704	Electrolux Home Products, Inc.	St. Cloud, MN	4/5/2017	Worker Group Clarification.
93,714	NRG Energy, Inc.	Homer City, PA	4/9/2017	Technical Error.
93,839	Arjo, Inc.	San Antonio, TX	5/24/2017	Worker Group Clarification.
94,160	Zebra Technologies Corporation	El Paso, TX	9/20/2017	Worker Group Clarification.
94,214	IQVIA Inc.	Chesapeake, VA	10/4/2017	Worker Group Clarification.
94,214A	IQVIA Inc.	Collegeville, PA	10/4/2017	Worker Group Clarification.
94,329	GCL Solar Materials US I, LLC	Pasadena, TX	11/12/2017	Worker Group Clarification.

Revised Determinations (After Affirmative Determination Regarding Application for Reconsideration)

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
91,495	Molycorp Metals and Alloys, Inc.	Mountain Pass, CA	2/19/2015
92,554	Skiva Graphics Screen	Carlsbad, CA	1/13/2016
93,624	Georgia-Pacific Consumer Operations LLC	Camas, WA	3/8/2017

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact Date
93,502	KES Acquisition Company d/b/a Kentucky Electric Steel (KES)	Ashland, KY	1/26/2017
93,760	Radial South	Memphis, TN	4/24/2017

I hereby certify that the aforementioned determinations were issued during the period of *January 1st 2019 through February 28th 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC this 6th day of March 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–05306 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Multiple Worksite Report and the Report of Federal Employment and Wages.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before May 20, 2019.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Quarterly Census of Employment and Wages (QCEW) program is a Federal/State cooperative effort which compiles monthly employment data, quarterly wages data, and business identification information from employers subject to State Unemployment Insurance (UI) laws. These data are collected from State Quarterly Contribution Reports (QCRs) submitted to State Workforce Agencies (SWAs). The States send micro-level employment and wages data, supplemented with the names, addresses, and business identification information of these employers, to the BLS. The State data are used to create the BLS sampling frame, known as the longitudinal QCEW data. This file represents the best source of detailed industrial and geographical data on employers and is used as the sampling frame for most BLS surveys. The longitudinal QCEW data include the individual employers' employment and wages data along with associated business identification information that is maintained by each State to administer the UI program as well as the Unemployment Compensation for Federal Employees (UCFE) program.

The QCEW Report, produced for each calendar quarter, is a summary of these employer (micro-level) data by industry at the county level. Similar data for Federal Government employees covered by the UCFE program also are included in each State's report. These data are submitted by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands to the BLS which then summarizes these micro-level data to produce totals for the States and the Nation. The QCEW Report provides a virtual census of nonagricultural employees and their wages, with approximately 49 percent of the workers in agriculture covered as well.

For employers having only a single physical location or worksite in the State and, thus, operating under a single industrial and geographical code, the data from the States' UI accounting files are sufficient for statistical purposes. However, such data are not sufficient for statistical purposes for those employers having multiple establishments or engaging in different industrial activities within the State. In such cases, the employer's QCR reflects only statewide employment and wages and is not disaggregated by establishment or worksite. Although data at these levels are sufficient for many purposes of the UI program, more detailed information is required to create a sampling frame and to meet the needs of several ongoing Federal/State statistical programs. The Multiple Worksite Report (MWR) is designed to supplement the QCR when more detailed information is needed.

Because of the data captured by the MWR, improved establishment business identification data elements have been

incorporated into and maintained by the longitudinal QCEW database. The MWR collects a physical location address, secondary name (trade name, division, subsidiary, etc.), and reporting unit description (store number, plant name or number, etc.) for each worksite of multi-establishment employers.

Employers with more than one establishment reporting under the same UI account number within a State are requested to complete the MWR if the sum of the employment in all of their secondary establishments is 10 or greater. The primary worksite is defined as the establishment with the greatest number of employees. Upon receipt of the first MWR form, each employer is requested to supply business location identification information. Thereafter, this reported information appears on the MWR each quarter. The employer is requested to verify the accuracy of this business location identification information and to provide only the employment and wages for each worksite for that quarter. By using a standardized form, the reporting burden on many large employers, especially those engaged in multiple economic activities at various locations across numerous States, is reduced.

The function of the Report of Federal Employment and Wages (RFEW) is to collect employment and wages data for Federal establishments covered under the UCFE program. The MWR and RFEW are essentially the same. The MWR/RFEW forms are designed to collect data for each establishment of a multi-establishment employer.

No other standardized report is available to collect current establishment-level monthly employment and wages data by SWAs for statistical purposes each quarter from the private sector nor State and local governments. Also, no other standardized report currently is available to collect installation-level Federal monthly employment and wages data each quarter by SWAs for statistical purposes. Completion of the MWR is required by law in 31 States and territories.

II. Current Action

Office of Management and Budget clearance is being sought for an extension of the Multiple Worksite Report and the Report of Federal Employment and Wages.

The BLS has taken steps to help reduce employer reporting burden by developing a standardized format for employers to use to send these data to the States in an electronic medium. The BLS established an Electronic Data Interchange (EDI) Collection Center to improve and expedite the MWR collection process. Employers who complete the MWR for multi-location businesses can submit employment and wages information on any electronic medium directly to the data collection center, rather than separately to each State agency. The data collection center then distributes the appropriate data to the respective States. In addition, the BLS developed a web-based system, MWRweb, to collect these data from small to medium-size businesses. The BLS continues to see much greater utilization of this reporting option.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title: Multiple Worksite Report (MWR) and the Report of Federal Employment and Wages (RFEW).

OMB Number: 1220–0134.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions, not-for-profit institutions, and the Federal Government.

Form number	Total respondents	Frequency	Total responses	Average time per response (minutes)	Total burden (hours)
BLS 3020 (MWR/Federal)	144,509	4	578,036	22.2	213,873
BLS 3021 (RFEW/Non-Federal)	2,630	4	10,520	22.2	3,892
Totals:	147,139	4	588,556		217,765

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 14th day of March, 2019.

Mark Staniorski,

Division Chief, Division of Management Systems Bureau of Labor Statistics.

[FR Doc. 2019–05346 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0197]

Occupational Safety and Health State Plans; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its request to extend OMB's approval of information collection regarding the State Plans program and regulations for the development and enforcement of state occupational safety and health standards.

DATES: Comments must be submitted (postmarked, sent, or received) by May 20, 2019.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the

Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0197, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2011–0197) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Douglas Kalinowski at the below address to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Suzanne Smith, Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2217; email: *smith.suzanne@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* the State plans) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. OSHA is soliciting comments concerning the extension of the information collection requirements contained in the series of regulations establishing requirements for the submission, initial approval, continuing approval, final approval, monitoring, and evaluation of OSHA-approved State Plans:

- 29 CFR part 1902, State Plans for the Development and Enforcement of State Standards;
- 29 CFR part 1953, Changes to State Plans for the Development and Enforcement of State Standards;
- 29 CFR part 1954, Procedures for the Evaluation and Monitoring of Approved State Plans; and
- 29 CFR part 1956, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States Without Approved Private Employee Plans.

Section 18 of the Occupational Safety and Health Act (29 U.S.C. 667) offers an opportunity to the states to assume responsibility for the development and enforcement of state standards through the mechanism of an OSHA-approved State Plan. Absent an approved plan, states are precluded from enforcing occupational safety and health standards in the private sector with respect to any issue for which Federal OSHA has promulgated a standard. Once approved and operational, the state adopts standards and provides most occupational safety and health enforcement and compliance assistance in the state under the authority of its plan, instead of Federal OSHA. States also must extend their jurisdiction to cover state and local government employees and may obtain approval of State Plans limited in scope to these workers. To obtain and maintain State Plan approval, a state must submit various documents to OSHA describing program structure and operation, including any modifications thereto as they occur, in accordance with the identified regulations. OSHA funds 50 percent of the costs required to be incurred by an approved State Plan, with the state at least matching and providing additional funding at its discretion.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend approval of the collection of information requirements associated with State Plan regulations. The agency is requesting an adjustment decrease related to the number of burden hours associated with the developmental steps necessary for certain states in the developmental process, including Maine, Illinois, and Virgin Islands. As a result, the total burden hours have decreased slightly from 11,519 to 11,369 (a decrease of 150 burden hours). The agency will summarize the comments submitted in response to this notice and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Occupational Safety and Health Plans.

OMB Control Number: 1218–0247.

Affected Public: Designated state government agencies that are seeking or have submitted and obtained approval for State Plans for the development and enforcement of occupational safety and health standards.

Number of Respondents: 28.

Frequency: On occasion; Quarterly; Annually.

Average Time per Response: Various.

Estimated Number of Responses: 1,301.

Estimated Total Burden Hours: 11,369.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by

facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the agency name and the OSHA docket number (Docket No. OSHA–2011–0197) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; TTY (877) 889–5627.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 15, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–05348 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0008]

Standard on Commercial Diving Operations; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend OMB approval of the information collection requirements contained in the standard on Commercial Diving Operations.

DATES: Comments must be submitted (postmarked, sent, or received) by May 20, 2019.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0008, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2011–0008) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at (202) 693–2222 to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and incidents (see 29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining said information (see 29 U.S.C. 657).

The following provisions of the Commercial Diving Operations Standards (the ''standards'') contain paperwork requirements: §§ 1910.401(b); 1910.420(a) and (b); 1910.421(b) and (h); 1910.422(e); 1910.423(d) and (e); 1910.430(a), (b)(4), (c)(1)(i) through (c)(1)(iii), (c)(3)(i), (f)(3)(ii), and (g)(2); and 1910.440(a)(2) and (b). These provisions require that employers: Notify OSHA if they deviate from the operational requirements of the standards; develop and make available

to employees a safe practices manual; maintain a list of emergency telephone or call numbers at the diving location; display a code flag ''A'' if diving from a surface other than a vessel in navigable waters; and develop and maintain a depth-time profile for each dive. The standards also mandate that employers: Record and maintain diving logs that contain required information; investigate and provide a written evaluation of any incident involving decompression sickness; mark diving umbilicals as required; inspect, test, and calibrate specified diving equipment; record modifications, repairs, tests, calibrations, and maintenance performed on any diving equipment; make a record of diving-related injuries and illnesses that result in a diver remaining in a hospital for over 24 hours; and create, and disclose to specified parties on request, the written records required by the standard, and maintain these records for specified periods.

The standards paperwork requirements allow employers to deviate from established diving practices and tailor diving operations to unusually hazardous diving conditions, and to analyze diving records (including hospitalization and treatment records) for information they can use to improve diving operations. These requirements are also a direct and efficient means for employers to inform dive-team members about diving-related hazards, procedures to use in avoiding and controlling these hazards, and recognizing and treating diving-related illnesses and injuries. Additionally, employers can review equipment records to ensure that employees performed the required actions, and that the equipment is in safe working order.

Disclosing these records to employees and their designated representatives permits them to identify operational and equipment conditions that may contribute to diving accidents or diving-related medical conditions.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

According to the Bureau of Labor Statistics' Occupational Employment Statistics report on Occupational Employment and Wages, May 2017, the number of professional divers has decreased from 10,000 divers in 2008 to 3,280 in 2017. Therefore, OSHA is requesting an adjustment decrease of 137,847 burden hours from 205,015 to 67,168 hours. The agency will summarize any comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Commercial Diving Operations Standard (29 CFR part 1910, subpart T).

OMB Control Number: 1218–0069.

Affected Public: Businesses or other for-profits.

Number of Respondents: 1,093.

Frequency of Responses: On occasion.

Total Responses: 1,325,509.

Average Time per Response: Various.

Estimated Total Burden Hours: 67,168.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the agency name and the OSHA docket number (Docket No. OSHA–2011–0008) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 15, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–05349 Filed 3–20–19; 8:45 am]

BILLING CODE 4510–26–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Administrative Appeals

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act of a collection of information under its regulation on Rules for Administrative Review of Agency Decisions. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before May 20, 2019.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.* Refer to Administrative Appeals in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to Administrative Appeals. All comments received will be posted without change to PBGC's website, *www.pbgc.gov,* including any personal information provided.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.

FOR FURTHER INFORMATION CONTACT: Karen Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–326–4400, extension 3559. TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 3559.

SUPPLEMENTARY INFORMATION: PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) prescribes rules governing the issuance of initial determinations by PBGC and the procedures for requesting and obtaining administrative review of initial determinations. Certain types of initial determinations are subject to administrative appeals, which are covered in subpart D of the regulation. Subpart D prescribes rules on who may file appeals, when and where to file appeals, contents of appeals, and other matters relating to appeals. Most appeals filed with PBGC are filed by individuals (participants, beneficiaries, and alternate payees) in connection with benefit entitlement or amounts. A small number of appeals are filed by employers in connection with other matters, such as plan coverage under ERISA section 4021 or employer liability under ERISA sections 4062(b)(1), 4063, or 4064. Appeals may be filed by hand, mail, commercial delivery service, fax or email. For appeals of benefit determinations, PBGC has optional forms for filing appeals and requests for extensions of time to appeal.

PBGC estimates that an average of 600 appellants per year will respond to this collection of information. PBGC further estimates that the average annual burden of this collection of information is about 20 minutes and $55.67 per appellant, with an average total annual burden of 212 hours and $33,440.

The existing collection of information was approved under OMB control number 1212–0061 (expires August 31, 2019). PBGC intends to request that OMB extend approval of this collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC, by

Hilary Duke,

Assistant General Counsel for Regulatory Affairs Pension Benefit Guaranty Corporation.

[FR Doc. 2019–05326 Filed 3–20–19; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–97 and CP2019–105; MC2019–98 and CP2019–106; MC2019–99 and CP2019–107; MC2019–100 and CP2019–108; MC2019–101 and CP2019–109]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 25, 2019, and March 26, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: The March 25, 2019 comment due date applies to Docket Nos. MC2019–97 and CP2019–105; MC2019–98 and CP2019–106; MC2019–99 and CP2019–107; MC2019–100 and CP2019–108.

The March 26, 2019 comment due date applies to Docket Nos. MC2019–101 and CP2019–109.

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the

proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–97 and CP2019–105; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 95 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* March 25, 2019.

2. *Docket No(s).:* MC2019–98 and CP2019–106; *Filing Title:* USPS Request to Add Parcel Select and Parcel Return Service Contract 8 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* March 25, 2019.

3. *Docket No(s).:* MC2019–99 and CP2019–107; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 53 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 25, 2019.

4. *Docket No(s).:* MC2019–100 and CP2019–108; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 54 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 25, 2019.

5. *Docket No(s).:* MC2019–101 and CP2019–109; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 96 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* March 26, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–05411 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 21, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 95 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–97, CP2019–105.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–05323 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 21, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 54 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–100, CP2019–108.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–05327 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 21, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 53 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–99, CP2019–107.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–05328 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select and Parcel Return Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 21, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Select and Parcel Return Service Contract 8 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–98, CP2019–106.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–05324 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 21, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 96 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–101, CP2019–109.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–05329 Filed 3–20–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 6a–3, SEC File No. 270–0015, OMB Control No. 3235–0021

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 6a–3 (17 CFR 240.6a–3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 6 of the Act sets out a framework for the registration and regulation of national securities exchanges. Under Rule 6a–3, one of the rules that implements Section 6, a national securities exchange (or an exchange exempted from registration as a national securities exchange based on limited trading volume) must provide certain supplemental information to the Commission, including any material (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Rule 6a–3 also requires the exchanges to file monthly reports that set forth the volume and aggregate dollar amount of certain securities sold on the exchange each month.

The information required to be filed with the Commission pursuant to Rule 6a–3 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The Commission estimates that each respondent makes approximately 12 such filings on an annual basis. Each response takes approximately 0.5 hours. In addition, respondents incur shipping costs of approximately $20 per submission. Currently, 21 respondents (21 national securities exchanges) are subject to the collection of information requirements of Rule 6a–3. The Commission estimates that the total burden for all respondents is 126 hours and $5,040 per year.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 15, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05338 Filed 3–20–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form N–8F, SEC File No. 270–136, OMB Control No. 3235–0157

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–8F (17 CFR 274.218) is the form prescribed for use by registered investment companies in certain circumstances to request orders of the Commission declaring that the registration of that investment company cease to be in effect. The form requests information about: (i) The investment company's identity, (ii) the investment company's distributions, (iii) the investment company's assets and liabilities, (iv) the events leading to the request to deregister, and (v) the conclusion of the investment company's business. The information is needed by the Commission to determine whether an order of deregistration is appropriate.

The Form takes approximately 5.2 hours on average to complete. It is estimated that approximately 135 investment companies file Form N–8F annually, so the total annual burden for the form is estimated to be approximately 702 hours. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study.

The collection of information on Form N–8F is not mandatory. The information provided on Form N–8F is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

Written comments are requested on: (i) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (ii) the accuracy of the Commission's estimate of the burdens of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 15, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05340 Filed 3–20–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85328; File No. SR–CBOE–2019–014]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Rules That Are No Longer Necessary in the Review of Large Positions in Broad-Based Index Options

March 15, 2019.

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 March 4, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder. [4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to delete rules that are no longer necessary in the review of large positions in broad-based index options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to delete rules that are no longer necessary in the review of large positions in broad-based index options. Specifically, the Exchange proposes to delete Interpretations and Policies .03 (Reporting Requirement) and .04 (Margin and Clearing Firm Requirements) to Rule 24.4. Currently, Interpretation and Policy .03 to Rule 24.4 requires a TPH or TPH organization that maintains a broad-based index option position on the same side of the market in excess of 100,000 contracts for OEX, XEO, NDX, RUT, VIX, VXN, VXD, VXST, S&P 500 Dividend Index, SPX, Cboe S&P 500 a.m./PM Basis, Cboe S&P 500 Three-Month Realized Variance or Cboe S&P 500 Three-Month Realized Volatility and 1 million contracts for BXM (1/10th value) and DJX, for its own account or for the account of a customer, to report information to the Exchange as to whether and how the positions are hedged. Interpretation and Policy .04 to Rule 24.4 currently allows the Exchange to determine whether additional margin is warranted in light of the risks associated with under-

hedged options position on the broad-based index products listed in Interpretation and Policy .03 to Rule 24.4.

The Exchange believes that the Large Option Position Reporting (''LOPR'') system hosted by the Options Clearing Corporation (''OCC'') currently functions as a centralized system and streamlined process for all market participants industry-wide to report large options positions, including those in broad-based index options. This system allows TPHs and TPH organizations to submit their required LOPR files in compliance with Rule 4.13(a), which requires all TPHs to report to the Exchange aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts. Essentially, OCC through the LOPR system acts as a centralized service provider for TPH compliance with position reporting requirements by collecting data from each TPH or TPH organization, consolidating the information, and ultimately providing detailed listings of each TPH's or TPH organization's report to the Exchange.[5] Though Rule 24.4(a) (Position Limits for Broad-Based Index Options) provides that there shall be no position limits for broad-based index option contracts on Cboe S&P 500 a.m./PM Basis, Cboe S&P 500 Three-Month Realized Variance, Cboe S&P 500 Three-Month Realized Volatility and on the BXM (1/10th value), DJX, OEX, XEO, NDX, RUT, VIX, VXN, VXD, VXST, S&P 500 Dividend Index, and SPX classes, Rule 4.13(a) still requires all TPHs to file a LOPR, which includes reporting on all options contracts dealt in on the Exchange. As stated, the Exchange currently receives [6] a TPH's or TPH organization's LOPR submissions through OCC and its centralized LOPR submission system. The Exchange notes that OCC's administration of the LOPR submissions to the Exchange will enable the Exchange to better allocate its surveillance resources, focusing on enhanced surveillance of trading to detect potential manipulation and larger, risky positions, rather than focusing on enforcement of requirements under Interpretation and Policy .03 to Rule 24.4. The Exchange believes that its enhanced surveillance will allow it to effectively assess LOPR submissions received through OCC and promptly respond to market concerns at an early stage. Additionally, under current Rule 15.1 (Maintenance, Retention and Furnishing of Books, Records and Other Information), TPHs are required to make available to the Exchange such books, records or other information as may be called for under the Rules or as may be requested in connection with an investigation by the Exchange.[7] The Exchange believes the aforementioned processes and procedures eliminate the need for the Exchange to receive essentially duplicative position and hedge documentation for broad-based index options separately from a TPH or TPH organization in accordance with the current Interpretation and Policy .03 to Rule 24.4. Under the current LOPR information gathering and reporting regime and Rule 15.1, such efforts by the Exchange are duplicative and unduly burdensome for TPHs, TPH organizations, and the Exchange. The Exchange thus believes that the proposed rule change will remove duplicative and burdensome procedures.

The Exchange notes that it has found no occasion necessary to impose additional margin requirements pursuant to the current Interpretation and Policy .04 to Rule 24.4, as a result of the reporting and review process in connection with Interpretation and Policy .03 to Rule 24.4. The Exchange has found that unhedged or under-hedged large option positions have generally not been identified. The Exchange believes this eliminates the need for the receipt of information and documentation from TPHs or TPH organizations as to whether and how their broad-based index option positions are hedged under Interpretation and Policy .03 to Rule 24.4, and any need for the Exchange to raise additional margin in light of under-hedged positions under Interpretation and Policy .04 to Rule 24.4. Further, under Rule 12.10 (Margin Required Is Minimum) the Exchange currently may impose higher margin requirements when it deems such higher margin requirements to be advisable. As a result, the Exchange believes that the proposed rule changes will serve to benefit investors by removing duplicative and burdensome procedures.

Additionally, the Exchange believes that risk review and controls, including hedge strategy implementation and assessment of credit and margin, are most efficient and effective at the TPH level. Currently, the Exchange understands TPHs and TPH organizations generally have their own internal risk management processes and procedures in place for reviewing, identifying and controlling risk of large option positions, including hedges for those positions. Moreover, under Rule 15.8A (Risk Analysis of Portfolio Margin Accounts), TPH organizations that maintain any portfolio margin accounts for customers are currently required to establish and maintain a comprehensive written risk analysis methodology for assessing and monitoring the potential risk to the TPH organization's capital over a specified range of possible market movements of positions maintained in such accounts. Specifically, Rule 15.8A(c) requires a TPH organization that maintains any portfolio margin accounts for customers to incorporate specific and thorough procedures and guidelines into its written risk methodology for monitoring credit risk exposure to the TPH organization on both an intra-day and end of day basis, managing the impact of credit extension on the TPH organization's overall risk exposure, the appropriate response by management when limits on credit extensions have been exceeded, determining the need to collect additional margin, and so on. The Exchange believes that the rules described above pursuant to which it can receive information from TPHs regarding hedges of their positions in broad-based index options are less burdensome and more efficient than the process used pursuant to Interpretations and Policies .03 and .04 of Rule 24.4, making those rule provisions redundant and no longer necessary.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

[5] *See* Securities Exchange Act Release No. 79930 (February 2, 2017), 82 FR 9807 (February 8, 2017) (Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among Participating Organizations Concerning Options-Related Market Surveillance) (4–551) (Approving a multi-party 17d–2 agreement whereby member firms are allocated to the Exchange and other SROs for review for compliance with LOPR reporting requirements).

[6] The Exchange itself, as well as Financial Industry Regulatory Authority, Inc. (''FINRA''), acting as its agent pursuant to a regulatory services agreement (''RSA''), receive and review LOPR submissions.

[7] The Exchange notes that ''in connection with an investigation'' broadly encompasses any request made by the Exchange for information which may lead to the initiation of a formal investigation.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that removing the duplicative and burdensome processes in connection with Interpretations and Policies .03 and .04 to Rule 24.4 will serve 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 benefit investors. Specifically, the Exchange believes that the receipt of LOPR reports from OCC and other Exchange Rules provide it with a more efficient means to receive the same information as it receives, and take the same action it may take, pursuant to Rule 24.4, Interpretations and Policies .03 and .04. As stated, the Exchange believes that its receipt of LOPR submissions through OCC will allow for it to allocate enhanced surveillance resources to assessing the LOPR submissions and detecting and deterring any concerning market behavior or trading abuses at an early stage, thereby protecting investors by removing impediments to and perfecting the mechanism of a free and open market and national market system. The Exchange further believes that removing the reporting requirement under Interpretation and Policy .03 to Rule 24.4 will benefit investors by removing a duplicative and thus unnecessary reporting and documentation step.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[11] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange currently has the capacity under other Exchange Rules to be able to enforce compliance by TPH and TPH organizations related to submission of appropriate hedge information and imposing sufficient margin on large broad-based-index options positions. The Exchange believes that removing redundant and unnecessary rules will allow for the Exchange to be organized and better able to carry out the purposes of the Act and enforce compliance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the proposed rule changes are not intended to address competitive issues but rather are concerned with facilitating less burdensome and more efficient regulatory compliance. The Exchange believes the proposed rule changes reduces reporting burdens on all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–014 and

[10] *Id.*

[11] 15 U.S.C. 78f(b)(1).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

should be submitted on or before April 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05354 Filed 3–20–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Portfolio Margining of Swaps and Security-Based Swaps, SEC File No. S7–13–12, OMB Control No. 3235–0698

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 (''Exchange Act'') in Connection with Portfolio Margining of Swaps and Security-Based Swaps, Exchange Act Release No. 68433 (Dec. 14, 2012), 77 FR 75211 (Dec. 19, 2012) (''Order''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

On December 14, 2012, the Commission found it necessary or appropriate in the public interest and consistent with the protection of investors to grant the conditional exemptions discussed in the Order. Among other things, the Order requires dually-registered broker-dealer and futures commission merchants (''BD/FCMs'') that elect to offer a program to commingle and portfolio margin customer positions in credit default swaps (''CDS'') in customer accounts maintained in accordance with Section 4d(f) of the Commodity Exchange Act (''CEA'') and rules thereunder, to obtain certain agreements and opinions from its customers regarding the applicable regulatory regime, and to make certain disclosures to its customers before receiving any money, securities, or property of a customer to margin, guarantee, or secure positions consisting of cleared CDS, which include both swaps and security-based swaps, under a program to commingle and portfolio margin CDS. The Order also requires BD/FCMs that elect to offer a program to commingle and portfolio margin CDS positions in customer accounts maintained in accordance with Section 4d(f) of the CEA and rules thereunder, to maintain minimum margin levels using a margin methodology approved by the Commission or the Commission staff.

The Commission estimates that 35 firms may seek to avail themselves of the conditional exemptive relief provided by the Order and therefore would be subject to the information collection. The Commission bases this estimate on the total number of entities that are dually registered as broker-dealers and futures commission merchants.

The Commission estimates that the aggregate annual time burden for all of the 35 respondents is approximately 22,517 hours calculated as follows:

(a) Based on information that the Commission receives on a monthly basis, the Commission estimates that each respondent will have, on average, 34 non-affiliate credit default swap customers. The Commission further estimates for each such customer, a respondent will spend approximately 20 hours developing a non-conforming subordination agreement under paragraph IV(b)(1)(ii) of the Order. The Commission therefore estimates that the burden associated with entering into non-conforming subordination agreements with non-affiliate cleared credit default swap customers under paragraph IV(b)(1)(ii) of the Order will impose an initial, one-time average burden of 680 hours (34 non-affiliate customers times 20 hours per customer) per respondent and an aggregate burden of 23,800 hours for all 35 respondents (680×35). This burden is a third-party disclosure burden.

(b) The Commission estimates that each respondent will have, on average, 11 affiliate credit default swap customers and that for each such customer, a respondent will spend approximately 20 hours developing a non-conforming subordination agreement under paragraph IV(b)(2)(ii) of the Order. The Commission therefore estimates that the burden associated with entering into non-conforming subordination agreements with affiliate cleared credit default swap customers under paragraph IV(b)(2)(ii) of the Order will impose an initial, one-time burden of 220 hours per respondent (11 affiliate customers times 20 hours per customer) and an aggregate burden of 7,700 hours for all 35 respondents (220×35) . This burden is a third-party disclosure burden.

(c) The Commission estimates that for each affiliate cleared credit default swap customer a respondent will spend approximately 2 hours developing and reviewing the required opinion of counsel under paragraph IV(b)(2)(iii) of the Order. The Commission therefore estimates that the burden associated with obtaining opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order will impose an initial, one-time burden of 22 hours per respondent (11 affiliate customers times 2 hours per customer) and an aggregate burden for all 35 respondents of 770 hours (22×35). This burden is a third-party disclosure burden.

(d) The Commission estimates that the burden associated with seeking the Commission's approval of margin methodologies under paragraph IV(b)(3) of the Order will impose an initial, one-time burden of 1,000 hours per respondent and an aggregate burden for all 35 respondents of 35,000 hours ($1{,}000 \times 35$) . This burden is a reporting burden.

(e) The Commission estimates that the burden associated with disclosing information to customers under paragraph IV(b)(6) of the Order will impose an initial, one-time burden of 8 hours per respondent and an aggregate burden for all 35 respondents of 280 hours (8×35). This burden is a third-party disclosure burden.

The total aggregate one-time burden for all 35 respondents is thus 67,550 hours (32,550 third party disclosure + 35,000 reporting). Amortized over three years, the aggregate burden per year is approximately 22,517 hours.

The Commission estimates that each respondent will incur a one-time cost of $8,000 in outside legal counsel expenses in connection with obtaining opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order, calculated as follows: (20 hours to obtain opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order) × ($400 per hour for outside legal counsel) = $8,000. The one-time aggregate burden for all 35 respondents is thus $280,000 ($8{,}000 \times 35$), or approximately $93,333 per year when amortized over three years.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper

[14] 17 CFR 200.30–3(a)(12).

performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 15, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05339 Filed 3–20–19; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10697]

Notice of Public Meeting of the International Telecommunication Advisory Committee and Preparations for Upcoming International Telecommunications Meetings

This notice announces a meeting of the Department of State's International Telecommunication Advisory Committee (ITAC). The ITAC will meet on Thursday March 28, 2019 at AT&T 1120 20th Street NW, Washington, DC 20036 at 2 p.m., to review the results of international telecommunication policy related activities since the October 2018 ITAC, and discuss preparations for upcoming multilateral engagements. The meeting will focus on the following topics:

1. Results of the ITU Plenipotentiary (PP–18)
2. Inter-American Telecommunication Commission (CITEL) Meetings
3. ITU Council working groups
4. ITU Telecommunication Standardization Sector (ITU–T) Meetings
5. ITU Radiocommunication Sector (ITU–R) Meetings
6. ITU Development Sector (ITU–D) Meetings
7. World Radio Conference (WRC–19) Preparations
8. Asia Pacific Economic Cooperation Telecommunications Working Group 59 (TEL 59)
9. Organization for Economic Cooperation and Development (OECD) Committee on Digital Economy Policy (CDEP)
10. G20 Digital Economy Task Force
11. G7 Innovation/Information and Communication Technologies (ICT) Track

Attendance at the ITAC meeting is open to the public as seating capacity allows. The public will have an opportunity to provide comments at this meeting at the invitation of the chair. Persons wishing to request reasonable accommodation during the meeting should send their requests to *ITAC@state.gov* no later than March 15, 2019. Requests made after that time will be considered, but might not be able to be accommodated.

Further details on this ITAC meeting will be announced through the Department of State's email list, *ITAC@lmlist.state.gov.* Use of the ITAC list is limited to meeting announcements and confirmations, distribution of agendas and other relevant meeting documents. The Department welcomes any U.S. citizen or legal permanent resident to remain on or join the ITAC listserv by registering by email via *ITAC@state.gov* and providing his or her name, email address, telephone contact and the company, organization, or community that he or she is representing, if any. The Department finds an exceptional circumstance for this notice to publish less than 15 days prior to the meeting, due to administrative issues at the Office of the Federal Register that were outside the control of the Department.

Please send all inquiries to *ITAC@state.gov.*

Franz J. Zichy,

Designated Federal Officer, Multilateral Affairs International Communications and Information Policy, U.S. Department of State.

[FR Doc. 2019–05364 Filed 3–20–19; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2019–7]

Petition for Exemption; Summary of Petition Received; Airbus S.A.S.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 10, 2019.

ADDRESSES: Send comments identified by docket number FAA–2018–1055 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, AIR–673, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198, phone and fax 206–231–3179, email *mark.forseth@faa.gov;* or Alphonso

Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, phone 202–267–4713, email *Alphonso.Pendergrass@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Des Moines, Washington.

Victor Wicklund,

Manager,Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2019–0057.

Petitioner: Airbus S.A.S.

Section(s) of 14 CFR Affected: Appendix K, § K25.1.4(a)(3).

Description of Relief Sought: Airbus S.A.S seeks an exemption related to the ETOPS low-fuel alert requirement, particularly the saliency and persistence of this ETOPS low-fuel alert, for Airbus Model A380 airplanes.

[FR Doc. 2019–05352 Filed 3–20–19; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors' Meeting.

TIME AND DATE: The meeting will be held on March 28, 2019, from 12:00 noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–866–210–1669, passcode 5253902#, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Review & Approval of Agenda & Setting of Ground Rules

- Motion to approve 3/28 UCR Board agenda
- Ground rules

Approval of Minutes of the January 29, 2019 UCR Board Meeting

Critical Issues

- Memo to Board re: Sunshine Act compliance & governance best practices

Discussion & possible Board action:

  - Adopt memo
- New amendments to UCR Agreement—Avelino Gutierrez

Discussion & possible Board action:

  - Adopt amendments
  - Update: Revised 2020–2021 UCR Fee Recommendation
- Revised 2019 Budget

Discussion & possible Board action:

  - Approve revised 2019 budget
- Recommended Modification to UCR State Carrier Audit Instructions

Discussion & possible Board action:

  - Approve new instruction to states: Close FARs prior to conducting misc. audits of MCS–150 retreats
- 2019 UCR Registration Period
  - *REMINDER:* Enforcement date is April 1

Updates Concerning UCR Legislation

Report of FMCSA

Contractor Reports

- UCR Administrator (Kellen)
- DSL Transportation Services, Inc.
- Seikosoft

Subcommittee Reports

- Audit Subcommittee
  - Discuss substandard state annual audit reports
- Finance Subcommittee
  - Potential timeframes for initial state distributions for 2019
  - Status of procuring Certificates of Deposit from Bank of North Dakota
  - Status of funding the DLA account
  - Update on refunds
  - Status of reconciling and closing the 2017 registration year
- Registration System Subcommittee
  - Announcement of subcommittee leadership change
- Education & Training Subcommittee

Discussion & possible Board action:

  - Approve proposed travel budget for subcommittee meetings
- Procedures Subcommittee
- Industry Advisory Subcommittee

Old/New Matters Future UCR Meetings

A detailed agenda for this meeting will be available no later than 5:00 p.m. Eastern Daylight Time, March 18, 2019 at: *https://ucrplan.org.*

CONTACT PERSON FOR MORE INFORMATION: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: March 18, 2019.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2019–05518 Filed 3–19–19; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2019 Competitive Funding Opportunity: Low or No Emission Grant Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for $85 million in competitive grants under the fiscal year (FY) 2019 Low or No Emission Grant Program (Low-No Program; Catalog of Federal Domestic Assistance (CFDA) number: 20.526). As required by Federal public transportation law, funds will be awarded competitively for the purchase or lease of low or no emission vehicles that use advanced technologies for transit revenue operations, including related equipment or facilities. Projects may include costs incidental to the acquisition of buses or to the construction of facilities, such as the costs of related workforce development and training activities, and project administration expenses. FTA may award additional funding that is made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern time on May 14, 2019. Prospective applicants should initiate the process by registering on the *GRANTS.GOV* website promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *http://transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*. The funding opportunity ID is FTA–2019–002–TPM–LowNo. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Tara Clark, FTA Office of Program Management, 202–366–2623, or *tara.clark@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Program Description

Section 5339(c) of Title 49, United States Code authorizes FTA to award grants for low or no emission buses through a competitive process, as described in this notice. The Low or No Emission Bus Program (Low-No Program) provides funding to State and local governmental authorities for the purchase or lease of zero-emission and low-emission transit buses, including acquisition, construction, and leasing of required supporting facilities such as recharging, refueling, and maintenance facilities. FTA recognizes that a significant transformation is occurring in the transit bus industry, with the increasing availability of low and zero emission bus vehicles for transit revenue operations.

B. Federal Award Information

The Consolidated Appropriations Act, 2019 appropriated $85 million in FY 2019 for grants under the Low-No Program, authorized by 49 U.S.C. 5339(c). In FY 2018, the program received applications for 151 projects requesting a total of $558 million. Fifty-two projects were funded at a total of $84.45 million. FTA may cap the amount a single recipient or State may receive as part of the selection process. In FY 2018, for example, the largest amount awarded to a single applicant was $2.29 million and no State received more than 5 percent of the total funding available.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date of project announcement for the FY 2019 awards. Funds are available for obligation until September 30, 2022. Funds are only available for projects that have not incurred costs prior to the announcement of project selections.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include designated recipients, States, local governmental authorities, and Indian Tribes. Except for projects proposed by Indian Tribes, proposals for funding projects in rural (non-urbanized) areas must be submitted as part of a consolidated State proposal. To be considered eligible, applicants must be able to demonstrate the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. States and other eligible applicants also may submit consolidated proposals for projects in urbanized areas. Proposals may contain projects to be implemented by the recipient or its eligible subrecipients. Eligible subrecipients are entities that are otherwise eligible recipients under this program.

An eligible recipient may submit an application in partnership with other entities that intend to participate in the implementation of the project, including, but not limited to, specific vehicle manufacturers, equipment vendors, owners or operators of related facilities, or project consultants. If an application that involves such a partnership is selected for funding, the competitive selection process will be deemed to satisfy the requirement for a competitive procurement under 49 U.S.C. 5325(a) for the named entities. Applicants are advised that any changes to the proposed partnership will require FTA written approval, must be consistent with the scope of the approved project, and may necessitate a competitive procurement.

Beginning in FY 2020, and not affecting the FY 2019 Low-No Program, FTA will no longer permit applicants to submit applications that include partnerships. Applicants in FY 2020 instead will be required to fulfill the competitive procurement requirement mandated under 49 U.S.C. 5325(a). The special exemption from the competitive procurement requirement will be phased out because the low or no emission industry is becoming more mature, making more options available to applicants. Transit agencies should continue to research potential vendors and technologies during proposal development.

2. Cost Sharing or Matching

The maximum Federal share for projects that involve leasing or acquiring transit buses (including clean fuel or alternative fuel vehicles) for purposes of complying with or maintaining compliance with the Clean Air Act is 85 percent of the net project cost.

The maximum Federal share for the cost of acquiring, installing, or constructing vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act is 90 percent of the net project cost of such equipment or facilities that are attributable to compliance with the Clean Air Act. The award recipient must itemize the cost of specific, discrete, vehicle-related equipment associated with compliance with the Clean Air Act to be eligible for the maximum 90 percent Federal share for these costs.

Eligible sources of local match include the following: cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; new capital; or in-kind contributions. Transportation development credits or documentation of in-kind match may be used for local match if identified in the application.

3. Eligible Projects

Under 49 U.S.C. 5339(c)(1)(B), eligible projects include projects or programs of projects in an eligible area for: (1) Purchasing or leasing low or no emission buses; (2) acquiring low or no emission buses with a leased power source; (3) constructing or leasing facilities and related equipment for low or no emission buses; (4) constructing new public transportation facilities to accommodate low or no emission buses; (5) or rehabilitating or improving existing public transportation facilities to accommodate low or no emission buses. As specified under 49 U.S.C. 5339(c)(5)(A), FTA will only consider eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that make greater reductions in energy consumption and harmful emissions than comparable standard buses or other low or no emission buses. As specified under 49 U.S.C. 5339(c)(5)(B), all proposed projects must be part of the intended recipient's long-term integrated fleet management plan.

If a single project proposal involves multiple public transportation providers, such as when an agency acquires vehicles that will be operated by another agency, the proposal must include a detailed statement regarding the role of each public transportation provider in the implementation of the project.

Consistent with 49 U.S.C. 5339(c)(1)(E), a low or no-emission bus is defined as a passenger vehicle used to provide public transportation that

significantly reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a standard vehicle. The statutory definition includes zero-emission transit buses, which are defined as buses that produce no direct carbon emissions and no particulate matter emissions under any and all possible operational modes and conditions. Examples of zero emission bus technologies include, but are not limited to, hydrogen fuel-cell buses and battery-electric buses. All new transit bus models must successfully complete FTA bus testing for production transit buses pursuant to 49 U.S.C. 5318 in order to be procured with funds awarded under the Low-No Program. All transit vehicles must be procured from certified transit vehicle manufacturers in accordance with the Disadvantaged Business Enterprise (DBE) regulations at 49 CFR part 26. The development or deployment of prototype vehicles is not eligible for funding under the Low-No Program.

Recipients are permitted to use up to 0.5 percent of their requested grant award for workforce development activities eligible under 49 U.S.C. 5314(b) and an additional 0.5 percent for costs associated with training at the National Transit Institute. Applicants must identify the proposed use of funds for these activities in the project proposal and identify them separately in the project budget.

D. Application and Submission Information

1. Address To Request Application

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at *www.fta.dot.gov/howtoapply* along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms: The SF–424 Application for Federal Assistance (available at *GRANTS.GOV*) and the supplemental form for the FY 2019 Low-No Program (downloaded from *GRANTS.GOV* or the FTA website at *https://www.transit.dot.gov/funding/grants/lowno*). Failure to submit the information as requested can delay review or disqualify the application.

2. Content and Form of Application Submission

a. Proposal Submission

A complete proposal submission consists of two forms: (1) The SF–424 Application for Federal Assistance; and (2) the supplemental form for the FY 2019 Low-No Program. The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF–424. The application must include responses to all sections of the SF–424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will accept only one supplemental form per SF–424 submission. FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If a State or other applicant chooses to submit separate proposals for individual consideration by FTA, each proposal must be submitted using a separate SF–424 and supplemental form. Applicants may attach additional supporting information to the SF–424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Any supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as proposer name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF–424 and supplemental form. Applicants must fill in all fields unless stated otherwise on the forms. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

b. Application Content

The SF–424 Application for Federal Assistance and the supplemental form will prompt applicants for the required information, including:

i. Applicant name
ii. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number
iii. Key contact information (including contact name, address, email address, and phone)
iv. Congressional district(s) where project will take place
v. Project information (including title, an executive summary, and type)
vi. A detailed description of the need for the project
vii. A detailed description on how the project will support the Low-No Program objectives
viii. Evidence that the project is consistent with local and regional planning documents
ix. Evidence that the applicant can provide the local cost share
x. A description of the technical, legal, and financial capacity of the applicant
xi. A detailed project budget
xii. An explanation of the scalability of the project
xiii. Details on the local matching funds
xiv. A detailed project timeline

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant: (1) Is an individual; (2) is excepted from the requirements under 2 CFR 25.110(b) or (c); or (3) has an exception approved by FTA under 2 CFR 25.110(d). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. All applicants must provide a unique entity identifier provided by SAM. Registration in SAM may take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if there is a need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on May 14, 2019. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV*: (1) Confirmation of successful transmission to *GRANTS.GOV*, and (2) confirmation of successful validation by *GRANTS.GOV*. If confirmations of successful validation are not received or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and *resubmit before the submission deadline.* If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled website maintenance.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a grant agreement until FTA has issued pre-award authority for selected projects.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

E. Application Review

1. Criteria

Projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. FTA will evaluate proposals for the Low-No Program based on the criteria described in this notice.

a. Demonstration of Need

Since the purpose of this program is to fund vehicles and facilities, applications will be evaluated based on the quality and extent to which they demonstrate how the proposed project will address an unmet need for capital investment in vehicles and/or supporting facilities. For example, an applicant may demonstrate that it requires additional or improved charging or maintenance facilities for low or no emission vehicles, that it intends to replace existing vehicles that have exceeded their minimum useful life, or that it requires additional vehicles to meet current ridership demands. FTA will consider an applicant's responses to the following criteria when assessing the need for capital investment underlying the proposed project:

i. Consistency with Long-Term Fleet Management Plan: As required by 49 U.S.C. 5339(c)(5)(b), all project proposals must demonstrate that they are part of the intended recipient's long-term integrated fleet management plan, as demonstrated through an existing transit asset management program, fleet procurement plan, or similarly documented program or policy. These plans must be attached to the application. FTA will evaluate the consistency of the proposed project with the applicant's long-term fleet management plan, as well as the applicant's previous experience with the relevant low or no emissions vehicle technologies.

ii. For low or no emission bus projects (replacement and/or or expansion): Applicants must provide information on the age, condition, and performance of the vehicles to be replaced by the proposed project. Vehicles to be replaced must have met their minimum useful life at the time of project completion. For service expansion requests, applicants must provide information on the proposed service expansion and the benefits for transit riders and the community from the new service. For all vehicle projects, the proposal must address whether the project conforms to FTA's spare ratio guidelines. Low or no emission vehicles funded under this program are not exempted from FTA's standard spare ratio requirements, which apply to and are calculated on the agency's entire fleet.

iii. For bus facility and equipment projects (replacement, rehabilitation, and/or expansion): Applicants must provide information on the age and condition of the asset to be rehabilitated or replaced relative to its minimum useful life.

b. Demonstration of Benefits

Applicants must demonstrate how the proposed project will support the statutory requirements of 49 U.S.C. 5339(c)(5)(A). In particular, FTA will consider the quality and extent to which applications demonstrate how the proposed project will: (1) Reduce Energy Consumption; (2) Reduce Harmful Emissions; and (3) Reduce Direct Carbon Emissions.

i. Reduce Energy Consumption: Applicants must describe how the proposed project will reduce energy consumption. FTA will evaluate applications based on the degree to which the proposed technology reduces energy consumption as compared to more common vehicle propulsion technologies.

ii. Reduce Harmful Emissions: Applicants must demonstrate how the proposed vehicles or facility will reduce the emission of particulates that create local air pollution, which leads to local environmental health concerns, smog, and unhealthy ozone concentrations. FTA will evaluate the rate of particulate emissions by the proposed vehicles or vehicles to be supported by the proposed facility, compared to the emissions from the vehicles that will be replaced or moved to the spare fleet as

a result of the proposed project, as well as comparable standard buses.

iii. Reduce Direct Carbon Emissions: Applicants should demonstrate how the proposed vehicles or facility will reduce emissions of greenhouse gases from transit vehicle operations. FTA will evaluate the rate of direct carbon emissions by the proposed vehicles or vehicles to be supported by the proposed facility, compared to the emissions from the vehicles that will be replaced or moved to the spare fleet as a result of the proposed project, as well as comparable standard buses.

c. Planning and Local/Regional Prioritization

Applicants must demonstrate how the proposed project is consistent with local and regional long range planning documents and local government priorities. FTA will evaluate applications based on the quality and extent to which they assess whether the project is consistent with the transit priorities identified in the long-range plan; and/or contingency/illustrative projects included in that plan; or the locally developed human services public transportation coordinated plan. Applicants are not required to submit copies of such plans, but FTA will consider how the project will support regional goals and applicants may submit support letters from local and regional planning organizations attesting to the consistency of the proposed project with these plans.

Evidence of additional local or regional prioritization may include letters of support for the project from local government officials, public agencies, and non-profit or private sector partners.

d. Local Financial Commitment

Applicants must identify the source of the local cost share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. FTA will consider the availability of the local cost share as evidence of local financial commitment to the project. Applicants should submit evidence of the availability of funds for the project; for example, by including a board resolution, letter of support from the State, or other documentation of the source of local funds such as a budget document highlighting the line item or section committing funds to the proposed project. In addition, an applicant may propose a local cost share that is greater than the minimum requirement or provide documentation of previous local investments in the project, which cannot be used to satisfy local matching requirements, as evidence of local financial commitment. Additional consideration will be given to those projects that propose a larger local cost share. FTA will also note if an applicant proposes to use grant funds only for the incremental cost of new technologies over the cost of replacing vehicles with standard propulsion technologies.

e. Project Implementation Strategy

FTA will rate projects higher if grant funds can be obligated within 12 months of selection and the project can be implemented within a reasonable time frame. In assessing when funds can be obligated, FTA will consider whether the project qualifies for a Categorical Exclusion (CE), or whether the required environmental work has been initiated or completed for projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA), as amended. The proposal must state when grant funds can be obligated and indicate the timeframe under which the Metropolitan Transportation Improvement Program (TIP) and/or Statewide Transportation Improvement Program (STIP) can be amended to include the proposed project.

In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project implementation plan, including all necessary project milestones and the overall project timeline. For projects that will require formal coordination, approvals, or permits from other agencies or project partners, the applicant must demonstrate coordination with these organizations and their support for the project, such as through letters of support.

For project proposals that involve a partnership with a manufacturer, vendor, consultant, or other third party, applicants must identify by name any project partners, including, but not limited to, other transit agencies, bus manufacturers, owners or operators of related facilities, or any expert consultants. FTA will evaluate the experience and capacity of the named project partners to successfully implement the proposed project based on the partners' experience and qualifications. Applicants are advised to submit information on the partners' qualifications and experience as a part of the application. Entities involved in the project that are not named in the application will be required to be selected through a competitive procurement.

For project proposals that will require a competitive procurement, applicants must demonstrate familiarity with the current market availability of the proposed advanced vehicle propulsion technology.

f. Technical, Legal, and Financial Capacity

Applicants must demonstrate that they have the technical, legal, and financial capacity to undertake the project. FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project.

2. Review and Selection Process

In addition to other FTA staff that may review the proposals, a technical evaluation committee will evaluate proposals based on the published evaluation criteria. Members of the technical evaluation committee and other FTA staff may request additional information from applicants, if necessary. Based on the findings of the technical evaluation committee, the FTA Administrator will determine the final selection of projects for program funding. In determining the allocation of program funds, FTA may consider geographic diversity, diversity in the size of the transit systems receiving funding, projects located in or that support public transportation service in a qualified opportunity zone designated pursuant to 26 U.S.C. 1400Z–1, the applicant's receipt of other competitive awards, and the percentage of the local share provided. FTA may consider capping the amount a single applicant may receive and prioritizing investments in rural areas. Projects that have a higher local financial commitment may also be prioritized.

After applying the above criteria, the FTA Administrator will consider the following key Departmental objectives:

a. Supporting economic vitality at the national and regional level;

b. Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;

c. Accounting for the life-cycle costs of the project to promote the state of good repair;

d. Using innovative approaches to improve safety and expedite project delivery; and,

e. Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Award Performance and Integrity Information System). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in the 2 CFR 200.205 Federal awarding agency review of risk posed by applicants.

F. Federal Award Administration

The FTA Administrator will announce the final project selections on the FTA website. Recipients should contact their FTA Regional Offices for additional information regarding allocations for projects under the Low-No Program. At the time the project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement.

1. Federal Award Notices

Funds under the Low-No Program are available to States, designated recipients, local governmental authorities, and Indian Tribes. There is no minimum or maximum grant award amount; however, FTA intends to fund as many meritorious projects as possible. Only proposals from eligible recipients for eligible activities will be considered for funding. Due to funding limitations, applicants that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. FTA does not provide pre-award authority for discretionary funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the FY 2018 Apportionment Notice published on July 16, 2018. *https://www.gpo.gov/fdsys/pkg/FR-2018-07-16/pdf/2018-14989.pdf.*

b. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). All Low-No Emission Program recipients are subject to the grant requirements of the Section 5307 Urbanized Area Formula Grant program, including those of FTA Circular 9030.1E. All recipients must follow the Grants Management Requirements of FTA Circular 5010.1 and the labor protections of 49 U.S.C. 5333(b). Technical assistance regarding these requirements is available from each FTA regional office.

c. Buy America

FTA requires that all capital procurements meet FTA's Buy America requirements per 49 U.S.C. 5323(j), which require that all iron, steel, or manufactured products be produced in the United States. Federal public transportation law provides for a phased increase in the domestic content for rolling stock. For FY 2019, the cost of components and subcomponents produced in the United States must be more than 65 percent of the cost of all components. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA issued guidance on the implementation of the phased increase in domestic content on September 1, 2016 (81 FR 60278). Applicants should read the policy guidance carefully to determine the applicable domestic content requirement for their project. Any proposal that will require a waiver must identify in the application the items for which a waiver will be sought. Applicants should not proceed with the expectation that waivers will be granted, nor should applicants assume that selection of a project under the Low-No Program that includes a partnership with a manufacturer, vendor, consultant, or other third party constitutes a waiver of the Buy America requirements applicable at the time the project is undertaken. Consistent with Executive Order 13858 *Strengthening Buy-American Preferences for Infrastructure Projects,* signed by President Trump on January 31, 2019, applicants should maximize the use of goods, products, and materials produced in the United States, in Federal procurements and through the terms and conditions of Federal financial assistance awards.

d. Disadvantaged Business Enterprise

FTA requires that its recipients receiving planning, capital, and/or operating assistance that will award prime contracts exceeding $250,000 in FTA funds in a Federal fiscal year comply with the Disadvantaged Business Enterprise (DBE) program regulations at 49 CFR part 26. Applicants should expect to include any funds awarded, excluding those to be used for vehicle procurements, in setting their overall DBE goal. Note, however, that projects including vehicle procurements remain subject to the DBE program regulations. The rule requires that, prior to bidding on any FTA-assisted vehicle procurement, entities that manufacture vehicles, or perform post-production alterations or retrofitting, must submit a DBE program plan and goal methodology to FTA. Further, to the extent that a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retrofitting (*e.g.,* replacing major components such as an engine to provide a ''like new'' vehicle), the vehicle remanufacturer is considered a transit vehicle manufacturer and must also comply with the DBE regulations.

FTA will then issue a transit vehicle manufacturer (TVM) concurrence/certification letter. Grant recipients must verify each entity's compliance with these requirements before accepting its bid. A list of compliant, certified TVMs is posted on FTA's web page at *https://www.fta.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list.* Please note that this list is nonexclusive, and recipients must contact FTA before accepting bids from entities not listed on this web-posting. Recipients may also establish project-specific DBE goals for vehicle procurements. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Janelle Hinton, Office of Civil Rights, 202–366–9259, email: *janelle.hinton@dot.gov.*

e. Planning

FTA encourages applicants to notify the appropriate State Departments of

Transportation and metropolitan planning organizations in areas likely to be served by the project funds made available under these initiatives and programs. Selected projects must be incorporated into the long-range plans and transportation improvement programs of States and metropolitan areas before they are eligible for FTA funding. As described under the evaluation criteria, FTA may consider whether a project is consistent with or already included in these plans when evaluating a project.

f. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

3. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system.

G. Technical Assistance and Other Program Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C. Complete applications must be submitted through *GRANTS.GOV* by 11:59 p.m. Eastern time on May 14, 2019. For issues with *GRANTS.GOV*, please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at *support@grants.gov.* Contact information for FTA's regional offices can be found on FTA's website at *www.fta.dot.gov.*

H. Federal Awarding Agency Contacts

For further information concerning this notice, please contact the Low-No Program manager, Tara Clark, by phone at 202–366–2623, or by email at *tara.clark@dot.gov.* A TDD is available for individuals who are deaf or hard of hearing at 800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's website at *https://www.transit.dot.gov/funding/grants/lowno.* To ensure applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA directly, rather than through intermediaries or third parties, with questions.

FTA staff may also conduct briefings on the FY 2019 discretionary grants selection and award process upon request.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2019–05355 Filed 3–20–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0038]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NO DIRECTION (30′ Power Boat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0038 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0038 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0038, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NO DIRECTION is:

—*Intended Commercial Use of Vessel:* ''the intended use of my vessel is to provide opportunity to the local community and tourist visiting the area an chance to experience off shore sport fishing of 6 or less passengers at a time and sunset cruises for small families.''

—*Geographic Region Including Base of Operations:* ''Texas'' (Base of Operations: Kemah, TX)

—*Vessel Length and Type:* 30′ power boat

The complete application is available for review identified in the DOT docket as MARAD–2019–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of

MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov* keyword search MARAD–2019–0038 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05320 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0042]

Request for Comments on a New Information Collection

AGENCY: Maritime Administration, Department of Transportation.

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. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 17, 2018.

DATES: Comments must be submitted on or before April 22, 2019.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You may contact Nuns Jain, Program Excellence and Quality Assurance Advisor, MAR–600.32, Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–385–0115.

SUPPLEMENTARY INFORMATION:

Title: Mariner Survey.

OMB Control Number: 2133–NEW.

Type of Request: New Information Collection.

Background: The Mariner Survey project will conduct a biennial survey of appropriately credentialed U.S. merchant mariners to determine their availability and willingness to serve on short notice on U.S. government-owned sealift ships or commercial ships during a period of National Need. Responses will be primarily collected via an online survey, with a mail survey option.

Respondents: Appropriately credentialed U.S. Merchant Mariners.

Affected Public: Individuals or Households.

Total Estimated Number of Responses: 6,545.

Frequency of Collection: Every two years.

Estimated Time per Respondent: 30 minutes.

Total Estimated Number of Annual Burden Hours: 3,273.

Public Comments Invited: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05316 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0041]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BUSHMAN'S FRIEND (32′ Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has

been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0041 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0041 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0041, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BUSHMAN'S FRIEND is:

—*Intended Commercial Use of Vessel:* ''Sunset Sailboat Rides''
—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Long Beach, CA)
—*Vessel Length and Type:* 32′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0041 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0041 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05317 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0039]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DOCLE VITTORIA (40′ Motorboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0039 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0039 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of

Transportation, MARAD–2019–0039, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DOCLE VITTORIA is:

—*Intended Commercial Use of Vessel:* charter half day to a full day charters on the boat.
—*Geographic Region Including Base of Operations:* ''Massachusetts'' (Base of Operations: Hyannis port, MA)
—*Vessel Length and Type:* 40′ motorboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0039 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121).

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05319 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0047]

Request for Comments on the Renewal of a Previously Approved Information Collection: Effective U.S. Control (EUSC)/Parent Company

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to aid in identifying oceangoing vessels that may be both useful and available to the Department of Defense for deploying U.S. military equipment (such as tanks and other tracked and wheeled vehicles) and the full range of supplies (including petroleum products and fuel) necessary to sustain a force in a foreign theater of operations. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before May 20, 2019.

ADDRESSES: You may submit comments [identified by Docket No. MARAD–2019–0047] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality,

utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Russ Krause, 202–366–1031, Division of Sealift Operations and Emergency Response, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Title: Effective U.S. Control (EUSC)/Parent Company.

OMB Control Number: 2133–0511.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Effective U.S. Control (EUSC)/Parent Company collection consists of an inventory of foreign-registered vessels owned by U.S. citizens. Specially, the collection consists of responses from vessel owners verifying or correcting vessel ownership data and characteristics found in commercial publications. The information obtained could be vital in a national or international emergency and is essential to the logistical support planning operations conducted by Maritime Administration officials.

Respondents: U.S. citizens who own foreign-registered vessels.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 60.

Estimated Number of Responses: 60.

Estimated Hours per Response: .5.

Annual Estimated Total Annual Burden Hours: 30.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.93)

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05315 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0036]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel COLAN (48′ Motor Boat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0036 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0036 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0036, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel COLAN is:

—*Intended Commercial Use of Vessel:* ''Daily and overnight luxury pleasure time charters.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Coconut Grove, FL)

—*Vessel Length and Type:* 48′ motor boat

The complete application is available for review identified in the DOT docket as MARAD–2019–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0036 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal

identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Date: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05318 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0040]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PUFFIN QUEST (64′ Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0040 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0040 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0040, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PUFFIN QUEST is:

—*Intended Commercial Use of Vessel:* ''Private Vessel Charters, Passengers Only''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, East Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: Bellingham, WA)

—*Vessel Length and Type:* 64′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0040 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential

business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05321 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0037]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel POET'S LOUNGE (47′ Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 22, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0037 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0037 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0037, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel POET'S LOUNGE is:

—*Intended Commercial Use of Vessel:* ''Day sail charters and overnight term charters with Captain.''

—*Geographic Region Including Base of Operations:* ''Connecticut, New York (excluding New York Harbor), Rhode Island, Massachusetts'' (Base of Operations: Mystic, CT)

—*Vessel Length and Type:* 47′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0037 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05311 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2019–0043]

Notice of Availability of Supplemental Environmental Assessment for Decommissioning of the Defueled Nuclear Power Plant Onboard the NS SAVANNAH

AGENCY: Maritime Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Transportation (DOT), has made available for review to interested parties the Supplemental Environmental Assessment (EA) for the decommissioning of the deactivated and inoperable nuclear power plant onboard the NS SAVANNAH (NSS), currently moored in Baltimore, Maryland. The Supplemental EA analyzes three Proposed Action Alternative locations: Baltimore, MD, the Preferred Alternative; Hampton Roads, VA; Philadelphia, PA; and the No-Action Alternative. The analysis focuses on the following environmental resources: Water resources, biological resources, air quality, waste management, and health and safety. The Supplemental EA demonstrates that implementing the Proposed Action would result in no significant impacts to the human or natural environment and the preparation of an Environmental Impact Statement is not warranted.

ADDRESSES: A copy of the Supplemental EA is available for public review online at the *Regulations.gov* website: *http://www.regulations.gov.* Once at *regulations.gov,* perform a search using MARAD docket number ''MARAD–2019–0043'' to locate the Supplemental EA. For in-person access to the docket, go to Room W12–401 of the Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays, and ask for the MARAD docket number identified above. If you have questions on viewing the Docket, call Docket Operations, telephone: 202–366–9317 or 202–366–9826.

FOR FURTHER INFORMATION CONTACT: Ms. Kris Gilson, REM, CHMM, MARAD Office of Environment, at telephone number: 202–366–1939 or by email at *kristine.gilson@dot.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Under the standards promulgated in Title 10 of the Code of Federal Regulations, Part 50, the NSS is licensed and regulated by the U.S. Regulatory Commission (NRC). The NSS operated from 1962 to 1970, after which it was removed from service. In 1971, the vessel's nuclear reactor was de-fueled and made permanently inoperable in 1975–76. The NSS is still licensed by the NRC and will remain so until the nuclear facilities are dismantled, removed from the ship, and properly disposed—a regulated process collectively known as decommissioning.

On September 11, 2006, MARAD published a notice in the **Federal Register** (71 FR 53490) entitled, ''Availability of a Draft Environmental Assessment.'' This notice announced that a draft EA for decommissioning of the nuclear power plant onboard the NSS had been prepared and made available to the public for comment in accordance with NEPA, 42 U.S.C. 4371 *et seq.,* the CEQ regulations for implementing NEPA, 40 CFR parts 1500–1508, DOT Order 5610.1C, and MARAD MAO 600–1. The notice informed the public on how to obtain, and submit comments on, the draft EA. The draft EA analyzed the impacts associated with the full nuclear decommissioning of the vessel. The draft EA was made available for a 30-day public comment period, beginning on the date of the publication of the notice. The comment period ended on October 11, 2006. MARAD received comments. A Final EA was issued in March 2008. Based on the Final EA, MARAD determined that the environmental effects of the decommissioning of the NSS would not significantly affect the quality of the human or natural environment and therefore would not warrant the preparation of an Environmental Impact Statement. A Finding of No Significant Impact was issued on May 6, 2008. The environmental effects of the specific location and method of decommissioning were to be analyzed in a separate environmental review document. The Supplemental EA is that separate environmental review document and it analyzes those effects and supports a finding that the Proposed Action would result in no significant impacts to the human or natural environment.

Under the provision of the Consolidated Appropriations Acts for 2017 and 2018, funding was appropriated to MARAD to begin nuclear decommissioning of the NSS. The purpose of the Proposed Action is to reduce residual radioactivity to levels that allow termination of the NRC license. The Proposed Action is needed to reduce costs associated with maintaining the NSS and to meet the MARAD mission objective to decommission its nuclear reactor and terminate its NRC license.

The Proposed Action would be to award a decommissioning contract to a domestic company that is technically capable of segregating Low Level Radioactive Waste (LLRW) and decommissioning to support license termination in accordance with applicable Federal, State, and local environmental and safety and health laws and regulations. Construction of new facilities and dredging would not be required because all three locations have existing infrastructure and deep water to accommodate NSS and support decommissioning. The towing would meet requirements for safety, navigation, environmental, and other safeguards.

If MARAD is unable to award a contract, the No-Action alternative would result by default. The No-Action Alternative includes continuous berthing of NSS at Baltimore and MARAD's continued environmental liabilities and costs associated with continuing to maintain the vessel in a protective storage condition. The No-Action Alternative does not meet MARAD's mission objectives and may result in future significant unplanned and unbudgeted expense.

Authority: 42 U.S.C. 4321, *et seq.,* 40 CFR parts 1500–1508, Department of Transportation Order 5610.1C, and MARAD Administrative Order 600–1.

* * * * *

Dated: March 18, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05387 Filed 3–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–46

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Treatment of distributions by foreign corporations and Coordination with nonrecognition provisions.

DATES: Written comments should be received on or before May 20, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this notice should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Announcement of Rules to be Included in Final Regulations concerning Treatment of distributions by foreign corporations and Coordination with nonrecognition provisions under Section 897(d) and (e) of the Internal Revenue Code.

OMB Number: 1545–2017.

Notice Number: Notice 2006–46.

Abstract: This notice announces that the IRS and Treasury Department will issue final regulations under section 897(d) and (e) of the Internal Revenue Code that will revise the rules under Temp. Treas. Reg. § 1.897–5T, Notice 89–85, and Temp. Treas. Reg. § 1.897–6T to take into account statutory mergers and consolidations under foreign or possessions law which may now qualify for nonrecognition treatment under section 368(a)(1)(A). The specific collections of information are contained in Temp. Treas. Reg. §§ 1.897–5T(c)(4)(ii)(C) and 1.897–6T(b)(1). These reporting requirements notify the IRS of the transfer and enable it to verify that the transferor qualifies for nonrecognition and that the transferee will be subject to U.S. tax on a subsequent disposition of the U.S. real property interest.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Reporting Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d)ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 18, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–05390 Filed 3–20–19; 8:45 am]

BILLING CODE 4830–01–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 of a meeting to be held on April 16 and 17, 2019, at the Hilton Garden Inn Washington DC Downtown, 815 14th Street NW, Washington, DC 20005. The public session on April 16, will begin at 9:00 a.m. and conclude at approximately 5:00 p.m. On April 17, the public session will begin at 8:00 a.m. and conclude at approximately 5:00 p.m. (all times Eastern).

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. The planned following topics include: (1) Models of care; (2) care system financial information; (3) tele-mental health; (4) Veteran's family experience and discussion with senior officials from the VA.

Members of the public are invited to attend open sessions in-person or via telephone listening line. Only a limited amount of seating will be available, and members of the public will be seated on a first come-first served basis. The listening line number is 800–767–1750; access code 48664# and it will be activated 10 minutes prior to each day's sessions. Members of the public utilizing the listening line are asked to confirm their attendance via an email to *COVERCommission@va.gov.* The videotaping or recording of Commission proceedings is discouraged as it may be disruptive to the Commission's proceedings.

Any member of the public seeking additional information including copies of materials referenced during open sessions should email the Designated Federal Officer for the Commission, Mr. John Goodrich, at *COVERCommission@va.gov.* Although there will not be time allotted for members of the public to speak, the COVER Commission will

accept written comments which may be sent to the email address noted. In communications with the Commission, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: March 18, 2019.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–05383 Filed 3–20–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Funding Availability: Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds to eligible entities to provide time-limited case management services to improve the retention of housing by Veterans who were previously homeless and are transitioning to permanent housing from programs such as VA's Homeless Providers Grant and Per Diem (GPD) Program or VA's Healthcare for Homeless Veterans (HCHV) Contracted Residential Services (CRS) Program.

DATES: Applications for case management grants under the GPD Program must be received by the GPD National Program Office by 4:00 p.m. Eastern Time on Monday, May 20, 2019. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other submission-related problems.

For a Copy of the Application Package: The required documentation for an application submission is outlined under the Application Documentation Required section of this NOFA. Questions should be referred to the GPD National Program Office by email at *GPDgrants@va.gov.* For detailed GPD Program information and requirements, see part 61 of Title 38, Code of Federal Regulations (38 CFR part 61).

Submission of Application Package: Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/gpd.asp.* Applications may not be mailed, emailed, or sent by fax. Applications must be received by the GPD Program Office by 4:00 p.m. Eastern Time on the application deadline date. Applications must be submitted as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded. See Funding Limitations section of this NOFA for maximum allowable grant amounts.

Technical Assistance: Information regarding how to obtain technical assistance with the preparation of a case management grant application is available on the GPD Program website at: *www.va.gov/homeless/gpd.asp.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery L. Quarles, Director, VA GPD National Program, at *GPDGrants@va.gov.*

SUPPLEMENTARY INFORMATION:

Funding Opportunity Title: Grant and Per Diem Case Management Services Grant Program.

Announcement Type: Initial.

Funding Opportunity Number: VA–GPD–CM–FY2019.

Catalog of Federal Domestic Assistance Number: 64.024, VA Homeless Providers Grant and Per Diem Program.

I. Funding Opportunity Description

A. Purpose: In an effort to reduce homelessness in the Veteran population, Congress required VA to expand its benefits for homeless Veterans by establishing a new grant program. See Public Law 114–315, sec. 712 (December 16, 2016) (codified as 38 United States Code (U.S.C.) 2013). This case management NOFA will provide funds to organizations within communities that provide case management services to improve the retention of housing by Veterans who were previously homeless and are transitioning to permanent housing and to Veterans who are at risk of becoming homeless.

To ensure that grant funding is used to provide case management services to as many Veterans as possible, grant funds under this program may not be used for Veterans who are receiving case management services from permanent supportive housing programs (*e.g.,* Housing and Urban Development-VA Supportive Housing (HUD–VASH)) or rapid re-housing/homeless prevention programs (*e.g.,* Supportive Services for Veterans Families (SSVF)).

Examples of case management services that grantees can provide using these grant funds include, but are not limited to, the following:

1. Making home visits by the case manager to monitor housing stability;

2. Providing or coordinating educational activities related to meal planning, tenant responsibilities, the use of public transportation, community resources, financial management, development of natural supports;

3. Making referrals to needed services, such as mental health, substance use disorder, medical, and employment services; and

4. Participating in case conferencing with other service providers who are working with the Veteran.

There is a 6-month time limit for Veterans to receive case management services. However, VA may approve a request to extend services beyond the 6-month period if an organization submits a request to VA in writing, and VA approves it before the 6-month time limit expires. Because in most circumstances case management services are provided to Veterans after they have been in receipt of benefits under the GPD or HCHV CRS Programs, VA believes that 6 months would, in most cases, be sufficient time for a Veteran to have the necessary tools in place to retain permanent housing.

B. Definitions: Title 38 CFR part 61 contains definitions of terms used in the GPD Program that are applicable to this NOFA.

C. VHA Homeless Programs Referenced in this NOFA:

1. The GPD Program provides grant funding to community-based organizations to provide transitional housing and supportive services to homeless Veterans. Case management grants are part of the GPD Program.

2. The HCHV Contracted Residential Services Program places Veterans who qualify for VA health care in need of an immediate housing placement into short-term community-based supportive housing with the goal of transitioning Veterans to permanent housing and/or additional care.

3. The SSVF Program provides grant funding to community-based organizations to assist very low-income veteran families residing in or transitioning to permanent housing. SSVF grantees provide a range of supportive services to eligible Veteran families that are designed to promote housing stability.

4. The HUD–VASH Program is a collaborative program between HUD and VA, which combines HUD housing vouchers with VA supportive services to help Veterans and their families who are homeless find and sustain permanent housing.

D. Eligibility Information: To be eligible, an applicant must be a 501(c)(3) or 501(c)(19) non-profit organization, state or local government agency, or recognized Indian Tribal Government. See 38 CFR 61.1. Additionally, as this grant is primarily intended to serve Veterans discharging from GPD and HCHV CRS programs, the VA medical facility catchment area must have occupied beds serving Veterans that would be appropriate for case management services once they exit their transitional housing program. See Funding Restrictions regarding the limitations on the number of case management positions that may be awarded and the maximum award amounts.

E. Cost Sharing or Matching: None.

F. *Authority:* 38 U.S.C. 2013, as implemented in regulation at 38 CFR 61.90–98.

II. Award Information

A. Overview: This NOFA announces the availability of funding to eligible 501(c)(3) and 501(c)(19) non-profit organizations, state and local governments, and Indian Tribal governments for the provision of case management services primarily for Veterans transitioning from either VA's GPD or HCHV CRS programs. A separate application is required for each VA medical facility catchment area. VA expects to fund approximately 133 case management positions with this NOFA. Applicants must agree to meet the applicable requirements of 38 CFR part 61.

B. Allocation of Funds: Approximately $30 million is available for this grant component. Funding will be for a period of 2 years beginning on October 1, 2019, and ending on September 30, 2021. Funding for the entire grant award period will be obligated at the time of award and available for draw down by the grantee over the award period. Monthly reimbursements will be issued based on costs incurred by the grantee. Funding will be awarded under this NOFA depending on funding availability and subject to program authorization.

C. Funding Restrictions: Questions regarding funding restrictions should be directed to the GPD National Program Office using the email listed in the Contact section. The following restrictions apply to this award:

1. Applicants may not receive funding to replace funds provided by any Federal, state, or local government agency or program to assist homeless persons.

2. No part of an award under this NOFA may be used to facilitate capital improvements or to purchase vans or real property. Vehicles may be leased to facilitate required transportation within the community.

3. Only full-time case management position requests will be funded. A full-time case management position, per this NOFA, is defined as an average of 40 hours weekly or 80 hours biweekly. Workload may be shared between multiple staff.

D. Funding Limitations: To facilitate geographic dispersion of this case management resource, VA has established the following limitations:

1. Case management services grant funding may be used for the following administrative purposes:

(a) Providing funding for case management staff;

(b) Providing transportation for the case manager;

(c) Providing cell phones and computers to facilitate home visits and other case management activities associated with the grant; and

(d) Providing office furniture for the use of the case management staff.

2. The maximum 2-year award, per full-time funded case management position, is $225,000. From this amount the following funding limitations apply:

(a) Grantees may allocate a maximum of $15,000 for transportation costs per case management position.

(b) Grantees may allocate a maximum of $4,000 for cell phones and computers per case management position.

3. To facilitate geographic dispersion of this case management resource the number of funded positions at each VA medical facility catchment area will be limited as follows:

(a) The following VA medical facilities may be funded for up to three, full-time case management positions: VA Greater Los Angeles Healthcare System (station 691); Las Vegas, Nevada (station 593); Coatesville, Pennsylvania (station 542); VA Tennessee Valley Healthcare System, Tennessee (station 626); Orlando, Florida (station 675); Dallas, Texas (station 549); Phoenix, Arizona (station 644); VA Central Western Massachusetts Healthcare System (station 631); Columbia, South Carolina (station 544); Philadelphia, Pennsylvania (station 642); Bay Pines, Florida (station 561); Denver, Colorado (station 554); Jesse Brown VA Medical Center (Chicago), Illinois (station 537); Cleveland, Ohio (station 541); San Diego, California (station 664); Tampa, Florida (station 673); Portland, Oregon (station 648); N. California, California (station 612); VA Maryland Healthcare System, MD (station 512); Charleston, South Carolina (station 534); San Francisco, California (station 662); Detroit, Michigan (station 553); and Honolulu, Hawaii (station 459). VA medical facility catchment area assignment will be determined by the applicant's response in the Project Summary (section D, question 1).

(b) All other VA medical facility catchment areas not identified above, may be funded for up to one full-time case management position.

(c) VA's decisions regarding the number of full-time management positions to be allocated among the catchment areas will be based on factors such as need, geographic dispersion, and availability of funding subject to the upper limits set in paragraph 3.(a) and 3.(b) above.

E. Funding Priorities: VA has established the following funding priorities.

1. Priority 1. VA will place in the first funding priority those applications from operational GPD-funded organizations that have provided a written commitment to give up per diem or special need funding and convert their transitional housing to permanent housing. In order to obtain this priority, organizations must provide documentation showing that their permanent housing meets the housing quality standards established under section 8(o)(8)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)(B)). Applicants wishing to be considered under funding Priority 1 must submit with their application a signed letter on agency letterhead noting that, if selected for funding, the agency withdraws from their currently operational GPD project. This letter of commitment must be provided as an attachment to the case management grant application. Applications will then be ranked within the funding priority.

2. Priority 2. VA will place in the second funding priority those applications from organizations that demonstrate a capability to provide case management services, particularly organizations that are successfully providing transitional housing services using grants provided by VA under 38 U.S.C. 2012 and 2061. Applications will then be ranked within the funding priority.

3. Priority 3. VA will place in the third funding priority those applications from other organizations without a GPD grant that seek to provide time limited case management to formerly homeless Veterans who have exited VA transitional housing or other VA homeless residential treatment services to permanent housing. Applications will then be ranked within the funding priority.

F. Payment: Payments will be in a method that is in accordance with VA and other Federal fiscal requirements. Awardees will be subject to requirements of this NOFA, GPD regulations, 2 CFR part 200, and other Federal grant requirements. A full copy of the regulations governing the GPD Program is available at the GPD website at: *www.va.gov/homeless/gpd.asp.*

III. Application and Submission Information

A. To Obtain a Grant Application: The required documentation for an application submission is outlined below in the Application Documentation Required section of this NOFA. Standard forms, which must be included as part of a complete application package, may be downloaded directly from VA's GPD Program web page at: *www.va.gov/homeless/gpd.asp.* Questions should be referred to the GPD National Program Office at *GPDGrants@va.gov.* For detailed GPD Program information and requirements, see 38 CFR part 61.

B. Content and Form of Application: VA is seeking to focus resources to assist homeless Veterans with housing retention. If your agency is unclear as to how to submit an application, contact the GPD National Program Office for clarification prior to submission of any application to ensure it is submitted in the correct format. Applicants should ensure that they include all required documents in their electronic application submission, carefully follow the format, and provide the information requested and described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected.

IV. Application Documentation Required

A. Standard Forms:

1. Application for Federal Assistance (SF–424);

2. Non-Construction Budget (SF–424A); and

3. Non-Construction Assurances (SF–424B).

B. Eligibility:

1. Nonprofit organizations must provide evidence of private nonprofit status by submitting a copy of their Internal Revenue Service (IRS) ruling demonstrating tax-exempt status under the IRS Code of 1986, as amended.

2. State/local government entities must provide a copy of any comments or recommendations by approved state and (area wide) clearinghouses pursuant to Executive Order 12372.

C. Documentation of being actively registered in the System for Award Management (SAM): All applicants must have an active registration in SAM corresponding to the Data Universal Numbering System number provided on the Application for Federal assistance (SF424). Provide your current Commercial and Government Entity code and SAM expiration date.

D. Project Summary:

1. Oversight and monitoring of case management grants will be provided by the VA medical facility whose catchment area includes the location of the administrative office where the program records for this grant will be maintained. A separate application is required for each VA medical facility catchment area. Provide the name of this VA medical facility.

2. Name and three-digit Continuum of Care number(s) where services will be provided.

3. Number of full-time case management positions requested (subject to the limits described in the Funding Limitations section).

4. Total funding requested for the entire 2-year grant award period. This amount is subject to the limitations described in the Funding Limitations section of this NOFA.

5. Budget narrative—breakdown the Total Funding Requested, in question 4 above, into the allowable cost categories as identified in the Funding Limitations section of this NOFA.

6. Identify the county or counties which will be serviced by the case management staff.

7. Identify the funding priority of this application.

E. Applicant Contact Information:

1. Location of the case manager(s) office where program records will be retained. Include the complete address, city, state, zip code + four-digit extension, county, and congressional district.

2. Location of the administrative office where correspondence can be sent to the Executive Director/President/CEO (no P.O. Boxes). Include complete address, city, state, zip code + four-digit extension, county, and congressional district.

3. Organization Primary Contact: Include the name, title, phone, fax and email address. *Note:* This contact is assigned to the organization, not a specific grant award, and is normally someone who signs grant agreements or makes all executive decisions for the organization. This is most often the CEO, the President, or Executive Director. Grant organizations with multiple awards can only have one Organization Contact.

4. Grant Contact #1: Include the name, title, phone, fax, and email address. *Note:* This contact is specific to this grant application and may be a Program Manager, Director, Case Manager, Grant Administrator, or other position overseeing the GPD grant project.

5. Grant Contact #2: Include the name, title, phone, fax, and email address. *Note:* This contact may be a CFO, financial manager, or other position overseeing the financial responsibilities of the GPD grant project.

6. A complete listing of your agency's officers of the Board of Directors and their address, phone, fax, and email addresses.

F. Project Abstract: In approximately 500 words, provide a brief abstract of the proposed case management project.

G. Detailed Project Description: This is the portion of the application that describes your proposed case management grant. VA Reviewers will focus on how the application addresses the areas of project plan, ability, need, and coordination including how support services will be coordinated in relationship to your selected model. The requirements in this section are consistent with 38 CFR part 61 subpart G (see 38 CFR 61.92).

1. Project Plan (see 38 CFR 61.92(c)):

(a) Project Plan—In approximately 500 words describe the referral and acceptance process for case management services. Including how your agency will outreach to local community HCHV and GPD providers to identify Veterans within your community who would be eligible for these services.

(b) Project Plan—In approximately 500 words, describe how Veterans will be assessed for acuity or need for services. When demand for services is greater than what can be provided by the case manager(s), how will Veterans be prioritized?

(c) Project Plan—In approximately 500 words, describe your case management services.

(d) Project Plan—In approximately 500 words, describe how services for Veterans will be individualized to assist them in retaining their housing.

(e) Project Plan—In approximately 250 words, describe how education will be provided to case management participants, as needed, in the areas of tenant rights and responsibilities, rental/lease agreements, landlord's rights and responsibilities, and budgeting.

(f) Project Plan—In approximately 250 words, describe the minimum frequency of contacts with Veterans and the method(s) of contact (*e.g.* home visits, phone contact).

(g) Project Plan—In approximately 250 words, describe the resources that will be provided to the case manager to facilitate engagement with Veterans (*e.g.,* vehicle, cell phone, computer, office space).

(h) Project Plan—In approximately 500 words, describe how crisis intervention will be utilized to coordinate intervention for medical, psychiatric, and substance abuse needs in order to promote the retention of permanent housing.

(i) Project Plan—In approximately 500 words, describe how case management will be phased out over time prior to termination of services (Note, 38 CFR 61.90(c), case management services may be authorized for up to 6 months, unless VA receives and approves a written request for additional time before the 6-month time limit expires). Include discussion as to how your organization will assess Veterans periodically for reduced or increased case management engagement.

(j) Project Plan—In approximately 500 words, describe your organizations' involvement with your communities coordinated entry system and how this project fits into this system.

2. Ability (see 38 CFR 61.92(d)):

(a) Ability—In approximately 500 words, provide information about the proposed case management position(s), including the minimum education, training, skills, and prior work experience requirements. Include the number of hours per week, per case management position requested, that will be dedicated to this grant. If identifying specific licenses or degrees required for the position, list all acceptable credentials.

(b) Ability—In approximately 1,000 words, provide information regarding your organization's previous experience providing community-based case management services, particularly targeted to assisting formerly homeless persons in retaining permanent housing, which includes, but is not limited to, responding to medical, mental health or substance use crises; and working with landlords as part of supportive housing services.

(c) Ability—In approximately 1,000 words, describe any past performance with federal, state, or local grants or contracts, including audits by private or public entities, to provide services to homeless persons.

3. Need: When providing information to support the need for case management services, keep in mind that your discussion should not include Veterans already receiving case management through HUD–VASH or SSVF permanent housing programs (see 38 CFR 61.92(e)).

(a) Need—In approximately 1,000 words, discuss the overall need for these case management services to assist unserved Veterans with housing retention in your community. Provide community level data that supports your assertions regarding need.

(b) Need—In approximately 250 words, discuss how many GPD and HCHV providers (including approved number of operational beds) are currently in your community.

(c) Need—In approximately 500 words, identify the specific GPD and HCHV grantees that your agency intends to accept case management referrals from. Provide the grantee name, type of grant (HCHV or GPD), housing model, number of beds, county, and state for each project.

Example 1: Grantee One; GPD; Low Demand; 20 beds; Hillsborough County, Florida.

Example 2: Grantee Two; HCHV; CRS; 10 beds; Hillsborough County, Florida.

(d) Need—In approximately 500 words, discuss how many formally homeless Veterans your organization anticipates serving using the proposed case management position(s) during the first 12 months of the grant award period. Explain how you determined this number of Veterans.

4. Coordination (see 38 CFR 61.92(g)):

(a) Coordination—In approximately 1,000 words, describe how you have coordinated this proposal with the local VA medical facilities, including how medical care, mental health, substance use care will be coordinated. Letters may be included to demonstrate coordination.

(b) Coordination—In approximately 1,000 words, describe how you have coordinated this proposal with the local HCHV and GPD providers in your community who would potentially be referring Veterans for case management services. Letters may be included to demonstrate coordination.

(c) Coordination—In approximately 500 words, discuss how this project has been coordinated with the local Continuum of Care. Letters may be included to demonstrate coordination.

V. Application Review Information

A. Criteria for Grants: VA will only score applications that meet the threshold requirements described in 38 CFR 61.92. VA will use the rating criteria described in 38 CFR 61.92 to score grant applications. Applications will be awarded priority as described in 38 CFR 61.94. Applications will then be ranked within the funding priority of the applicant based on that score.

B. Tie Score: In the event of a tie score between applications, VA will determine, at its discretion, if both grants should be selected for funding or if the awards will be funded for a lesser amount than requested.

VI. Award Administration Information

A. Award Notice: Although subject to change, the GPD National Program Office expects to announce grant awards in the fourth quarter of FY 2019. The initial announcement will be made via news release which will be posted on VA's National GPD Program website at *www.va.gov/homeless/gpd.asp.* Following the initial announcement, the GPD Office will send notification letters to the grant recipients. Applicants who are not selected will be sent a declination letter within 2 weeks of the initial announcement.

B. Administrative and National Policy: VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless Veterans and outcomes associated with the services provided under this GPD Program.

C. Reporting: Grantees should be aware of the following:

1. Upon execution of a case management grant agreement with VA, grantees will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless Veterans in the program.

2. Each funded program will participate in VA's national program monitoring and evaluation as these procedures will be used to determine successful outcomes for each grant.

3. VA will complete regular monitoring evaluations of each grantee to include, at a minimum, a quarterly review of the grantees' performance, helping Veterans maintain housing stability, adequate income support, and self-sufficiency as identified in each case management application. Monitoring may also include a financial review to ensure compliance with program requirements. The grantee will be expected to demonstrate adherence to the grantee's proposed program concept, as described in the grantee' application. All grantees are subject to audits conducted by VA or its representative.

4. Grantees will be assessed based on their ability to meet critical performance measures. In addition to meeting program requirements defined by the regulations and this NOFA, grantees will be assessed on the following:

(a) The percentage of Veterans who received case management services

under the program who were able to retain permanent housing by the end of the program.

(b) The percentage of Veterans who received case management services under the program who were not in permanent housing at the end of the program, disaggregated by housing status and reason for failing to retain permanent housing under the program.

(c) An assessment of the employment status of Veterans who received case management services under the program, including a comparison of the employment status of such Veterans before and after receiving such services.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on March 15, 2019, for publication.

Dated: March 18, 2019.

Luvenia Potts,

Program Specialist, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019–05359 Filed 3–20–19; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 80
Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2018–0775; FRL–9991–04–OAR]

RIN 2060–AU34

Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing regulatory changes to allow gasoline blended with up to 15 percent ethanol to take advantage of the 1-pound per square inch (psi) Reid Vapor Pressure (RVP) waiver that currently applies to E10 during the summer months. EPA is also proposing an interpretive rulemaking which defines gasoline blended with up to 15 percent ethanol as ''substantially similar'' to the fuel used to certify Tier 3 motor vehicles. Finally, EPA is proposing regulatory changes to modify certain elements of the Renewable Fuel Standard (RFS) compliance system, in order to improve functioning of the renewable identification number (RIN) market and prevent market manipulation.

DATES: Comments must be received on or before April 29, 2019. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before April 22, 2019.

Public Hearing. EPA will announce the public hearing date and location for this proposal in a supplemental **Federal Register** document.

ADDRESSES: You may send your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0775, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method) Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4131; email address: *macallister.julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities. Entities potentially affected by this proposed rule include those involved with the production, importation, distribution, marketing, and retailing of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol, biodiesel, renewable diesel, and biogas. Potentially affected categories include:

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially affected entities
Industry	324110	2911	Petroleum refineries.
Industry	325193	2869	Ethyl alcohol manufacturing.
Industry	325199	2869	Other basic organic chemical manufacturing.
Industry	424690	5169	Chemical and allied products merchant wholesalers.
Industry	424710	5171	Petroleum bulk stations and terminals.
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers.
Industry	454319	5989	Gasoline service stations.
Industry	447190	5541	Marine service stations.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. This table lists the types of entities that EPA is now aware could potentially be affected by this proposed action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this proposed action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public Participation. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0775, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Outline of This Preamble

I. Executive Summary

A. Purpose of This Action

The objectives of this action are twofold. First, this rulemaking will take steps intended to create parity in the way the RVP of both E10 and E15 fuels is treated under EPA regulations. Second, this action proposes reforms to RIN regulations intended to increase transparency and deter potential manipulative and other anti-competitive behaviors in the RIN market.

B. Summary of the Major Provisions of This Action

1. E15 RVP

We are proposing to adjust the volatility requirements for E15 during the summer season or the period of May 1 through September 15.[1] [2] The changed volatility requirements for these blends will allow E15 to receive the benefit of the provision at CAA sec. 211(h)(4), commonly referred to as ''the 1-psi waiver.'' The 1-psi waiver allows gasoline-ethanol blends to have a higher RVP [3] than would be allowed under CAA sec. 211(h)(1) and the corresponding volatility regulations, which prohibit the RVP of gasoline from exceeding 9.0 psi during the summer.[4] Currently, only blends of ethanol and gasoline containing at least 9 percent and no more than 10 percent ethanol by volume (E10) are granted the 1-psi waiver.[5]

EPA is proposing several steps to accomplish this change. First, we are proposing to modify our interpretation of CAA sec. 211(h)(4). Second, we are proposing a regulation that would effect two changes: (1) Remove limitations in our regulations that were put in place in keeping with the prior interpretation of CAA sec. 211(h)(4) on the volatility of E15 promulgated in the E15 Misfueling Mitigation Rule (''MMR''); [6] and (2) modify the associated product transfer document (PTD) requirements also promulgated in the MMR. Third, we are proposing to clarify our interpretation of CAA sec. 211(f), making it clear that the conditions on the CAA sec. 211(f)(4) waivers granted to E15 in 2010 and 2011 do not restrict the application of the 1-psi waiver to downstream oxygenate blenders in most circumstances.

As a result of this action, parties would be able to make and distribute E15 made with the same conventional blendstock for oxygenate blending (CBOB) [7] that is used to make E10 by oxygenate blenders during the summer.[8] E15 would then be held to the same gasoline volatility standards that currently apply to E10, maintaining substantially the same level of emissions performance as E10 since E15 made from the same CBOB during the summer would have slightly lower RVP than E10 and would be expected to have similar emissions performance as discussed in Sections II.C and II.E.

As discussed in Section II.C, we are also proposing a ''substantially similar'' (sub sim) interpretative rulemaking for

[1] For purposes of this preamble, E15 refers to gasoline-ethanol blended fuels that contain greater than 10 volume percent and no more than 15 volume percent ethanol content.

[2] CAA sec. 211(h)(1) requires EPA to establish volatility requirements during the high ozone season. To implement these requirements, EPA defines ''high ozone season'' at 40 CFR 80.27 as the period from June 1 to September 15. The regulations at 40 CFR 80.27 also specify that all parties except for retailers must make and distribute gasoline meeting the RVP standards at § 80.27 from May 1 through September 15 and calls this period the ''regulatory control period.'' The E15 partial waivers impose the 9.0 psi RVP limit on E15 from May 1 through September 15. In general practice by industry and for purposes of this preamble, the high ozone season and regulatory control period is referred to as the ''summer'' or ''summer season'' and gasoline produced to be used during the regulatory control period and high ozone season is called ''summer gasoline.'' EPA does not have any volatility requirements on gasoline outside of the summer season.

[3] RVP is a measure of the volatility of gasoline. Gasoline must have volatility in the proper range to prevent driveability, performance, and emissions problems. Too low and the gasoline will not ignite properly; too high and the vehicle may experience vapor lock. Importantly for this proposal, excessively high volatility also leads to increased evaporative emissions from the vehicle. Vehicle evaporative emission control systems are designed and certified on gasoline with a volatility of 9.0 psi RVP. Higher volatility gasoline may overwhelm the vehicle's evaporative control system, leading to a condition described as ''breakthrough'' of the cannister and mostly uncontrolled evaporative emissions.

[4] In a few areas, specified at 40 CFR 80.27, the RVP standard is 7.8 psi. In these areas, after application of the 1-psi waiver, gasoline-ethanol blended fuels covered by the 1-psi waiver could have an RVP of up to 8.8 psi.

[5] This applies only to conventional gasoline. E10 reformulated gasoline does not receive the 1-psi waiver under CAA sec. 211(h)(4), and neither would E15 reformulated gasoline as a result of this proposed action. Reformulated blendstock for oxygenate blending would continue to need to meet a lower RVP level to allow for the subsequent addition of ethanol.

[6] See 76 FR 44406 (July 25, 2011).

[7] CBOB is the base gasoline made specifically for blending with 10 percent ethanol in conventional gasoline areas of the country.

[8] EPA does not have volatility limitations on gasoline outside of the summer season. Therefore, E15 can already be made from the same blendstock used for E10 outside of the summer season. The rest of the year is commonly referred to as the ''winter season'' or ''winter.''

gasoline.[9] We are proposing two alternative sub sim interpretations. We are proposing that E15 with an RVP of 10.0 psi is sub sim to fuel used to certify Tier 3 light duty vehicles (*i.e.,* E10 with an RVP of 9.0 psi). We are also proposing and seeking comment on an alternative interpretation that E15 with an RVP of 9.0 psi is sub sim to fuel used to certify Tier 3 light duty vehicles. Either of these sub sim interpretations would enable E15 to be lawfully blended from the same gasoline blendstock (*i.e.,* CBOB) that is used to make E10 during the summer by all fuel manufacturers (in addition to oxygenate blenders who would be able to do so without a new sub sim interpretative rulemaking).

2. RIN Market Reform

EPA takes claims of RIN market manipulation seriously and although we have yet to see data-based evidence of such behavior, the potential for manipulation is a concern. Accordingly, we are proposing the four reforms outlined in President Trump's October 11, 2018 statement [10] and are requesting comments on additional steps we can take to identify and prevent RIN market manipulation. Specifically, we are proposing and seeking comment on the following RIN market reforms outlined by the President, as well as some additional items identified by EPA:

- Requiring public disclosure when RIN holdings held by an individual actor exceed specified limits.
- Requiring the retirement of RINs for the purpose of compliance be made in real time.
- Prohibiting entities other than obligated parties from purchasing separated RINs.
- Limiting the length of time a non-obligated party can hold RINs.

For the first reform, we are proposing to set two RIN holding thresholds that would work in tandem to prevent potential accumulation of market power. These thresholds would apply to holdings of separated D6 RINs only.[11] The first threshold would be triggered if a party's end-of-day separated D6 RIN holdings exceeded three percent of the total implied conventional biofuel volume requirement. An obligated party that triggered the first threshold would then apply a second threshold by comparing its end-of-day separated D6 RIN holdings with 130 percent of its individual implied conventional renewable volume obligation (RVO). We are proposing that parties make daily calculations and make a yes/no certification statement to EPA in a quarterly report and that we would publish on our website the names of any parties that reported exceeding the thresholds. We seek comment on whether exceeding the thresholds should be considered a prohibited act. We are also proposing that the RIN holdings of corporate affiliates be included in a party's calculations to determine if they trigger a threshold.

For the second reform, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year, calculated by an obligated party as its gasoline and diesel production and import volume through the end of the quarter multiplied by the current year renewable fuel standard. We propose to discount the requirement to 80 percent of the calculated volume to provide necessary flexibility. Obligated parties would submit reports to EPA 60 days after the end of the quarter to demonstrate compliance with these requirements and could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance, including the two-year RIN life, the annual deficit carryover, or the 20 percent carryover provisions. We propose that an obligated party that fell short of its quarterly RIN retirement requirement in the current year would not be able to incur a deficit in its next year annual RVO.

For the third reform, we are proposing that only obligated parties, exporters, and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed restriction if they were a corporate or contractual affiliate to an obligated party. This would include blenders who could demonstrate that they had contracts to deliver separated RINs to an obligated party for the purpose of compliance. Non-obligated parties that need to replace invalid RINs would also be exempt from this proposed provision.

For the fourth reform, we are proposing a limit on the duration that a non-obligated party could hold separated D6 RINs. Specifically, we are proposing that a non-obligated party would be required to sell or retire as many RINs as it obtained in a quarter. We are proposing that parties would make a yes/no certification statement to EPA about its compliance with this limit in a quarterly report and that auditors would confirm this statement in the annual attest engagement.

Lastly, we outline our consideration of taking additional steps beyond those listed in the President's directive to enhance our market monitoring capabilities. We propose that auditors would include in their attest engagements to EPA a full list of a party's affiliates, including affiliates not registered with the RFS program. To improve our abilities to analyze and publish RIN price data, we propose that parties would follow certain conventions when reporting RIN prices to EPA and that they would report whether the RIN transaction was on the spot market or as the result of a term contract. We also explain that we plan to update business rules in EMTS to require that both parties in a RIN transaction enter the same RIN price. Finally, we discuss the possibility of employing a third-party market monitor to conduct analysis of the RIN market, including screening for potential anti-competitive behavior.

II. Extension of the 1-psi Waiver to E15

In this action, we are proposing to adjust the volatility requirements for E15 during the summer season based on a revised interpretation of CAA sec. 211(h)(4). The changed volatility requirements for these blends will allow E15 to receive the benefit of the 1-psi waiver. The 1-psi waiver, at CAA sec. 211(h)(4), allows gasoline-ethanol blends to have a higher RVP than would be allowed under CAA sec. 211(h)(1) and the corresponding volatility regulations that prohibit the RVP of gasoline from exceeding 9.0 psi during the summer. Currently, EPA regulations only grant the 1-psi waiver to blends of ethanol and gasoline containing at least 9 percent and no more than 10 percent ethanol by volume. The proposed interpretation in this action is in response to the increased presence of E15 in the gasoline marketplace, and the conditions that led us to provide the original 1-psi waiver for E10 in 1990 are equally applicable to E15 today.

The volatility of E15 is also limited by CAA sec. 211(f). CAA sec. 211(f) prohibits the introduction into commerce of fuels and fuel additives unless they are substantially similar to fuels utilized in the certification of motor vehicles, or receive a waiver from the sub sim requirement in accordance

[9] EPA last issued an interpretative rulemaking for what it considers sub sim for gasoline in 2008. See 73 FR 22281 (April 25, 2008).

[10] See: *https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-expanding-waivers-e15-increasing-transparency-rin-market.*

[11] RINs specify a ''D-code'' corresponding to the renewable fuel category applicable to the fuel, as determined by the feedstock used, fuel type produced and GHG emissions of the fuel, among other characteristics. There are five different D-Codes for RINs in the RFS program. D3 RINs are cellulosic biofuel RINs. D4 RINs are biomass-based diesel (including both biodiesel and renewable diesel) RINs. D5 RINs are advanced biofuel RINs. D6 RINs are conventional biofuel RINs (primarily corn ethanol). D7 RINs are cellulosic diesel RINs which meet the requirements for both cellulosic biofuel and biomass-based diesel.

with CAA sec. 211(f)(4). E15 currently has a sub sim waiver, and the waiver conditions put in place for E15 set the maximum RVP level at 9.0 psi. In order to allow E15 to receive the 1-psi waiver under CAA sec. 211(h)(4) and introduce E15 at the higher RVP level into commerce, we must address the statutory provisions under both CAA sec. 211(f) and (h).

EPA is proposing several steps to accomplish this change. First, we are proposing to modify our interpretation of CAA sec. 211(h)(4). Under this new interpretation, ethanol blends containing at least 10 percent ethanol would receive the 1-psi waiver, including E15. To effectuate this change, we are proposing the following changes to EPA's fuels regulations: (1) Remove limitations in our regulations that were put in place in keeping with the prior interpretation of CAA sec. 211(h)(4) on the volatility of E15 promulgated in 40 CFR 80.27 and the MMR (*i.e.,* 40 CFR part 80, subpart N); and (2) modify the associated PTD requirements promulgated in the MMR.

After application of the CAA sec. 211(h)(4) waiver, we must then ensure that E15 with an RVP of 10 psi can be introduced into commerce. Therefore, as a second step, in order to allow the introduction into commerce of E15 at 10.0 RVP in the summer under CAA sec. 211(f), we are co-proposing two potential mechanisms. The first mechanism clarifies our interpretation of CAA sec. 211(f), making it clear that the conditions on the CAA sec. 211(f)(4) waivers granted to E15 in 2010 and 2011 do not restrict the application of the CAA sec. 211(h)(4) 1-psi waiver to downstream oxygenate blenders, as explained in more detail later in this notice. We are co-proposing a second mechanism that would find that E15 is substantially similar to the E10 fuel utilized to certify Tier 3 light-duty vehicles, thus allowing E15 similar treatment to E10 with respect to RVP.

The following subsections provide further details on how we will accomplish this change, as well as impacts on emissions and the economy.

A. Background

1. Background of E10 and E15 CAA Sec. 211(f)(4) Waivers

CAA sec. 211(f)(1) makes it unlawful for any manufacturer of any fuel or fuel additive (''fuel or fuel additive manufacturer'') to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year (MY) 1974, which is not substantially similar (commonly referred to as ''sub sim'') to any fuel or fuel additive used in the certification of any MY1975, or subsequent model year, vehicle or engine under CAA sec. 206. Fuels that are not sub sim to a fuel used in certification cannot be introduced into commerce unless EPA has granted a waiver under CAA sec. 211(f)(4). CAA sec. 211(f)(4) provides that upon application of any fuel or fuel additive manufacturer, the Administrator may waive the prohibitions of CAA sec. 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive, or a specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards to which it has been certified pursuant to CAA sec. 206 and 213(a).

In 1978, a waiver application was submitted for gasoline containing ethanol at 10 percent by volume (E10). EPA did not act to grant or deny the petition for a waiver for E10, and consequently, under the statutory scheme as it existed at that time, the waiver was deemed granted by operation of law.[12] Thus, E10 was granted a waiver under CAA sec. 211(f)(4) without any conditions, in contrast to prior CAA sec. 211(f)(4) waivers, which included, for example, conditions on RVP.[13]

For E15, EPA granted partial waivers under CAA sec. 211(f)(4) in 2010 and 2011.[14] Specifically, on October 13, 2010, EPA approved a partial waiver request to allow the introduction of E15 into commerce for use in MY2007 and newer light-duty motor vehicles subject to certain waiver conditions.[15] Subsequently, on January 21, 2011, EPA extended this partial waiver to include MY2001–2006 light-duty motor vehicles after receiving and analyzing additional U.S. Department of Energy (''DOE'') test data and finding that E15 will not cause or contribute to a failure to achieve compliance with the emissions standards to which these vehicles were certified over their useful lives.[16] EPA also denied the waiver request for MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and nonroad engines, vehicles, and equipment. This denial was based on EPA's engineering judgement that E15 could adversely affect the emissions and emissions controls of vehicles, engines, and equipment not covered by the partial waivers and that the applicants had not provided sufficient data or other information to demonstrate that E15 would not cause or contribute to a failure to achieve compliance with the emissions standards to which these vehicles, engines, and equipment were certified over their full useful lives, as required by CAA sec. 211(f)(4).

In the October 2010 waiver, for MY2007 and newer motor vehicles, EPA also concluded that the data and information show that E15 will not lead to violations of evaporative emissions standards, so long as the fuel does not exceed an RVP of 9.0 psi in the summer.[17] Subsequently, in the January 2011 waiver, EPA imposed identical waiver conditions for MY2001–2006 motor vehicles, including the requirement that the fuel not exceed an RVP of 9.0 psi in the summer, based on the same conclusion.[18]

Taken together, these partial waivers permitted E15 to be used in MY2001 and newer light-duty motor vehicles subject to particular waiver conditions, including fuel quality conditions and conditions on the sale and use of E15. These waiver conditions included the prohibition on the use of E15 in pre-MY2001 motor vehicles, in addition to heavy-duty gasoline engines or vehicles, or motorcycles, as well as any nonroad engines or nonroad vehicles. The waiver conditions also placed limitations on the ethanol that can be added (both the concentration and quality),[19] as well as a condition that the RVP of the final fuel not exceed 9.0 psi.[20] The waiver conditions also require fuel and fuel additive manufacturers to submit a misfueling mitigation plan describing all reasonable precautions for ensuring E15 is only used in MY2001 and newer motor vehicles, as described in the

[12] See 44 FR 20777 (April 6, 1979).

[13] See *e.g.,* ''Fuels and Fuel Additives; Waiver Application,'' Octamix Waiver, 53 FR 3636 (February 8, 1988).

[14] See 75 FR 68094 (November 4, 2010) and 76 FR 4662 (January 26, 2011), respectively.

[15] See 75 FR 68094 (November 4, 2010).

[16] See 76 FR 4662 (January 26, 2011).

[17] See 75 FR 68149–68150 (November 4, 2010).

[18] See 76 FR 4682–4683 (January 26, 2011).

[19] For example, the ethanol used to make E15 must meet ASTM D4806–10 specifications for ethanol quality. See ASTM D4806–10, ''Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,'' ASTM International, West Conshohocken, PA, 2010.

[20] This RVP limit is identical to the limitation under CAA sec. 211(h)(1) of 9.0 psi RVP during the high ozone season. The high ozone season was defined by the Administrator via regulation to mean the period from June 1 to September 15 of any calendar year.

waiver conditions.[21] EPA is not proposing to revise the E15 partial waivers under CAA sec. 211(f)(4), and is therefore not soliciting comments on the waiver itself or any of its conditions.

To help facilitate the implementation of the waiver conditions and place requirements on parties other than fuel and fuel additive manufacturers, EPA promulgated the E15 Misfueling Mitigation Rule (MMR) in 2011, under CAA sec. 211(c), subsequent to the E15 partial waiver decisions.[22] The E15 MMR imposed fuel dispenser labeling, PTD, and compliance survey requirements on parties that make and distribute E15. The E15 MMR also promulgated EPA's interpretation of the applicability of the 1-psi waiver in CAA sec. 211(h)(4) to E15 and certain regulations designed to effectuate that interpretation.[23] In this action, EPA is proposing to revise the interpretation of CAA sec. 211(h)(4) articulated in the MMR and the regulations adopted to implement that interpretation.

2. Background on CAA Sec. 211(h)

To properly understand this proposed action, it is important to review the history of EPA's volatility controls both leading up to and after the enactment of CAA sec. 211(h). Congress enacted CAA sec. 211(h) as part of the CAA Amendments of 1990 to address the volatility of gasoline. Congress did so in the context of EPA's prior regulatory actions, under CAA sec. 211(c), which aimed to control the RVP of gasoline. EPA has historically viewed Congress's enactment of 211(h), therefore, as a codification of EPA's regulatory actions with regard to RVP up to that point.[24] Accordingly, CAA sec. 211(h)(1) prohibits the sale of gasoline with an RVP in excess of 9.0 psi during the high ozone season while CAA sec. 211(h)(2) allows EPA to promulgate more stringent RVP requirements for nonattainment areas. CAA sec. 211(h)(4) further provides a 1.0 psi RVP allowance for ''fuel blends containing gasoline and 10 percent'' ethanol and recognizes the existence of the CAA sec. 211(f)(4) waiver for E10—the only ethanol blend which had received such a waiver at that time—in the ''deemed to comply'' provisions contained in CAA sec. 211(h)(4)(A–C).

a. Pre-Enactment Volatility Regulations

In 1987, prior to the 1990 CAA amendments, EPA for the first time proposed limitations on the volatility of gasoline under CAA sec. 211(c), which provides EPA with general authority to regulate fuels and fuel additives. These limitations on gasoline volatility were put into place to address evaporative emissions from gasoline-fueled vehicles due to their contribution to ozone formation. The volatility of gasoline had begun rising significantly in the years preceding EPA's action, due to vehicle design becoming more tolerant of higher RVP through fuel injected engines, as well as strong economic incentive to add butane [25] to fuel due to favorable blending economics.[26] This lead to very high evaporative volatile organic compound (VOC) emissions from the in-use fleet of gasoline vehicles. EPA believed that matching the volatility of certification fuel to the volatility of in-use fuel would reduce evaporative emissions, and would help ensure vehicle were designed to handle in-use conditions. In particular, limiting the volatility of gasoline to 9.0 psi RVP, which is the level in the E0 gasoline on which vehicles were certified under CAA sec. 206 at that time, would reduce emissions from all gasoline-related sources, and enable additional VOC emission reductions.[27]

At the time of the 1987 proposal, some parties had begun the practice of adding ethanol to gasoline after the refinery process has been completed to make what was then known as ''gasohol.'' [28] This practice was known as ''splash blending'' ethanol into gasoline and generally took place at downstream terminals. At the time, gasohol also had a tax credit because Congress intended to encourage the use of ethanol as a means of reducing dependence on foreign oil and making use of excess agricultural production.[29] Adding 10 percent ethanol to gasoline, however, causes roughly a 1.0 psi RVP increase in the blend's volatility.[30] At the time, due to the limited amount of ethanol blended into gasoline, almost no low-RVP gasoline was available into which 10 percent ethanol could be splash-blended without the gasoline-ethanol blended fuel exceeding the proposed RVP limit. Unlike E15, because gasohol was given a CAA sec. 211(f)(4) waiver by operation of law, no volatility controls had previously been placed on it. Thus, even though the CAA sec. 211(f)(4) waiver allowed E10 to be lawfully introduced into commerce, the lowered RVP standards had the potential to shut down the nascent ethanol blending industry.

To address this potential hurdle to continued ethanol blending, EPA proposed interim regulations for gasohol that allowed it to be 1.0 psi RVP higher than otherwise required for gasoline.[31] This is referred to as the 1-psi waiver.[32] As a result, 10 percent ethanol could be blended at downstream terminals into the gasoline that refineries had already produced. The agency, therefore, designed the 1-psi waiver as a means of accommodating the CAA sec. 211(f)(4) waiver that was then applicable to E10 and to address public policy concerns, such as reducing dependence on foreign oil and making use of excess agricultural production, as referenced above. The Agency proposed that the 1-psi waiver be conditioned on sampling and testing the final blend of gasoline and ethanol for RVP by all regulated parties, including downstream blenders, that elected to use the waiver.[33]

In 1989, EPA finalized regulations that imposed limits on the volatility of gasoline and ethanol blends as ''Phase I'' of a two-phase regulation under CAA sec. 211(c), which is EPA's general authority to regulate fuels and fuel additives. EPA's regulation established a maximum RVP limit of 10.5 psi for gasoline sold during the high ozone season.[34] In that action, EPA also provided a RVP allowance ''for gasoline-ethanol blends commonly known as gasohol'' that was 1.0 psi higher than for gasoline.[35] This was finalized as an interim measure with the intent to revisit the issue in ''Phase II'' of the volatility regulations.[36]

EPA's final regulations in that action provided that in order to receive the 1-psi waiver, ''gasoline must contain at least 9% ethanol (by volume),'' and that ''the ethanol content of gasoline shall be determined by use of one of the testing methodologies specified in Appendix F to this part.'' The regulations also provided that ''the maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under

[21] See 76 FR 4662, 4582 (January 26, 2011).

[22] See 76 FR 44406 (July 25, 2011).

[23] As discussed further in the following section, in promulgating regulations following the enactment of CAA sec. 211(h)(4), EPA interpreted 211(h)(4) to apply to gasoline ethanol blends containing about 10 percent ethanol. See 56 FR 64708 (December 12, 1991).

[24] See 76 FR 44433 (July 25, 2011).

[25] Butane, in this context, refers to a high-volatility, relatively inexpensive gasoline blendstock that gasoline refiners typically add to or remove from gasoline to control RVP.

[26] 52 FR 31279 (August 19, 1987).

[27] See 52 FR 31274 at 31278–31287 (August 19, 1987).

[28] 52 FR 31292 (August 19, 1987).

[29] Id.

[30] Id.

[31] See 52 FR 31274, 31316 (August 19, 1987).

[32] See 52 FR 31316 (August 19, 1987).

[33] See 52 FR 31274, proposed 40 CFR 80.27(d)(1) (August 19, 1987). See also 54 FR 11872–73 (March 22, 1989), where we declined to finalize this approach.

[34] See 54 FR 11879 (March 22, 1989).

[35] Id.

[36] Id.

section 211(f)(4) of the Clean Air Act.'' [37]

In that action, EPA did not place limits on the upper bound of the ethanol content, other than by providing, as quoted above, that the ethanol content shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4) (and thereby implicitly incorporating any upper-bound limit imposed as a condition on any future applicable waiver). At the time, the highest permissible ethanol content under a CAA sec. 211(f)(4) waiver was 10 percent ethanol, and thus, this provision could only apply to blends containing 9–10 percent ethanol. In other words, EPA designed the 1-psi waiver to allow for the continued lawful introduction into commerce of E10 and, the Phase I RVP regulatory language would have automatically accommodated future increases in allowable ethanol concentration in gasoline under a CAA sec. 211(f)(4) waiver.

In June 1990, in ''Phase II'' of the volatility regulations, EPA established a maximum RVP limit of 9.0 psi. The regulations also established an RVP limit of 7.8 psi for gasoline sold during the high ozone season in both ozone attainment and nonattainment areas in the southern states of the country. EPA further maintained the 1 psi RVP allowance for blends of 10 percent ethanol and gasoline and did not modify the regulations at 40 CFR 80.27(d).[38] Thus, both the language stating that the gasoline must contain at least 9 percent ethanol, and the language stating that the maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4), remained in the regulations.[39] In doing so the agency reiterated that this was in recognition of the importance of ethanol to the nation's energy security as well as the agricultural economy sector. The agency also addressed air quality impacts of allowing the 1-psi waiver given that a higher RVP limit for blends of 10 percent ethanol and gasoline would result in increased evaporative VOC emissions. It ''reflects the moderation in EPA's concern about negative air quality impact as well as a reluctance to threaten the motor fuel ethanol production and blending industries with collapse.'' [40]

b. Enactment of CAA Sec. 211(h)

In November 1990, Congress enacted the CAA Amendments of 1990, including CAA sec. 211(h), which provided the first statutory provisions specifically addressing RVP. CAA sec. 211(h)(1) required EPA ''to promulgate regulations making it unlawful . . . during the high ozone season to sell . . . or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch.'' Further in CAA sec. 211(h)(4), Congress, following EPA's lead in the 1989 and 1990 volatility regulations, also allowed fuel blends containing gasoline and 10 percent ethanol to have 1 psi higher RVP than the RVP standard otherwise established in CAA sec. 211(h)(1). CAA sec. 211(h)(4) provides the following:

> (4) **Ethanol waiver.** For fuel blends containing gasoline and 10 percent denatured anhydrous ethanol, the Reid vapor pressure limitation under this subsection shall be one pound per square inch (psi) greater than the applicable Reid vapor pressure limitations established under paragraph (1).

According to legislative history, ''[t]his provision was included in recognition that gasoline and ethanol are mixed after the refining process has been completed. It was recognized that to require ethanol to meet a nine pound RVP would require the creation of a production and distribution network for sub-nine pound RVP gasoline. The cost of producing and distributing type of fuel would be prohibitive to the petroleum industry and would likely result in the termination of the availability of ethanol in the marketplace.'' [41] EPA has interpreted CAA sec. 211(h) as largely a codification of our prior RVP regulations.[42] Relevant legislative history also indicates that Congress based the 1.0 psi waiver on technical data showing that blending gasoline with 9–10 percent ethanol would result in an approximate 1 psi RVP increase for the final gasoline-ethanol blend. Hearing testimony provides that ''[t]he certainty of physical chemistry provides the assurance the addition of 10 percent ethanol to the base gasoline will not exceed 1.0 psi RVP. . . . [A]nd the Clean Air Act itself which prohibits addition of more than 10 percent ethanol, alleviates any concern that the addition of ethanol to gasoline will result in different volatility levels than already recognized by EPA as adding less than 1.0 psi RVP to gasoline.'' [43]

Further, Congress also enacted a conditional defense against liability for violations of the RVP level allowed under the 1-psi waiver by stating:

> [p]rovided; however, that a distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder if it can demonstrate that—(A) The gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection; (B) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section; and (C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of this blend. CAA sec. 211(h)(4).

This is referred to as the ''deemed to comply'' provision, or the alternative compliance mechanism for the 1-psi waiver. It is considered a statutorily mandated defense that allows regulated parties such as downstream oxygenate blenders to demonstrate compliance with the relaxed RVP standard instead of complying with the testing provisions in 40 CFR 80.27(d)(2) (1987). It also reflects Congressional response to EPA's proposed compliance testing provisions for the 1-psi waiver in the 1987 proposed rulemaking, which they viewed as complicated and burdensome; ''the enforcement strategy recently proposed by the Agency . . . would be totally unworkable for those motor vehicle fuels which are a blend of gasoline and ethanol and which are allowed a higher RVP limit under the reported bill.'' [44]

c. Implementation of CAA Sec. 211(h)(4)

Subsequent to Congress's enactment of CAA sec. 211(h)(4), EPA modified these regulations to more explicitly align with the new statutory provisions, but ''did not propos[e] any change to the current requirement that the blend contain between 9 and 10 percent ethanol (by volume) to obtain the one psi allowance.'' [45] However, EPA did modify its regulations at 40 CFR 80.27 to clarify that ''gasoline must contain denatured, anhydrous ethanol,'' and that ''[t]he concentration of the ethanol, excluding the required denaturing

[37] 54 FR 11872–73 (March 22, 1989) (codified at 40 CFR 80.27(d)).

[38] See 55 FR 23658, 23660 (June 11, 1990).

[39] Id.

[40] ''While some believe the industry should not exist . . . [o]ther agencies and Congress will continue to address related agricultural, trade and energy issues which have led to federal support for the existence of the gasohol industry.'' 55 FR 23666 (June 11, 1990).

[41] S. Rep. No. 101–228, at 110 (1989) (Conf. Rep.); reprinted at 5 Leg. Hist. at 8450 (1993).

[42] See 76 FR 44433 (July 25, 2011).

[43] Clean Air Act Amendments: Hearings on H.R. 2521, H.R. 3054 and H.R. 3196 Before the Subcommittee on Health and the Environment of the Committee On Energy and Commerce, 100th Cong. 1st Sess. (1987) at 366 (statement of Eric Vaughn, President and CEO of renewable Fuels Association).

[44] S. Rep. No. 100–231, 100th Cong. 1st Sess. at 149 (1987).

[45] See 56 FR 64708 (December 12, 1991).

agent, must be at least 9% and no more than 10% (by volume) of the gasoline'' (where, as quoted above, the previous version of the regulations provided that gasoline ''must contain at least 9% ethanol'' to qualify for the 1-psi RVP waiver). We read both the statutory 1-psi waiver provision and the ''deemed to comply'' provision in CAA sec. 211(h)(4) together to limit the volume concentration of ethanol to between 9 and 10 percent, as only blends of gasoline and up to 10 percent ethanol had a waiver under CAA sec. 211(f)(4) at the time EPA promulgated the RVP requirements.[46] We further stated that ''this is consistent with Congressional intent [because] the nature of the blending process . . . further complicates a requirement that the ethanol portion of the blend be exactly 10 percent ethanol.'' [47] For these reasons, the 1-psi waiver reflected Congressional recognition of the existing CAA sec. 211(f)(4) waiver for E10; Congress intended that the 1-psi waiver from the 9.0 psi RVP requirement in CAA sec. 211(h)(1) would allow for E10's continued lawful introduction into commerce.[48]

In issuing implementing regulations at 40 CFR 80.28(g)(8) related to the ''deemed to comply'' provision in CAA sec. 211(h)(4), EPA allowed parties to demonstrate a defense against liability by making the showings provided in CAA sec. 211(h)(4), stating that ''EPA believes this defense is limited to ethanol blends which meet the minimum 9 percent requirement in the regulations and the maximum 10 percent requirement in the waivers under section 211(f)(4).'' [49] In doing so, EPA explicitly specified its applicability to E10. (''The ethanol portion of the blend does not exceed 10 percent (by volume)'' as compared to CAA sec. 211(h)(4), which merely references the CAA sec. 211(f)(4) waiver. (''[T]he ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section'')). We also stated that the deemed to comply provision was a ''new defense against liability for violation of the ethanol blend RVP requirement [and that] EPA believes that this statutorily mandated defense is in addition to and does not supersede any of the defenses currently contained in the regulations.'' [50] We further explained that the provision would allow ''a party to demonstrate the elements of the new defense by production of a certification from the facility from which the gasoline is received.'' [51] EPA also issued regulations for additional defenses against liability at 40 CFR 80.28(g)(1–7).

d. Enactment of CAA sec. 211(h)(5)

As part of the Energy Policy Act of 2005 (''EPAct''), Public Law 109–58 (2005), Congress added CAA sec. 211(h)(5), which provides:

> Upon notification, accompanied by supporting documentation, from the Governor of a State that the RVP limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the RVP limitation established by paragraph (4), the RVP limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol [sold] in the area during the high ozone season.

EPA also read this provision as consistent with the statutory scheme of CAA sec. 211(h) to apply to blends of gasoline and 9–10 percent ethanol produced by downstream oxygenate blenders. At the time CAA sec. 211(h)(4) and 211(h)(5) were enacted, the language ''the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4)'' could only refer to an ethanol portion of up to 10 percent, because only blends of gasoline and up to 10 percent ethanol had received a waiver under CAA sec. 211(f)(4).

B. Proposed Interpretation of CAA Sec. 211(h)(4)

In this action, we are proposing to interpret CAA sec. 211(h)(4) recognizing the changed gasoline marketplace since the Agency last issued implementing RVP regulations in 1990, in a manner that is consistent with the text of the provision, its context within CAA sec. 211(h), and Congressional intent. The presence of E15 in the marketplace has increased since EPA interpreted CAA sec. 211(h)(4) in the MMR from zero retail stations to over 1,300 retail stations.[52] In addition to granting partial waivers for E15, we have also promulgated the Tier 3 Motor Vehicle Emissions and Fuel Standards Rule, which changed the ethanol content of the vehicle certification test fuel from ''indolene'' (gasoline without any added ethanol at 9.0 psi RVP), to E10 at 9.0 psi RVP for the certification of all Tier 3 light-duty and chassis-certified heavy-duty gasoline vehicles.[53] This change reflected the near complete transition of the in-use gasoline supply to E10 in the years following the passage of EPAct and the Energy Independence and Security Act (''EISA'') and the implementation of the Renewable Fuel Standard program at CAA sec. 211(o).[54] E15 has now entered the marketplace, but the current limitation of the applicability of the 1-psi waiver to only E10 is one of several hurdles to the continued entry of E15 into the marketplace.[55] The same market limitation that prompted EPA to provide the 1-psi waiver for E10 in 1989 currently exists for E15. Namely, in much of the U.S., there is very little low-RVP CBOB being produced and made available into which 15 percent ethanol could be blended while still meeting the 9.0 psi RVP standard for gasoline during the high ozone season.[56] As a result, parties that might otherwise consider making and distributing E15 may choose not to, given the difficulty in obtaining CBOB that when blended to produce E15 would meet the 9.0 psi RVP during the summer. If we extend the 1-psi waiver, 15 percent ethanol could be blended using the same CBOBs currently being distributed for use with 10 percent ethanol, year-round.[57] Today's proposal, therefore, is a response to changed circumstances since the Agency's promulgation of RVP regulations in 1990, which pre-dates EPAct in 2005 and EISA in 2007. Further, because blending 15 volume percent ethanol into gasoline would result in an approximate 1.0 psi RVP increase, similar to E10, the resultant RVP for any gasoline-ethanol blended fuel would be no higher than the RVP standard plus the 1-psi waiver, which is currently 10.0 psi for a gasoline-ethanol blended fuel containing 10 percent ethanol.[58] This proposed interpretation is consistent with the plain language of CAA sec. 211(h) and with Congress' intent to promote ethanol blending into

[46] Id.

[47] Id.

[48] Id.

[49] Id. and 40 CFR 80.28(g).

[50] 56 FR 64708.

[51] Id.

[52] See ''Availability of E15 Keeps Growing,'' available at: *https://growthenergy.org/2018/02/28/availability-e15-keeps-growing.*

[53] See 79 FR 23414 (April 28, 2014).

[54] ''Energy Independence and Security Act,'' P.L. 110–140 (2007).

[55] See,*e.g.,* Prime the Pump: Driving Ethanol Gallons, available at: *https://growthenergy.org/wp-content/uploads/2019/01/MDEV-19022-PTP-Overview-2019-01-25.pdf.*

[56] Some parties have access to low RVP blendstocks created for low-RVP areas, however these blendstocks are not widely distributed in all areas. For a list of state low-RVP areas, see EPA's ''State Fuels'' website available at: *https://www.epa.gov/gasoline-standards/state-fuels.*

[57] In reformulated gasoline areas (approximately one-third of gasoline nationwide) and certain other areas that do not provide a 1-psi waiver for E10, E15 can already be blended using the same blendstocks used for E10.

[58] As discussed further in Section II.B.3.b, this is true for E15 made from blends of certified gasoline or BOB and ethanol. This volatility relationship is not maintained when other products (*e.g.,* natural gas liquids) are blended to make E15.

gasoline, and is not expected to cause significant increases in emissions as compared to E10 as discussed in Section II.E.

1. Proposed Interpretation

In the MMR, we interpreted CAA sec. 211(h)(4) as providing a 1-psi waiver for fuel blends of gasoline and at least 9 volume percent ethanol and not more than 10 volume percent ethanol. As previously explained, this interpretation was premised on a reading of regulations and statutory provisions that reflected the highest available ethanol content in the gasoline marketplace at the time of the 1990 amendments. Due to changes in the gasoline marketplace, including the increased presence of gasoline ethanol blends of up to 15 percent ethanol, we propose to construe CAA sec. 211(h)(4) as specifying the minimum ethanol content that fuel blends containing ethanol and gasoline must contain in order to qualify for the 1-psi waiver. We are proposing a new interpretation of this statutory provision under which the 1-psi waiver would apply to gasoline containing at least 10 percent ethanol. In conjunction with CAA sec. 211(f), this would then allow the 1-psi waiver for any ethanol blend that has received a CAA sec. 211(f)(4) waiver, which at present are blends up to 15 percent ethanol, based on EPA's prior issuance of partial waivers under CAA sec. 211(f)(4) for E15.

It is well settled that EPA has inherent authority to reconsider, revise, or repeal past decisions to the extent permitted by law so long as we provide a reasoned explanation. This authority exists in part because EPA's interpretations of the statutes we administer ''are not carved in stone.'' [59] An agency ''must consider varying interpretations and the wisdom of its policy on a continuing basis.'' [60] This is true when, as is the case here, review is undertaken ''in response to changed factual circumstances or a change in administration.'' [61] EPA must also be cognizant where we are changing a prior position that the revised position is permissible under the statute and must articulate a reasoned basis for the change.[62] This proposal reflects changed circumstances that have arisen since we issued the partial waivers for E15 in 2010 and 2011.

The term ''containing'' as used in CAA sec. 211(h)(4) in the phrase ''fuel blends containing gasoline and 10 percent denatured anhydrous ethanol'' is ambiguous. We interpret this language as establishing a lower limit, or floor, on the minimum ethanol content for a 1-psi waiver from the volatility requirements expressed in CAA sec. 211(h)(1), rather than an upper limit on the ethanol content. We can look to the use of the term ''containing'' in its ordinary sense. ''Containing'' is defined as ''to have within: hold.'' [63] Under this interpretation, the statute sets the minimum ethanol content, such that all fuels which contain at least 10 percent ethanol may receive the 1-psi waiver, including blends that contain more than 10 percent ethanol.[64] Therefore, E15, which has within it 10 percent denatured anhydrous ethanol, meets this definition, and should receive the 1-psi waiver specified in CAA sec. 211(h)(4).[65]

We also acknowledge that Congress can legislate and thus could have used terms that connote a minimum ethanol content, such as the language employed in CAA sec. 211(m)(2) (''not less than 2.7 percent'').[66] But Congress also used terms connoting a maximum ethanol content, such as in CAA sec. 211(k)(3) (''shall not exceed 1.0 percent'').[67] Even more specifically, in CAA sec. 211(h)(1) Congress instructed EPA to promulgate regulations prohibiting the introduction into commerce of ''gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch.'' Therefore, when Congress intended to impose an upper limit on the content of a particular compound or property of gasoline, it did so. In contrast, in CAA sec. 211(h)(4), Congress provided a higher RVP limit for ''fuel blends containing gasoline and ten percent ethanol.'' This provision lacks terms modifying the term ''containing,'' in contrast to the other statutory provisions referenced above, supporting our finding that this term is ambiguous. It is therefore permissible, where Congress has used only the ambiguous term ''containing'' in CAA sec. 211(h)(4), to interpret ''containing'' to mean ''containing at least.''

Implementing regulations under both CAA sec. 211(c) prior to the enactment of CAA sec. 211(h) and under CAA sec. 211(h) have reflected the highest permissible ethanol content at the time EPA's RVP regulations were issued, which was 10 percent ethanol under a CAA sec. 211(f)(4) waiver. We stated that the 1-psi waiver is ''for blends of gasoline with about 10 percent ethanol, or gasohol'' [68] and in regulations, codified the conditions, providing that ''[t]he maximum ethanol content . . . in gasoline shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4) waiver.'' [69] Additionally, EPA statements on the imprecise nature of ethanol-gasoline blending also support the view that neither Congress nor EPA intended to limit ethanol content for the 1-psi waiver. ''The nature of the blending process . . . complicates a requirement that the ethanol portion of the blend be exactly 10 percent ethanol.'' [70]

We further note that in the legislative history, Congress employed the term ''at least'' 10 percent ethanol when discussing the 1-psi waiver, which suggests this provision is a floor for ethanol content in gasoline. For example, section 216 of the House bill provided in part that ''[a] manufacturer or processor of gasoline containing at least 10 percent ethanol shall be deemed in full compliance.'' [71]

[59] *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 863 (1984).

[60] Id. at 863–64.

[61] *Nat'l Cable & Telecomms. Ass'n* v. *Brand X internet Servs.,* 545 U.S. 967, 981 (2005). See also *Nat'l Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1043 (change in administration is a ''perfectly reasonable basis'' for an agency's reappraisal of its regulations and programs).

[62] *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515.

[63] Webster's Third New International Dictionary 491 (unabridged ed. 1981).

[64] We are not changing our definition of the term 10 percent, which includes as little as 9 percent, to continue to provide the necessary blending flexibility for E10 blends. In promulgating regulations implementing CAA sec. 211(h)(4), we stated that requiring exactly 10 percent ethanol ''would place a next to impossible burden on ethanol blenders,'' and that ''[t]he nature of the blending process itself . . . further complicates a requirement that the ethanol portion of the blend be exactly 10 percent ethanol.'' See 56 FR 24245 (May 29, 1991).

[65] CAA sec. 211(h)(5) also contains the language ''fuel blends containing gasoline and ten percent denatured anhydrous ethanol.'' Our changed interpretation of CAA sec. 211(h)(4) also has implications for CAA sec. 211(h)(5), which allows states to opt out of the 1-psi wavier provided by CAA sec. 211(h)(4) for particular areas upon a showing that the 1-psi waiver will increase emissions that contribute to air pollution. Because the language in CAA sec. 211(h)(5) pertaining to the 1-psi waiver is identical to the language in CAA sec. 211(h)(4), and both refer to the 1-psi waiver, we believe that both sections should be read together to apply the 1-psi waiver to E10 and E15. Accordingly, we interpret CAA sec. 211(h)(5) to allow states to opt out of the 1-psi waiver provided by CAA sec. 211(h)(4) for fuel blends containing gasoline and 9–15 percent denatured anhydrous ethanol.

[66] See, *e.g.,* CAA sec. 211(m)(2) (''gasoline is to be blended to contain not less than 2.7 percent oxygen by weight'' during the wintertime carbon monoxide season).

[67] See, *e.g.,* CAA sec. 211(k)(3)(A)(1) and (ii) (''The benzene content of reformulated gasoline shall not exceed 1.0 per cent by volume;'' ''The aromatics hydrocarbon content of the reformulated gasoline shall not exceed 25 percent by volume.'')

[68] 55 FR 23660 (June 11, 1990).

[69] 55 FR 23660 (June 11, 1990) and 40 CFR 80.27(d)(2) (1987).

[70] 56 FR 24245 (May 29, 1991).

[71] Clean Air Act Amendments, H.R. 3030 (101st Congress, 1990). See also H.R. Rep. No. 101–490, at 71 (1990) (Conf. Rep.); reprinted at 2 Leg. Hist. at 3095 (1993).

The Senate Report published along with the enactment of the 1990 CAA Amendments and CAA sec. 211(h)(4) also describes both the purpose of including CAA sec. 211(h)(4), and general language about ethanol use in the fuel supply. The report states that the 1-psi waiver was:

> included in recognition that gasoline and ethanol are mixed after the refining process has been completed. It was recognized that to require ethanol to meet a 9 pound RVP would require the creation of a production and distribution network for sub-nine pound RVP gasoline. The cost of producing and distributing this type of fuel would be prohibitive to the petroleum industry and would likely result in the termination of the availability of ethanol in the marketplace. Under this provision, the RVP limitations promulgated pursuant to this subsection for such ethanol/gasoline blends shall be one pound per square inch greater than the applicable Reid vapor pressure which apply to gasoline. Senate Report 101–228, at 3495.

Finally, the Senate report states that the 1-psi waiver would ''allow ethanol blending to continue to be a viable alternative fuel, with its beneficial environmental, economic, agricultural, energy security and foreign policy implications.'' [72] While this legislative history does not speak to the meaning of the word ''containing,'' it does articulate congressional intent in enacting the provision, recognizing the role for ethanol in the marketplace. This report and other relevant legislative history do not explicitly address whether CAA sec. 211(h)(4) is intended to apply to blends with greater than 10 percent ethanol, but all the reasons it gives for extending the 1-psi waiver to gasoline ethanol blends up to 10 percent ethanol now would similarly weigh in favor of interpreting the 1-psi waiver to apply to E15, given that Congressional action in CAA sec. 211(h) was largely a ratification of agency regulations for RVP that were initiated beginning in 1987, under CAA sec. 211(c).

Congress designed the 1-psi waiver ''deemed to comply'' language of CAA sec. 211(h)(4) to adjust to gasoline-ethanol blends with more than 10 volume percent ethanol if allowed under separate provisions of the CAA (*i.e.,* in the case where EPA grants a CAA sec. 211(f)(4) waiver that allows for greater than 10 volume percent ethanol in gasoline). In other words, the blended fuel is ''deemed to comply'' not because it is E10, but because it is a gasoline-ethanol blended fuel that has received a CAA sec. 211(f)(4) waiver. The Senate Report described the ''deemed to comply'' provision as an ''alternative enforcement arrangement'' that had the benefit of simplifying compliance demonstrations due to the inconsistency between the production of gasoline batches, measured in millions of gallons, to ethanol blending at the terminal in batches on the order of thousands of gallons. The ''deemed to comply'' provision further supports the interpretation that the 1-psi waiver under CAA sec. 211(h)(4) can apply to gasoline with ethanol content greater than 10 percent. The ''deemed to comply'' provision lays out the compliance mechanisms for regulated parties, but also contemplates ethanol blends beyond E10, the only gasoline-ethanol blended fuel with a CAA sec. 211(f)(4) waiver at the time of enactment, because EPA's waiver authority under that provision is not limited to gasoline containing any particular range of volume percent ethanol. CAA sec. 211(h)(4)(B) provides that the ''deemed to comply provision'' will apply upon a demonstration that, among other things, ''the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4).'' We read this phrase to apply to only the waiver condition specifying the ethanol content of the fuel. Pursuant to the E15 waivers issued in 2010 and 2011, a fuel that includes 15 percent ethanol contains an ethanol portion that does not exceed the 211(f)(4) waiver condition. As previously shown, if Congress had wanted to limit the application of the (h)(4) waiver to E10, it could have done so, but it did not. Instead, Congress contemplated that ethanol content may increase in the future, that parties would likely apply for an 211(f)(4) waiver for those higher blends, that the 211(h)(4) waiver would apply to these fuels, and that the 211(h)(4) ''deemed to comply'' provision would also apply.

Therefore, CAA sec. 211(h)(4) can be read as specifying the minimum ethanol content for ethanol-gasoline blends for purposes of the 1-psi waiver while the deemed to comply provision can be construed as a defense against liability for any ethanol blend that has received a CAA sec. 211(f)(4) waiver, which at present includes E15. As previously explained, the ''deemed to comply'' provision that was enacted at the inception of the RVP program to address industry practices at the time, reflects the highest permissible ethanol content at that time because of the waiver under CAA sec. 211(f)(4). CAA sec. 211(h)(4)(B) (''the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section.'') It is a statutorily mandated defense that is in addition to other defenses codified at 40 CFR 80.28(g)(1) through (7). It is not and has never been the sole enforcement mechanism for the 1-psi waiver. These other equally effective provisions would be applicable to gasoline-ethanol blended fuels containing 15 percent ethanol and our extending the 1-psi waiver to such blends should have no effect on the enforcement of RVP standards. Regulated parties could also continue to avail themselves of this provision, if necessary. Moreover, considerations that animated this provision, are now largely attenuated considering changes in the refinery process. Today, ethanol blending is done almost completely through in-line blending ethanol into CBOB specially made for blending with ethanol as compared to the nascent days where it was splash blended after completion of the refining process.

Our primary consideration has been to balance the goals of limiting gasoline volatility and ensure that the addition of ethanol does not cause the exceedance of the maximum RVP standard, while also promoting the use of ethanol consistent with the purpose of CAA sec. 211(h)(4). As previously explained, blending gasoline with at least 10 percent ethanol results in an approximate 1.0 psi RVP increase. It does not result in ''different volatility levels than already recognized by EPA as adding less than 1.0 psi RVP to gasoline.'' [73] Similarly, we also expect that E15 produced from the same BOB as E10 would have a similar (if not slightly lower) RVP than E10 and thus, would not exceed the current 10.0 psi RVP limit.[74] Therefore, we are fairly confident that relative evaporative emissions effects for E15 would largely be similar or slightly less than those for E10, as discussed in Section II.E.

In sum, the primary consideration underlying the 1-psi waiver is to limit gasoline volatility while promoting the use of ethanol due to its importance to energy security and the agricultural sector. Today's proposed interpretation, if finalized, will continue to further these policy concerns given that agency action will now afford similar treatment to all ethanol-gasoline blends.

2. Regulatory Amendments

This proposal includes technical amendments that would effectuate our

[72] See S. Rep. No. 101–228 at 110 (1989).

[73] Clean Air Act Amendments: Hearings on H.R. 2521, H.R. 3054 and H.R. 3196 Before the Subcommittee on Health and the House Committee on Environment and Committee On Energy and Commerce, 100th Cong. 1st Sess. (1987) (statement of Eric Vaughn, President and CEO of renewable Fuels Association).

[74] ''Determination of the Potential Property Ranges of Mid-Level Ethanol Blends.'' American Petroleum Institute, Washington, DC. April 2010.

proposed interpretation to allow the 1-psi waiver for E15 during the summer under CAA sec. 211(h)(4). First, we are proposing to modify or remove volatility controls associated with our prior interpretation of CAA sec. 211(h)(4). These controls, found in 40 CFR 80.27, place limitations on the RVP of gasoline-ethanol blends at specific concentrations. Given that the primary effect of our proposed interpretation of CAA sec. 211(h)(4) would expand the ''special treatment for gasoline-ethanol blends'' to fuel blends containing 9–15 percent ethanol, we are proposing to modify the controls extending the 1-psi waiver from gasoline containing 9–10 percent ethanol to gasoline containing 9–15 percent ethanol at 40 CFR 80.27 and related defense provisions in 40 CFR 80.28.

Second, we are proposing to remove or modify provisions in the MMR that were imposed to effectuate the prior 1-psi waiver interpretation under CAA sec. 211(h)(4). Subsequent to the grant of the CAA sec. 211(f)(4) partial waivers for E15, we adopted regulations under CAA sec. 211(c) to ensure that E15 would not be used in certain vehicles and engines for which the waivers did not apply. To do so, in addition to the conditions on the waivers that applied to fuel manufacturers, we promulgated regulations to ensure that those same conditions were enforceable on downstream parties. No changes were made to the RVP regulations at 40 CFR 80.27 as a direct result of our interpretation under CAA sec. 211(h)(4) that the 1-psi waiver did not extend to gasoline-ethanol blends with an ethanol concentration greater than 10 percent. Additional regulations were put in place including regulations currently found in 40 CFR 80.1504(f) and (g) (placing prohibitions on the commingling of E10 and E15), and 40 CFR 80.1503 (placing PTD requirements on E15). These regulations were put in place in order to ensure that the RVP of E15 did not exceed 9.0 psi in accordance with our interpretation of CAA sec. 211(h)(4) at the time. However, since our proposed interpretation of CAA sec. 211(h)(4) increases the RVP allowance to 10.0 psi, these provisions are no longer necessary. Additionally, because the RVP of E15 will be approximately the same as E10 if produced from the same blendstock, we do not anticipate emissions impacts from this equal treatment. Given that we are proposing to interpret CAA sec. 211(h)(4) to extend to gasoline-ethanol blends of up to 15 percent ethanol, the prohibition on the commingling of E15 and E10 is no longer necessary.

Finally, we are proposing to remove the PTD requirements related to the 1-psi waiver at 40 CFR 80.1503. In 40 CFR part 80, subpart N, we included PTD language designed to help ensure that E15 that did not receive the 1-psi waiver would be segregated from E10 that did receive the 1-psi waiver. Since we are proposing to allow the 1-psi waiver for E15, we no longer need these PTD requirements. However, parties that produce and distribute gasoline-ethanol blended fuels would still be required to identify ethanol concentrations on PTDs as specified in 40 CFR 80.27 and 40 CFR 80.1503.

All other E15 misfueling mitigation provisions in 40 CFR part 80, subpart N, would remain unchanged. In the MMR, we promulgated regulations under CAA sec. 211(c)(1), which prohibit the use of E15 in MY2000 and older motor vehicles, nonroad vehicles, engines, and equipment (including motorcycles, and heavy-duty motor vehicles). CAA sec. 211(c)(1) gives EPA authority to ''control or prohibit the manufacture, introduction into commerce, offering for sale, or sale'' of any fuel or fuel additive (A) whose emission products, in the judgment of the Administrator, cause or contribute to air pollution ''which may be reasonably anticipated to endanger public health or welfare'' or (B) whose emission products ''will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use'' were the fuel control or prohibition adopted. We promulgated the MMR based on our assessment that E15 would significantly impair the emission control systems used in MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and all nonroad products. This led to our conclusion that under CAA sec. 211(c)(1)(A), E15 use in these particular vehicles, engines, and non-road products would likely result in increased VOC, carbon monoxide (CO), and nitrogen oxide (NO_X) emissions.[75] The proposed regulatory changes to 40 CFR part 80, subparts B and N in this proposed rulemaking are solely related to our proposed interpretation to allow the 1-psi waiver for E15 under CAA sec. 211(h)(4). This proposed action would not change the basis of our CAA sec. 211(c)(1)(A) and (B) finding in the MMR that prohibits E15 from use in MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and all nonroad products. This action also does not propose to modify the misfueling mitigation measures promulgated in the MMR, but, as discussed in Section II.D.3, we seek comment on the need for additional E15 misfueling measures.

[75] 76 FR 44422 (July 25, 2011).

3. Effects on Regulated Parties

This section discusses distinctions between the obligations that apply to certain parties in the fuel production, blending, and retail chain, and how this proposed action would affect (or would not affect) those parties. Specifically, we discuss how the proposed CAA sec. 211(h)(4) interpretation under which the 1-psi waiver would extend to E15 would affect fuel manufacturers (*e.g.,* refiners and importers of gasoline), downstream oxygenate blenders, and retailers that make E15 at a blender pump.

a. E15 Made by Refiners, Importers, and Downstream Oxygenate Blenders

In this action, we are maintaining all of the CAA sec. 211(f)(4) waiver conditions for E15 as they currently apply to fuel and fuel additive manufacturers.[76] CAA sec. 211(f)(1) operates as a prohibition against the introduction into commerce of fuels and fuel additives by manufacturers of fuels and fuel additives, and CAA sec. 211(f)(4) provides a mechanism to waive that prohibition if certain criteria are met. Therefore, fuel and fuel additive manufacturers are subject to any conditions that apply to a CAA sec. 211(f)(4) waiver. Under this approach, fuel and fuel additive manufacturers would still need to produce E15 that meets the 9.0 psi RVP requirement of the waiver condition, while downstream parties are not similarly bound. EPA's fuel and fuel additive registrations (FFARs) regulations at 40 CFR 79.2(d) define which parties are fuel manufacturers and makes clear that parties that only blend oxygenates at allowable levels under CAA sec. 211(f) are excluded from the definition of fuel manufacturers. We are, however, neither reopening 40 CFR 79.2(d), nor soliciting comments on this provision. We will therefore treat any comments we receive on this topic as beyond the scope of this rulemaking.

We are not changing our interpretation of the way the CAA controls fuels and the way our regulations regulate fuels in any way other than providing the 1-psi waiver to

[76] We note, however, that under the new substantially similar interpretive rulemaking proposed in Section II.C, such that it includes E15, such waiver conditions would no longer apply to fuel and fuel additive manufacturers.

gasoline containing greater than 10 volume percent ethanol as a consequence of interpreting the 1-psi RVP waiver to apply to E15. The 1-psi waiver applies to all parties that blend and distribute gasoline-ethanol blends containing at least 10 percent ethanol unless specifically restricted under another portion of the CAA, in this case CAA sec. 211(f) through the 9.0 psi RVP limit on E15 from May 1 through September 15 as a condition of its CAA sec. 211(f)(4) partial waivers. The 1-psi RVP waiver under CAA sec. 211(h)(4) is thus available to downstream oxygenate blenders who produce E15 and to downstream parties who distribute and sell E15, but the 1-psi waiver is not available to fuel or fuel additive manufacturers since fuel and fuel additive manufacturers must comply with the high ozone season 9.0 psi RVP E15 waiver condition.

This is in accordance with how the fuel marketplace currently functions with regard to E10. Refiners and importers currently produce or import gasoline (or conventional blendstock for oxygenate blending (CBOB)), which can then be blended with ethanol downstream. It is not until that ethanol is blended into the gasoline or CBOB that parties are able to receive the benefits of the 1-psi waiver (*i.e.,* an RVP volatility limit of 10.0 psi). Therefore, a refiner's or importer's gasoline or CBOB must always meet a 9.0 psi RVP limitation prior to the addition of ethanol.[77] However, because the CAA sec. 211(f)(4) waiver for E10 was granted by operation of law, and thus did not contain a waiver condition limiting the RVP to 10.0 psi, in contrast to E15, refiners and importers can take advantage of the 1-psi waiver for E10. It should be noted, however, that if another part of the CAA or EPA regulation precludes the 1-psi waiver, for example, reformulated gasoline (RFG) required under CAA sec. 211(k) or a low-RVP fuel program established in a state implementation plan, parties cannot take advantage of the 1-psi waiver for E10 or E15.[78] In such circumstances, however, the same CBOBs already supplied for E10 blending can already be used for E15 blending, so the 1-psi waiver is not at issue.

The 1-psi waiver for E15 would function the same way, although if a refiner or importer were to choose to blend E15, including but not limited to blending at a co-located terminal or at a terminal downstream of a refinery operated by the refiner or importer, they would not be able to use the 1-psi waiver because the exclusion from the definition of a ''fuel manufacturer'' only includes a party ''(other than a fuel refiner or importer).'' [79] This means that refiners and importers who blend E15 would still need to comply with the waiver conditions under CAA sec. 211(f)(4).

This interpretation of CAA sec. 211(f)(4) is consistent with our past treatment of CAA sec. 211(f)(1) and (f)(4)'s applicability to only fuel and fuel additive manufacturers, and is further supported by our actions in the MMR, which imposed regulatory requirements that are similar to the E15 CAA sec. 211(f)(4) waiver conditions on downstream parties, to whom the waiver conditions do not reach.[80] The MMR was enacted ''to mitigate misfueling with E15 that lawfully has been introduced into commerce under the terms of the waiver[s]. The waiver conditions, and implementation of the waiver conditions, address a closely related but different issue—when, how and by whom E15 can be introduced into commerce under the partial waiver decisions. This rule only addresses the issue of mitigating misfueling in the event E15 is lawfully introduced into commerce under the partial waivers, and is issued under EPA's authority under section 211(c).'' [81]

As discussed above, CAA sec. 211(f) imposes limitations on fuel and fuel additive manufacturers. All fuel and fuel additive manufacturers must meet the statutory requirements of CAA sec. 211(f)(1) or the waiver conditions imposed under a CAA sec. 211(f)(4) waiver. As previously explained fuel manufacturers are defined in our regulations at 40 CFR 79.2. This definition explicitly excludes parties ''(other than a fuel refiner or importer) who add[] an oxygenate compound to fuel in any otherwise allowable amount.'' These excluded parties may also be considered ''oxygenate blenders'' under our regulations in 40 CFR part 80.[82] An ''oxygenate blender'' is defined as ''any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.'' [83] An ''oxygenate blending facility'' is defined as ''any facility (including a truck) at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives.'' [84]

While our proposed interpretation of CAA sec. 211(h)(4) would allow for gasoline-ethanol blends that contain at least 10 volume percent ethanol to receive the 1-psi waiver, CAA sec. 211(f) and our 40 CFR parts 79 and 80 fuels regulations continue to limit the amount of ethanol allowed to be blended into gasoline, and also the gasoline ethanol blends that can receive the 1-psi waiver. The definition of ''fuel manufacturer'' also places a limitation on the ethanol content of the fuel. Only parties who ''add[] an oxygenate compound to fuel in any otherwise allowable amount'' are excluded from the definition of fuel manufacturer.[85] This provision only allows the addition of oxygenate compounds up to the amount of any CAA sec. 211(f)(4) waiver, or any allowable oxygen content under our interpretation of the meaning of ''substantially similar.'' A party who unlawfully adds an oxygenate compound in a volume that exceeds the oxygen content limit in the interpretative definition of ''substantially similar'' or the CAA sec. 211(f)(4) waiver condition, or who adds anything other than an oxygenate compound allowed by the substantially similar interpretative rule, is a fuel manufacturer, and does not receive the 1-psi waiver for fuels containing at least 10 percent ethanol.

The result is that any party who is not a refiner or importer that produces E15 from only certified gasoline (including CBOB) and denatured fuel ethanol would be entitled to the 1-psi waiver just as is the case currently when such parties produce E10. This could occur at

[77] In fact, as discussed above, downstream parties can only be deemed in compliance under CAA sec. 211(h)(4)(A) if the gasoline or CBOB met the applicable RVP standard prior to the addition of the ethanol.

[78] During the pre-proposal development process, we received a document related to whether allowing E15 the 1-psi waiver would result in states being preempted under CAA sec. 211(c)(4). Please see ''RVP Preemption Memorandum'' in the docket at EPA–HQ–OAR–2018–0775 for this document.

[79] If a separate party operated a terminal co-located with a refinery and the party was excluded from the definition of fuel manufacturers under 40 CFR 79.2(d)(2), the party that operated the co-located terminal would be not be subject to the E15 waiver conditions. As previously noted, we are neither reopening this provision for comments nor soliciting comments on it and any comments on it we receive will be treated as beyond the scope of this rulemaking.

[80] See 76 FR 44421 (July 25, 2011) (enacting E15 MMR provisions ''to ensure that E15 being sold at retail stations was in compliance with the RVP condition of the E15 waiver and that an E10 fuel that used the 1.0 psi RVP waiver under CAA sec. 211(h) was not commingled with E15, which must have a lower RVP in the summertime'').

[81] See 76 FR 44440 (July 25, 2011).

[82] 40 CFR 80.2.

[83] Id.

[84] Id.

[85] 40 CFR 79.2(d).

a downstream terminal where ethanol is added along with gasoline to a tank truck for delivery to a retail station. This could also occur at retail stations that blend E15 onsite using blender pumps that utilize either gasoline and denatured fuel ethanol as blendstocks onsite, or that use gasoline (either E0 or E10) and E85 [86] as blendstocks onsite so long as that E85 had itself been produced solely from denatured fuel ethanol and certified gasoline (or CBOB).

b. E15 Made at Blender Pumps

For the reasons described in this section, a retail station that blends E15 using E85 that contains hydrocarbons not certified as gasoline or blendstock for oxygenate blending (BOB) (*e.g.,* the natural gas liquids that are often used at ethanol plants to denature ethanol and make E85) would not be entitled to the 1-psi waiver.

First, parties that produce E15 via a blender pump using E85 made with ethanol and natural gas liquids (*i.e.,* an uncertified gasoline blendstock) are fuel manufacturers under our existing 40 CFR part 79 regulations (covering registration of fuels and additives), and as such are subject to the 9.0 psi RVP condition under the existing E15 CAA sec. 211(f)(4) waivers. Any party that blends an uncertified gasoline blendstock into gasoline is a fuel manufacturer under our 40 CFR part 79 regulations because they are altering the chemical composition of a fuel. Regardless of our proposed interpretation of CAA sec. 211(h)(4), then, any such parties that produce E15 are still subject to the 9.0 psi RVP standard. E15 made at blender pumps may only receive the proposed extension of the 1-psi waiver in instances where an oxygenate blender blends certified gasoline (or CBOB) with E85 made from ethanol and certified gasoline (or CBOB).

Second, such parties are also gasoline refiners under our existing 40 CFR part 80 regulations because they blend uncertified gasoline blendstocks into gasoline.[87] Under our regulations in 40 CFR part 80 (covering implementation of our fuels control programs), any party that blends uncertified blendstocks into gasoline is a gasoline refiner and must meet all requirements applicable to gasoline refiners under 40 CFR part 80. These requirements include, but are not limited to, sampling and testing each batch of gasoline for conformance to EPA's fuel standards, demonstrating compliance with annual average sulfur and benzene standards, registering as a gasoline refiner under 40 CFR part 80, submitting periodic and annual compliance reports, and arranging for an annual audit by an independent auditor. These requirements were put in place to help ensure that parties downstream of gasoline refineries did not adversely affect fuel quality in ways that damaged vehicle and engine emission controls and helped ensure that the air quality benefits of our fuel quality regulations are met.

Third, under our FFARS regulations in 40 CFR part 79, parties that blend uncertified blendstocks into gasoline are fuel manufacturers and must register their fuels and fuel additives as required under the CAA. In the case where a blender pump produces E15 by blending a certified gasoline (typically E10) with E85 that contains uncertified blendstocks (*e.g.,* natural gas liquids), the operator of the blender pump meets the definitions of both a gasoline refiner under 40 CFR part 80 and a fuel manufacturer under 40 CFR part 79 and must comply with associated requirements.

We proposed to address this situation in the Renewables Enhancement and Growth Support (REGS) rule [88] by proposing provisions that would control the sulfur, benzene, and volatility of E85 used to make E15 via a blender pump, which would allow gasoline made via blender pumps to meet applicable EPA fuel quality standards and lawfully be made.[89] The proposed REGS rule also proposed to remove the FFARS requirements under 40 CFR part 79 for blender pump operators that make gasoline via a blender pump. Since those proposed provisions have not been finalized, the only way for a blender pump operator to lawfully make E15 at a blender pump is to make E15 with certified gasoline and E85 made from ethanol and certified gasoline (or CBOB) or to comply with all requirement applicable to refiners and fuel manufacturers.

Finally, and perhaps most importantly, even if we finalize the proposed REGS rule and allow blender pumps to make gasoline at blender pumps and exempt blender pump operators from complying with the requirements for gasoline refiners and fuel manufacturers, based on information received during the comment period of the proposed REGS rule, it is likely that E15 made at blender pumps with E85 produced from natural gas liquids would often violate the applicable RVP standards even with the 1-psi waiver. Natural gas liquids often have RVP levels well above 10.0 psi. Adding such potentially highly volatile components to E15 (via E85) in significant concentrations would result in a finished E15 with a volatility in excess of 10.0 psi RVP. Therefore, in this proposal, only E15 produced using certified gasoline (or CBOB) and denatured fuel ethanol would be eligible for the 1-psi waiver.

c. Summary and Conclusion

Table II.B.4.c–1 summarizes how we believe the E15 partial waiver conditions imposed via CAA sec. 211(f)(4) and the 1-psi waiver under CAA sec. 211(h)(4) would apply to fuel manufacturers, downstream oxygenate blenders, and retailers that make E15 via a blender pump as a result of our proposed interpretation to allow E15 to receive the 1.0 psi waiver.

TABLE II.B.4.C–1—SUMMARY OF E15 1-psi WAIVER APPLICABILITY BY PARTY

	Can take advantage of the 1-psi waiver?	Subject to E15 waiver conditions?	Could lawfully make/sell E15 at 10 psi in summer?
Fuel Manufacturers	Yes	Yes	No.
Oxygenate Blenders	Yes	No	Yes.

[86] For purposes of this preamble, E85 means a gasoline-ethanol blended fuel that contains at least 50 volume percent ethanol but no more than 83 volume percent ethanol. We use the term E85 as the market has historically and commercially identified such fuels as E85.

[87] The regulations at 40 CFR part 80 allow for parties to blend uncertified gasoline blendstock into previously certified gasoline as long as the party complies with our sampling and testing requirements at 40 CFR 80.65, 80.101, and 80.1640.

[88] See 81 FR 80841 (November 16, 2016).

[89] In the proposed REGS rule, to specifically address the issue of E10, E15, and other gasoline-ethanol blended gasolines (*i.e.,* gasoline containing between 16 and 50 volume percent ethanol or ''E16–50'') produced at a blender pump, we proposed limitations on the use of fuels that a blender pump operator could use to make compliant gasoline. In general, under the proposed REGS rule, blender pump operators would need to use certified gasoline and certified E85 to assure compliance with EPA's gasoline fuel quality standards under 40 CFR part 80. See 81 FR 80847–80848 (November 16, 2016).

TABLE II.B.4.C–1—SUMMARY OF E15 1-psi WAIVER APPLICABILITY BY PARTY—Continued

	Can take advantage of the 1-psi waiver?	Subject to E15 waiver conditions?	Could lawfully make/sell E15 at 10 psi in summer?
Retailers that make E15 with E85 made with gasoline/BOB	Yes	No	Yes.
Retailers that make E15 with E85 made with something other than gasoline/BOB.	Yes	Yes	No.

As mentioned above, under our proposed interpretation, all parties can take advantage of the 1-psi waiver unless they are precluded from doing so by some other requirement. We believe that the E15 waiver condition limiting the RVP of E15 to 9.0 psi during the summer would preclude fuel manufacturers (*i.e.,* refiners and importers) from being able to introduce E15 into commerce under CAA sec. 211(f), but would not preclude downstream oxygenate blenders that were not otherwise fuel manufacturers from blending E15. For retailers that blend E15 using E85 made from denatured fuel ethanol (''DFE'') and certified gasoline (or CBOB) via a blender pump, those parties are acting analogous to downstream oxygenate blenders and could lawfully make E15. For all of the reasons described above, for retailers using E85 made with anything other than DFE and certified gasoline (or CBOB), those parties are acting analogous to fuel manufacturers and could not lawfully make E15.

We seek comment on our proposed interpretation of CAA sec. 211(h)(4) as specifying a minimum ethanol content for fuel blends containing gasoline and ethanol as well as these implementing requirements. Under this construct, only certain regulated parties that produce and distribute E15 would be able to avail themselves of the 1-psi waiver.

C. Proposed Interpretation of ''Substantially Similar'' for Gasoline

This action proposes a new interpretation of ''substantially similar'' which defines which fuels are substantially similar to Tier 3 E10 certification fuel under CAA sec. 211(f)(1), as an alternative to the approach described above which would apply the CAA sec. 211(f)(4) waiver and its associated conditions.[90] Specifically, we are proposing that E15 with an RVP of 10.0 psi is sub sim to fuel used to certify Tier 3 light-duty vehicles (*i.e.,* E10 with an RVP of 9.0 psi). Alternatively, we propse that E15 with an RVP of 9.0 psi is sub sim to fuel used to certify Tier 3 light-duty vehicles. Either of these new interpretations of sub sim would increase the allowable concentration of ethanol blended into gasoline to up to 15-volume-percent because we believe that E15 is sub sim to Tier 3 E10 certification fuel.

E15 would have similar effects on emissions (exhaust and evaporative), materials compatibility, and driveability for light-duty motor vehicles certified using Tier 3 E10 certification fuel.[91] This proposed interpretative rule would, if finalized, make it lawful for refiners and importers (*e.g.,* fuel manufacturers as described in 40 CFR 79.2(d) discussed above) to make and introduce into commerce E15 at 10.0 psi RVP without the use of the E15 partial waivers since we would now interpret E15 as sub sim to Tier 3 E10 certification fuel. We are proposing two alternative interpretations of the sub sim provision for E15. First, we are proposing that E15 at 10 psi RVP is substantially similar to Tier 3 E10 certification fuel at 9 psi RVP. Alternatively, we are proposing that E15 at 9 psi is substantially similar to Tier 3 E10 certification fuel at 9 psi RVP. In conjunction with our interpretation of CAA sec. 211(h)(4) described above, this would allow all fuel manufacturers, not only downstream oxygenate blenders, the ability to lawfully introduce into commerce E15 at 10.0 psi RVP from May 1 through September 15. Prohibitions on the use of E15 in 2000 and older MY light-duty vehicles that currently apply as conditions of the CAA sec. 211(f)(4) waiver and as regulations established under CAA sec. 211(c), as well as the use of E15 in other vehicles, engines, and equipment not covered by the E15 partial waivers, would remain in place, and parties that make and distribute E15 and ethanol for use in producing E15 would still need to satisfy the MMR requirements under 40 CFR part 80, subpart N. This section outlines the background and rationale for our proposed interpretative rulemaking.

1. Statutory Framework

The Air Quality Act of 1967 and the CAA of 1970 established the basic framework for EPA fuels regulation. CAA sec. 211(a) allows EPA to designate fuels and fuel additives for registration. CAA sec. 211(b) sets forth registration requirements for fuels and fuel additives and authorizes EPA to require health and environmental effects testing for the registration of fuels and fuel additives. CAA sec. 211(c) authorizes EPA to regulate or prohibit fuels or additives for use in motor (or nonroad) vehicles or engines if: (A) ''any fuel or fuel additive or any emission product of such fuel or fuel additive causes, or contributes, to air pollution . . . that may reasonably be anticipated to endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system.''

In the CAA Amendments of 1977, Congress established CAA sec. 211(f)(1), which prohibits manufacturers from first introducing into commerce any fuel or fuel additive for general use in light-duty vehicles that is not ''substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle.'' If a fuel or fuel additive is not sub sim, a fuel or fuel additive manufacturer may obtain a waiver under CAA sec. 211(f)(4) if the manufacturer can demonstrate that the new fuel or fuel additive ''will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine, or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards with respect to which it has been certified.'' Together, these CAA sec. 211(f) provisions were designed to prevent fuels and fuel additives from being introduced into commerce that would degrade the emission performance of the existing fleet and protect vehicle manufacturers from their

[90] Tier 3 vehicles must be certified on fuels described at 40 CFR 1065.710(b). For purposes of this preamble, we refer to certification test fuel used in certification testing for Tier 3 motor vehicles that contains 10-volume-percent ethanol as ''Tier 3 E10 certification fuel''.

[91] Auto manufacturers certified some light-duty motor vehicles using E10 certification fuel as early as MY2017 and almost all auto manufacturers must certify their light-duty motor vehicles using E10 certification fuel by MY2020.

vehicles consequently failing emission standards in use.

As discussed above, in the CAA Amendments of 1990, Congress added CAA sec. 211(h) to address the volatility of gasoline, which largely codified EPA's then-new RVP regulations. Accordingly, entirely separate from CAA sec. 211(f), CAA sec. 211(h)(1) prohibits the sale of gasoline with an RVP in excess of 9.0 psi during the high ozone season (while allowing EPA to promulgate more stringent RVP requirements for nonattainment areas), and CAA sec. 211(h)(4) provides a 1.0 psi RVP allowance for ''fuel blends containing gasoline and 10 percent'' ethanol.

2. Certification Fuels

Historically, two fuels are utilized in EPA's emissions standards certification of gasoline-powered vehicles and engines: standardized gasoline with controlled parameters to ensure consistency across vehicle and engine certification used in emissions testing, and commercially available mileage accumulation fuels used to ensure durability in use of exhaust and evaporative emissions controls.[92] Historically the fuel used in emissions testing (''certification test fuel'') contained no oxygenates (*e.g.,* ethanol) and was often referred to by its brand name, ''indolene.''

In the 2014 Tier 3 rulemaking, we updated the certification test fuel for Tier 3 certified motor vehicles and changed the certification test fuel from E0 to E10 to reflect the widespread use of E10 in the marketplace.[93] The requirement to use Tier 3 E10 certification fuel may have applied as early as MY2015 if a manufacturer elected to comply early with the Tier 3 vehicle emissions standards, but the requirement to use E10 in at least some vehicles began with MY2017. Almost all MY2020 and newer vehicles must be certified for emissions testing with Tier 3 E10 certification fuel with some exceptions for small volume vehicle manufacturers, which must use Tier 3 E10 certification fuel by MY2022.

Service accumulation fuel for durability must be representative of commercially-available gasoline[94] and evaporative emissions durability must ''employ gasoline fuel for the entire mileage accumulation period that contains ethanol in, at least, the highest concentration permissible in gasoline under federal law and that is commercially available in any state in the United States.'' [95] Since MY2004, service accumulation fuel used for evaporative system aging must contain the highest concentration of ethanol available in the market. After EPA partially granted the waivers for E15 in 2010 and 2011, we notified manufacturers in early 2012 that new evaporative emission families must be aged on E15 under 40 CFR 86.1824–08(f)(1). We believe that auto manufacturers began evaporative system aging on E15 as early as MY2014.

3. History of Sub Sim Interpretations

EPA has issued four interpretative rules that defined the meaning of ''substantially similar'' for gasoline. These interpretive rules describe the types of unleaded gasoline that are considered substantially similar to the unleaded gasoline utilized in our vehicle and engine certification programs by placing limits on a gasoline's chemical composition and physical properties, including the types and amount of alcohols and ethers (oxygenates) that may be added to gasoline. Fuels that are found to be substantially similar to our certification fuels may be introduced into commerce. Each of our past interpretative rules provided an allowance for oxygenates within the gasoline. We last issued an interpretative rule in 2008 on the phrase ''substantially similar'' for gasoline.[96] The current substantially similar interpretative rule for unleaded gasoline allows oxygen content up to 2.7 percent by weight for certain ethers and alcohols. Despite having changed certification test fuel to include 10 volume percent ethanol, prior to this proposed action, we have not addressed what should be considered substantially similar to Tier 3 E10 certification fuel utilized in Tier 3 light duty vehicle certification.

In defining what qualifies as sub sim to certification fuels, we have listed general physical and chemical characteristics, such as oxygen content, because fuels and fuel additives meeting these general ''sub sim'' characteristics will ''not adversely affect emissions.'' If we were to later find that a fuel or fuel additive that satisfies the physical and chemical sub sim characteristics ''may reasonably be anticipated to endanger public health or welfare'' or ''impair to a significant degree the performance of any emission control device or system,'' either in general or in particular vehicles or circumstances, we have authority to regulate that fuel or fuel additive under CAA sec. 211(c), which provides that we may by regulation place controls or prohibitions on fuels and fuel additives to protect public health or welfare or protect emission control devices or systems.[97] In our past interpretations defining what physical and chemical characteristics are necessary to make a fuel or fuel additive ''sub sim'' to certification test fuel, we have taken three primary factors into account: (1) Emissions, (2) materials compatibility, and (3) drivability.[98]

We initially specified that fuel with oxygen content up to 2.0 weight percent is sub sim to certification test fuel.[99] We later revised the definition to allow oxygen content up to 2.7 weight percent for gasoline containing aliphatic ethers and/or alcohols (excluding methanol), finding, based on data and our experience with CAA sec. 211(f)(4) waiver applications, that such levels would not result in emissions, materials compatibility, or drivability problems compared with certification test fuel.[100] Thus, we have a history of establishing maximum oxygen content as a criterion, in addition to other criteria, for determining whether a fuel or fuel additive is substantially similar to a fuel utilized in certification.

With respect to fuel volatility, our sub sim interpretations have specified that in order to qualify as sub sim to certification test fuel, which has historically had an RVP of 9.0 psi, fuels need only ''meet ASTM standards in general, that is, not necessarily for every geographic location and time of year.'' [101] To qualify as sub sim, gasoline (whether or not containing ethanol) ''must possess, at time of manufacture, all the physical and chemical characteristics of an unleaded gasoline as specified in ASTM D 4814–88 for at least one of the Seasonal and Geographical Volatility Classes specified in the standard.'' [102]

4. Criteria for Determining Whether a Fuel is ''Substantially Similar''

In order to be substantially similar, a fuel or fuel additive must be sub sim to a fuel used in the certification of any vehicle or engine under CAA sec. 206. To make this determination, we have generally considered the effects of a fuel or fuel additive on emissions (exhaust and evaporative), materials compatibility, and driveability for motor

[92] See 46 FR 38582 (July 28, 1981).

[93] See 79 FR 23414 (April 28, 2014).

[94] See 40 CFR 86.113–15(a)(5).

[95] See 40 CFR 86.1824–08(f)(1).

[96] See 73 FR 22281 (April 25, 2008).

[97] See 45 FR 67443 (October 10, 1980).

[98] See 56 FR 5352 (February 11, 1991).

[99] See 45 FR 6743 (October 10, 1980). 2.0 wt% oxygen equates to approximately 5.7 vol% ethanol.

[100] See 56 FR 5352 (February 11, 1991). 2.7 wt% oxygen equates to approximately 7.7 vol% ethanol.

[101] See 46 FR 38585 (July 28, 1981).

[102] See 73 FR 22281 (April 25, 2008).

vehicles and motor vehicle engines certified under CAA sec. 206.[103]

In this proposed CAA sec. 211(f)(1) interpretative rulemaking, we consider whether E15 is substantially similar to Tier 3 E10 certification fuel when used in Tier 3 light-duty vehicles. The scope of that comparison is relatively narrow for two reasons. First, CAA sec. 211(f)(1) only requires a consideration of the potential impacts on light-duty motor vehicles and motor vehicle engines. In this regard, CAA sec. 211(f)(1) is different than what an applicant must demonstrate in a waiver under CAA sec. 211(f)(4) from the restrictions of CAA sec. 211(f)(1). CAA sec. 211(f)(1) is focused on motor vehicles and motor vehicle engines under CAA sec. 206 and applies to a broad class of fuels. A CAA sec. 211(f)(4) waiver, on the other hand, requires that a specific fuel not cause or contribute any vehicle or engine certified under CAA sec. 206 and 213 to exceed emission standards over the useful life of the vehicle or engine. Thus, the scope of vehicles and engines considered to determine whether a fuel is substantially similar under CAA sec. 211(f)(1) is significantly narrower than the scope of vehicles and engines that must be considered by EPA for a waiver to be granted under CAA sec. 211(f)(4).

Second, under CAA sec. 211(f)(1), the sub sim determination need only demonstrate that E15 is sub sim to a fuel used in certification of a 1975 or later MY vehicle or engine, not substantially similar to all certification fuels required and used historically (*e.g.,* E0 for light-duty vehicles and trucks prior to Tier 3) to assess compatibility and emission performance. In this case, the sub sim determination demonstrates that E15 is sub sim to Tier 3 E10 certification fuel.

5. Technical Rationale and Discussion

As discussed above, we have considered whether a fuel has similar effects on emissions, materials compatibility, and driveability when determining whether a fuel is substantially similar to certification fuel. Based on existing data and our engineering judgement, we have concluded that E15, with its additional oxygen content relative to Tier 3 E10 certification fuel, would have effects on emissions, materials compatibility, and drivability substantially similar to E10 in Tier 3 vehicles.

a. Exhaust Emissions

In the 2010 CAA sec. 211(f)(4) partial waiver for E15, we concluded from available data that neither the immediate combustion effects nor the long-term durability impacts of operating on E15 blends would prevent MY2001 and newer light-duty vehicles from complying with their full useful life emission standards.[104] This decision was supported by a large study conducted by DOE that tested 16 high-sales vehicles spanning model years 1999–2007 using ethanol splash blends made from Tier 2 certification gasoline (E0).[105] Analysis of the resulting data shows that the E15 blend produced approximately 5% higher NO_X, 4% higher NMOG, and 4% lower CO compared to E10, though none of these differences was statistically significant. This work did not measure PM emissions, but the expectation at the time was that PM should react to ethanol in a similar way as NMOG emissions.

Since the time of the 2010 waiver decision, additional data have been published on the effects of ethanol blends on Tier 2 vehicles. The EPAct/V2/E–89 study (referred to as ''EPAct study''), jointly conducted by EPA, DOE/National Renewable Energy Laboratory (NREL), and the Coordinating Research Council (CRC) in 2009–2010, looked at the effects of five fuel properties, including ethanol concentration, on emissions from 15 high-sales light-duty vehicles from MY2008. Measurements included PM, a pollutant for which its relationship to fuel properties had previously not been examined in much detail for gasoline vehicles. The size and scope of this study allowed for statistical models to be developed that could be used to correlate the impacts of the five fuel properties, including ethanol concentration, on emissions, enabling projections to be made of the emission impacts of a wide range of fuels, not limited to those tested. Results generally confirmed the NO_X and CO emission impacts described above, while indicating that ethanol's effects on NMOG and PM are more complex and depend on other fuel parameters, such as the fuel's distillation profile and aromatics content.[106] [107] For example, the EPAct study statistical models estimate approximately 2% higher NO_X, 4% lower NMOG, 2% lower CO, and 2% higher PM for E15 compared to the E10 fuels used in the DOE study. If we instead assume an E15 splash blend starting from a typical E10 market fuel, the EPAct study models project 2% higher NO_X, 2% higher NMOG, 2% lower CO, and 4% higher PM. Since these figures represent the output of models whose coefficients survived a process of statistical testing, they are meaningful despite being small. This type of analysis is different from performing a test for significant differences directly on paired emission measurements, as is presented for the other studies discussed below, where measured differences may be statistically insignificant due to the limited scope of the test program and/or the number of variables left uncontrolled.

Two studies published in 2017 and 2018 by CRC, projects E–94–2 and E–94–3, respectively, examined the effects of ethanol and PM Index on PM and other emissions from MY2012–2015 Tier 2 vehicles, all with gasoline direct injected (GDI) engines and several with turbocharging.[108] [109] Results for the overall test fleet of 16 vehicles in E–94–2 showed no statistically significant effect of E10 match blends [110] relative to E0 for total hydrocarbons (THC), NO_X, or CO, while PM increased by 19% for the regular-grade (87 AKI) test fuels. The E–94–3 study tested a four-vehicle subset on four E10 splash blends made from the E0 fuels in E–94–2, and found a PM increase of 21% on average, consistent with the effect found in the larger E94–2 study. Assuming this PM effect is linear over small fuel changes, we would expect around 10% higher PM when moving from E10 to E15. Comparing these results to the EPAct study and DOE study above suggests that later-technology vehicles with direct injection have equal or lower

[103] See, *e.g.,* 56 FR 5354 (February 11, 1991).

[104] See 75 FR 68096 (November 4, 2010).

[105] Knoll, K., West, B., Huff, S., Thomas, J. et al., ''Effects of Mid-Level Ethanol Blends on Conventional Vehicle Emissions,'' SAE Technical Paper 2009–01–2723, 2009.

[106] EPA Office of Transportation and Air Quality. ''EPAct/V2/E–89: Assessing the Effect of Five Gasoline Properties on Exhaust Emissions from Light-Duty Vehicles Certified to Tier 2 Standards: Final Report on Program Design and Data Collection''. EPA–420–R–13–004. April 2013.

[107] Butler, A., Sobotowski, R., Hoffman, G., and Machiele, P., ''Influence of Fuel PM Index and Ethanol Content on Particulate Emissions from Light-Duty Gasoline Vehicles,'' SAE Technical Paper 2015–01–1072, 2015, doi:10.4271/2015–01–1072.

[108] Morgan, Peter; Smith, Ian; Premnath, Vinay; Kroll, Svitlana; Crawford, Robert. ''Evaluation and Investigation of Fuel Effects on Gaseous and Particulate Emissions on SIDI In-Use Vehicles''. SwRI 03.20955. Southwest Research Institute, San Antonio, TX. CRC E–94–2. Coordinating Research Council, Alpharetta, GA. March 2017.

[109] Morgan, Peter; Lobato, Peter; Premnath, Vinay; Kroll, Svitlana; Brunner, Kevin; Crawford, Robert. ''Impacts of Splash-Blending on Particulate Emissions for SIDI Engines''. SwRI 03.20955–1. Southwest Research Institute, San Antonio, TX. CRC E–94–3. Coordinating Research Council, Alpharetta, GA. June 2018.

[110] Matched blended fuels are fuels that have been crafted to control fuel parameters (*e.g.,* distillation parameters and RVP) after the blending of ethanol typically for research and testing purposes. This is contrasted with splash blended fuels, which are not controlled to specifically account for the blending of ethanol.

sensitivity to ethanol blending for gaseous emissions, but may be more sensitive for PM.

Another study published in 2018 by the University of California, Riverside Center for Environmental Research and Technology (''CE–CERT'') looked at the effects of ethanol and aromatics on emissions from five vehicles spanning model years 2016 to 2017, all with GDI engines and certified to either Tier 3 or LEV III standards.[111] The test fuels included E0, E10, and E15 blends that were closely matched on aromatic content (at two levels, 21% and 29% volume) but the mid-point distillation temperature (T40–T50) was uncontrolled, and varied significantly.[112] Results of this study showed no statistically significant difference in NO_X, non-methane hydrocarbons (NMHC), or PM when comparing E15 to E10 blends at either aromatics level.

While there are limited data on Tier 3 vehicles, the results of the Tier 2 and Tier 3 vehicle studies cited above are nevertheless largely consistent with each other given that ethanol blending also affects many other fuel properties, and given that ethanol is blended into gasolines in different ways that affect the collateral property changes differently. This makes it difficult to interpret trends across the body of literature without detailed information on multiple fuel properties. However, since the early 1990s, a number of programs have studied the effects of ethanol on emissions from earlier vintage vehicles, and based on these studies, emissions models have been published, including the Complex Model,[113] Predictive Model,[114] and MOVES simulator,[115] and the results from the more recent studies are also largely consistent with them. Namely, ethanol blending causes slight increases in NO_X emissions and slight decreases for CO emissions. Earlier studies did not evaluate PM emissions from ethanol blending.

While some criteria pollutants would have relative and real increases (NO_X and PM) and others have similar decreases (VOC and CO) on E15 compared to E10, these changes are relatively small. In the E15 partial waivers, we determined that effects of this magnitude were too small to cause or contribute 2001 and newer light-duty vehicles to exceed the vehicles' certified exhaust emissions standards and we expect that this would also be the case for Tier 3 certified vehicles. While CAA sec. 211(f)(1) does not define specific criteria for how to determine whether an ethanol blend is substantially similar to certification test gasoline, we believe that the small changes in exhaust emissions from E15 relative to Tier 3 E10 certification fuel used in Tier 3 certified vehicles are within the scope of what we have determined to be sub sim in our prior sub sim interpretive rulemakings. Therefore, we believe that E15 is sub sim to Tier 3 E10 certification fuel from the perspective of exhaust emissions. However, we seek comment and request any additional information related to the potential effects on the exhaust emissions of E15 compared to Tier 3 E10 certification fuel, particularly in Tier 3 certified vehicles given the limited data currently available.

b. Evaporative Emissions

EPA has set evaporative emission standards for motor vehicles since 1971. During the ensuing years, these evaporative standards have continued to evolve, resulting in additional evaporative emissions reductions. Consideration of whether E15 is substantially similar to Tier 3 E10 certification fuel for evaporative emissions requires consideration of the applicable evaporative emissions standards to which the particular motor vehicles were certified, in this case Tier 3 motor vehicles. There are now six main components to motor vehicle evaporative emissions that are important for our standards: (1) Diurnal (evaporative emissions that come off the fuel system as a motor vehicle heats up during the course of the day); (2) refueling emissions (evaporative emissions that come off the fuel system as the vehicle is refueled); (3) hot soak (evaporative emissions that come off a hot motor vehicle as it cools down after the engine is shut off); (4) running loss (evaporative emissions that come off the fuel system during motor vehicle operation); (5) permeation (evaporative emissions that come through the walls of elastomers in the fuel system and are measured as part of the diurnal test); and (6) unintended leaks due to deterioration/damage that is now largely monitored through onboard diagnostic standards.

For hot soak, permeation, and unintended leak evaporative emissions, we expect that E15 would have a similar effect as Tier 3 E10 certification fuel. In the E15 partial waivers, we stated that we did not expect that E15 would have an effect on hot soak, permeation, and unintended leak evaporative emissions based on a review of the data and on the fact that auto manufacturers have been required to age vehicles on E10 for evaporative emissions durability testing since MY 2004. We are not aware of any information suggesting that Tier 3 vehicles would behave differently since they are aged for evaporative emissions durability on E15 and certified on Tier 3 E10 certification fuel. Furthermore, in our review of the testing of permeation on pre-Tier 3 vehicles (*i.e.,* prior to changes made to address permeation) in the E15 partial waiver decisions, while ethanol was shown to significantly worsen permeation emissions, there was no discernable worsening of the impacts at higher ethanol concentrations.[116] Consequently, we do not anticipate permeation emissions with E15 to be any higher than with E10.

We are proposing two alternative approaches to assessing the evaporative emissions impacts of E15 with regard to the volatility of the fuel. First, we compare E15 at 10.0 psi to Tier 3 E10 certification fuel at 9.0 psi to evaluate differences in evaporative emissions from refueling, diurnal, and running loss emissions sources. Alternatively, we compare E15 at 9.0 psi, the fuel without a 1-psi waiver under CAA sec. 211(h)(4), to Tier 3 E10 certification fuel at 9.0 psi.

Refueling, diurnal, and running loss evaporative emissions increase as fuel volatility increases, with gasoline with an RVP of 10.0 psi producing significantly more vapor for the evaporative emission control system to capture and purge through the engine than gasoline with an RVP of 9.0 psi.[117] However, because we specifically addressed gasoline volatility in our prior 1981, 1991, and 2008 sub sim reinterpretations,[118] we are not proposing to modify our long-standing

[111] Karavalakis, G; Durbin, T; Yang, J; Roth, P., ''Impacts of Aromatics and Ethanol Content on Exhaust Emissions from Gasoline Direct Injection (GDI) Vehicles''. University of California, CE–CERT, April 2018.

[112] The EPAct study found T50 to have a meaningful and statistically significant impact on NMOG, NMHC, NO_X, and PM emissions.

[113] See ''Complex Model Used to Analyze RFG and Anti-dumping Emissions Performance Standards,'' available at *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/complex-model-used-analyze-rfg-and-anti-dumping.*

[114] See ''California Gasoline Predictive Models, and CARBOB Model Development,'' available at *https://www.arb.ca.gov/fuels/gasoline/premodel/pmdevelop.htm.*

[115] See ''Moves and Other Mobile Source Emissions Models,'' available at: *https://www.epa.gov/moves.*

[116] See 75 FR 68115–68120 (November 4, 2010) and 76 FR 4675–4681 (January 26, 2011).

[117] These effects are discussed more in Section II.E.

[118] See 46 FR 38582 (July 28, 1981), 56 FR 5352 (February 11, 1991), and 73 FR 22277 (April 25, 2008), respectively. Historically, we have defined sub sim with regards to volatility as being anything within the general ASTM specifications for volatility for any location and time of year.

approach to controlling volatility in this action, and because there are not refueling, diurnal, or running loss evaporative emission impacts of E15 relative to Tier 3 E10 certification fuel apart from RVP, we do not believe these evaporative emission impacts are relevant to our proposed interpretation of sub sim. Furthermore, our existing regulations promulgated under CAA sec. 211(c) and 211(h) are a sufficient mechanism to control the RVP of gasoline. Since this interpretation primarily responds to the fact that we have now changed Tier 3 certification fuel to include 10 percent ethanol, we do not believe modification of our sub sim interpretation to set a specific RVP level would be appropriate.

Historically, the primary purpose of the requirement under the definition of substantially similar that gasoline must meet a volatility class under the ASTM specification for gasoline was to ensure that the fuel was physically and chemically similar to gasoline as to be used in a gasoline-fueled motor vehicle. For example, in the 1980 sub sim interpretative rulemaking, we allowed gasoline-ethanol blends containing up to 2.0 weight percent oxygen (about 5.5 volume percent ethanol); such fuel would experience a similar 1-psi increase to E10 or E15 if produced using the same base gasoline. Even during 1980, certification fuel used for gasoline-fueled motor vehicles was expected to have an RVP of 9.0 psi.[119] Therefore, we have not generally considered the expected increase in RVP resulting from the addition of RVP when determining whether a fuel is sub sim to gasoline certification fuel.

We determined that such a change was unnecessary and declined to impose such a limitation when we reinterpreted sub sim in 1991 and in 2008. In 1991, we maintained the view that sub sim fuels need only meet general ASTM specifications (*i.e.,* any volatility class in ASTM D 4814–88) for volatility. This was after we promulgated the Phase I and Phase II RVP standards for gasoline under CAA sec. 211(c) and Congress enacted CAA sec. 211(h) in 1990, which, as discussed above, we have interpreted as essentially codifying our regulatory approach to fuel volatility as it existed prior to 1990. In 2008, when we provided flexibility for testing gasoline used only in Alaska to meet sub sim volatility requirements, we chose to maintain the existing volatility language for gasoline for the rest of the U.S.

We are also proposing that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP during the summer. This would allow us, from a technical standpoint, to consider the impacts of RVP on evaporative emissions, and in particular on refueling, diurnal, and running loss evaporative emissions under CAA sec. 211(f)(1). Refueling, diurnal, and running loss evaporative emissions are mostly a function of volatility of the fuel. Therefore, if two fuels have the same RVP, the expected evaporative emissions from the two fuels would be similar. In this situation, since there is no difference in RVP, E15 at 9.0 psi RVP would have nearly identical evaporative emissions to E10 at 9.0 psi RVP from refueling, diurnal, and running loss emissions sources.

We believe that under CAA sec. 211(f)(1) we only need to determine that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP in order for fuel manufacturers and downstream parties to take advantage of the CAA sec. 211(h)(4) waiver. Congress intended for gasoline-ethanol blends to have a 1-psi waiver in order to promote ethanol blending in gasoline. In other words, given the existence of CAA sec. 211(h)(4), we believe it is appropriate when interpreting sub sim for CAA sec. 211(f)(1) to compare E15 at 9.0 psi RVP to E10 certification test fuel at 9.0 psi RVP. CAA sec. 211(h)(4) then provides the 1-psi waiver to E15. Therefore, under this alternative we would propose to interpret sub sim to apply to gasoline with a maximum of 9.0 psi RVP during the summer.

In summary, we expect that E15 would have similar evaporative emissions effects as Tier 3 E10 certification fuel for Tier 3 light-duty vehicles with regard to evaporative emissions from permeation, hot soak, and other unintended evaporative emissions. For refueling, diurnal and running loss evaporative emissions, we are not proposing to alter the existing interpretation of substantially similar. As explained above in our proposed interpretation of CAA sec. 211(h)(4), we believe it was Congress' intent to allow for gasoline-ethanol blended fuels containing at least 10 percent ethanol to receive the 1-psi waiver and we have interpreted sub sim under 211(f)(1) to be consistent with Congress' intent. Therefore, we are proposing that E15 at 10.0 psi RVP is sub sim to Tier 3 E10 certification test fuel at 9.0 psi RVP when used in Tier 3 vehicles. Alternatively, we propose that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP when used in Tier 3 vehicles.

c. Materials Compatibility

Materials compatibility is a key factor in considering what fuels or fuel additives are sub sim to certification fuel, insofar as poor materials compatibility can lead to serious exhaust and evaporative emission compliance problems not only immediately upon use, but especially over the full useful life of vehicles and engines. In the E15 partial waivers, we determined that the use of E15 in MY2001 and newer light-duty motor vehicles ''will not [result in] materials compatibility issues that lead to exhaust or evaporative emissions exceedances.'' [120] We argued that ''[n]ewer motor vehicles, such as Tier 2 and NLEV vehicles (MY2001 and newer), on the other hand, were designed to encounter more regular ethanol exposure compared to earlier model year motor vehicles'' since EPA's in-use verification program would require auto manufacturers to place more ''emphasis on real world motor vehicle testing'' prompting manufacturers to consider commercially available fuels containing ethanol when developing and testing their emissions systems.[121] Based on this assessment plus confirmatory data from DOE's extensive test program that aged MY2001 and newer vehicles up to 120,000 miles on E15, we concluded that MY2001 and newer vehicles would not have materials compatibility issues with E15. We expect that Tier 3 certified vehicles would have similar, if not better, materials compatibility with E15 compared to MY2001 and newer vehicles since Tier 3 certified vehicles should be designed to encounter E15 in-use and manufacturers are required to use E15 as an aging fuel for evaporative durability testing.

As required under the vehicle and certification regulations,[122] since granting the E15 partial waivers, E15 is now used as an aging fuel for service accumulation for evaporative durability testing. Auto manufacturers have used E15 for service accumulation for evaporative durability testing since at least MY2014. This means that many Tier 2 certified vehicles since MY2014 and all Tier 3 certified vehicles have been aged on E15 and have been designed with materials capable of handling E15 for extended periods of time.

Therefore, we would not expect any materials compatibility issues from E15 in Tier 3 vehicles and we expect that

[119] See 40 CFR 86.113–78 (1977).

[120] See 75 FR 68122–68123 (November 4, 2010); 76 FR 4681 (January 26, 2011).

[121] See 75 FR 68122 (November 4, 2010).

[122] See 40 CFR 86.1824–08(f)(1).

E15 would have substantially similar or identical materials compatibility with Tier 3 E10 certification fuel.

d. Driveability

A change in the driveability of a motor vehicle that results in significant deviation from normal operation (*e.g.,* stalling, hesitation, etc.) would result in increased emissions. These increases may not be demonstrated in the emission certification test cycles but instead are present during in-use operation. In addition to consumer dissatisfaction, a motor vehicle stall and subsequent restart can result in a significant increase in emissions because HC and CO emission rates are typically highest during vehicle starts, especially cold starts. Further, concerns exist if the consumer or operator tampers with the motor vehicle in an attempt to correct the driveability issue since consumers may attempt to modify a motor vehicle from its original certified configuration. Thus, we have considered whether fuels or fuel additives have an adverse effect on driveability relative to certification fuel to define what is substantially similar.

We concluded in the E15 partial waivers that we did not believe that E15 would cause driveability concerns for MY2001 and newer light-duty vehicles. We reviewed the data and information from the over 30 different test programs evaluated to grant the E15 partial waivers and we found ''no specific reports of driveability, operability or on-board diagnostics (OBD) issues across many different vehicles and duty cycles including lab testing and in-use operation.'' [123]

After having granted the partial E15 waivers, we believe that Tier 2 and Tier 3 vehicles also have better capability of operating on E15, since as mentioned above, auto manufacturers have been required to use E15 as an aging fuel for evaporative durability aging since at least MY2014.

We also believe that the producers and distributors of gasoline adhere to ASTM specifications for gasoline (*i.e.,* ASTM D 4814),[124] which helps address the driveability of gasoline that contains up to 15 volume percent ethanol. As E15 has been in the market since at least 2012, industry, through ASTM International, has worked to develop voluntary consensus-based standards to help ensure the quality of E15 made and used in the marketplace. For example, ASTM D4814–18c has language to ensure that gasoline-ethanol blends have certain physical and chemical characteristics, like the gasoline-ethanol blend having distillation parameters falling within specified ranges, to ensure that when the gasoline-ethanol blended fuel is used, driveability issues will not arise.[125]

For these reasons, we believe that E15 would have similar driveability characteristics to Tier 3 E10 certification fuel.

e. Conclusion

For reasons described above, we are proposing that E15 is substantially similar to Tier 3 E10 certification fuel. As discussed above, when interpreting which fuels and fuel additives are sub sum to certification fuel under CAA sec. 211(f)(1), we consider those potential effects of relevance under CAA sec. 211(f)(1) of fuels and fuel additives on certified motor vehicles' emissions (exhaust and evaporative), materials compatibility, and driveability. Regarding emissions, while E15 compared with Tier 3 E10 certification test fuel would have small emissions changes in Tier 3 vehicles, we expect that E15 would exhibit similar exhaust and evaporative emissions for Tier 3 vehicles certified on Tier 3 E10 certification fuel. For materials compatibility and driveability, we expect that due to E15 being used as a service accumulation fuel for evaporative emissions aging, as well as our conclusions for MY2001 and newer light-duty motor vehicles regarding materials compatibility and driveability in the E15 partial waivers, E15 would be sub sim to Tier 3 E10 certification fuel.

Our proposed interpretation is limited to gasoline that contains only ethanol content up to 15 percent as this is the only oxygenate that we have sufficient data and information to support at this time.[126] Other oxygenates (notably isobutanol) may have similar emissions effects to Tier 3 E10 certification fuel, but we lack the data and information on emissions, materials compatibility, and driveability as established for ethanol as part of the E15 partial waiver decisions and the Tier 3 rulemaking. Therefore, our proposed interpretation of sub sim for gasoline would interpret gasoline-ethanol blends containing up to 15 percent ethanol as sub sim, while keeping the oxygen content limit of 2.7 weight percent for other oxygenates. We seek comment on whether we should interpret sub sim to encompass other oxygenates and request any supporting data on the potential effects of other oxygenates on emissions, materials compatibility, and driveability of Tier 3 vehicles.

6. Other Aspects of the Proposed Interpretative Rulemaking

a. Effects of Proposed Interpretation of CAA sec. 211(h)(4)

The proposed new interpretation of ''substantially similar'' interpreting E15 to be sub sim to Tier 3 E10 certification fuel discussed in this section would make it lawful for refiners and importers to make and introduce into commerce E15 without the use of the E15 partial waivers. This proposed interpretation of ''substantially similar'' in conjunction with the proposed interpretation of CAA sec. 211(h)(4) would also extend the exemption from the CAA sec. 211(h)(1) upper RVP limit from 9.0 psi to 10.0 psi for fuels containing 9–15 percent ethanol.

As previously explained, the deemed to comply provision was promulgated at the inception of the RVP program when industry had just begun blending ethanol in gasoline and reflects the highest permissible ethanol content under the waiver under CAA sec. 211(f)(4). Specifically, the deemed to comply provision applies where ''the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section.'' [127] A plain reading of this provision therefore, would suggest that it could not apply where the agency concludes that a fuel is substantially similar to certification fuels, under CAA sec. 211(f)(1). However, we seek comment on the continued use of the deemed to comply provision to ease the demonstration burdens for fuels that do not have a CAA sec. 211(f)(4) waiver, but nonetheless can be introduced into commerce because they are substantially similar to Tier 3 E10 certification fuel.

If we finalize our interpretation of substantially similar proposed in Section II.C, the 1-psi waiver would be available to fuel manufacturers, refiners, and importers, in contrast to the approach discussed in Section II.B, which would only allow downstream parties to take advantage of the 1-psi waiver. However, retailers that produce E15 via a blender pump would still have

[123] See 76 FR 4681–82 (January 26, 2011).

[124] ASTM Standard D4814, 2019, ''Standard Specification for Automotive Spark-Ignition Engine Fuel,'' ASTM International, West Conshohocken, PA, 2003, DOI: 10.1520/C0033–03, *www.astm.org.*

[125] Id.

[126] It should also be noted that we chose to express the proposed increase in gasoline-ethanol content in terms of volume percentage versus converting to weight percent oxygenate. We did this for two reasons. First, as stated, we believe we only have data and information to support an interpretation for gasoline containing only ethanol up to 15 volume percent. Second, this avoids the issues associated with the variability in the density of gasoline.

[127] CAA sec. 211(h)(4)(B).

issues complying with EPA fuels regulations at 40 CFR parts 79 and 80 unless they made the E15 solely from DFE and certified gasoline (or CBOB).

b. Regulatory Amendments

The technical amendments to our regulations discussed in Section II.B.2, in the context of our first approach to allow the 1-psi waiver for E15 during the summer, would also be necessary were EPA to finalize a new interpretation of ''substantially similar'' that finds that E15 is sub sim to Tier 3 E10 certification fuel. The regulatory changes would be identical to those discussed in Section II.B.2, as those regulatory changes would be promulgated to effectuate our new interpretation of CAA sec. 211(h)(4). In short, we would promulgate regulatory amendments modifying the ethanol content at 40 CFR 80.27 to blends of gasoline containing 9–15 percent ethanol. We would also promulgate regulations removing requirements implemented in the MMR relating to (1) comingling of E10 and E15; and (2) PTD requirements for E15 that would no longer be necessary were E15 to receive the 1-psi waiver. As discussed in Section II.B.2, all other regulations promulgated as part of the MMR would remain in place.

c. Potential Conditions As Part of CAA sec. 211(f)(1) Interpretative Rulemaking

CAA sec. 211(f)(1)(A) prohibits fuel or fuel additive manufacturers from first introducing into commerce, or increasing the concentration in use of, any fuel or fuel additive for general use in light-duty motor vehicles which is not substantially similar to that utilized in the certification of motor vehicles or engines under CAA sec. 206. As explained above, we have interpreted the ''substantially similar'' provision several times to allow the introduction into commerce of certain fuel blends. The language of CAA sec. 211(f)(1) does not address whether and how EPA can restrict its determination that a particular fuel is ''substantially similar'' to a certification fuel. Given the fact that there have now been multiple certification fuels since 1977, when CAA sec. 211(f)(1) was first enacted, we believe it is reasonable to interpret this provision as allowing EPA to apply restrictions on a sub sim determination, where the restrictions are intended to avoid the kinds of problems that prompted the prohibition against introduction into commerce. We solicit comment on this approach, including comments on the specific conditions we should impose.

One implication of a sub sim interpretation that includes E15 under CAA sec. 211(f)(1) would be that a waiver under CAA sec. 211(f)(4) will no longer be necessary for E15 to be introduced into commerce. This would in effect remove the conditions of the E15 partial waivers imposed on fuel and fuel additive manufacturers, in the absence of any limitations on the sub sim interpretation. This would mean that the conditions in the E15 partial waivers designed to limit the introduction into commerce of E15 to only MY2001 and newer light-duty motor vehicles would not apply. The need for the conditions on the E15 partial waivers may be partially mitigated because we have already put in place parallel restrictions in our regulations in the E15 MMR rulemaking at 40 CFR part 80, subpart N.[128] However, some conditions in the E15 partial waivers are not part of the MMR. One such condition is the requirement that fuel and fuel additive manufacturers have an EPA-approved misfueling mitigation plan (MMP) prior to introducing E15 into commerce. While MMPs generally commit fuel and fuel additive manufacturers to adhere to regulatory requirements of the MMR, MMPs also commit these manufacturers to participate in public outreach on the appropriate use of E15 and allow for specific, additional misfueling mitigation measures that may apply in a manufacturers specific situation. Another condition in the E15 partial waivers is that ethanol producers must manufacture denatured fuel ethanol that meets industry established quality standards if used to make E15. This requirement is not currently part of EPA's fuels regulations.

Furthermore, as discussed, the technical basis to deny the E15 waiver request for MY2000 and older motor vehicles and nonroad products and promulgate the MMR is unchanged and removing the conditions in the E15 partial waivers removes a layer of protection against the misfueling of these vehicles, engines, and equipment.[129] We denied the E15 waiver request for MY2000 and older motor vehicles, nonroad vehicles, engines, and equipment (including motorcycles, and heavy-duty motor vehicles) due to our engineering assessment that these vehicles, engines, and equipment may experience emissions failures over these vehicles, engines, and equipments' full useful lives. Also, as discussed above, in the MMR we concluded that under CAA sec. 211(c)(1)(A), the likely result would be increased VOC, CO, and NO_X emissions were these particular engines, vehicles and equipment to use E15. The prohibitions and regulatory requirements were designed to help mitigate the misfueling of E15 in these vehicles.

There are still millions of MY2000 and older motor vehicles on the road (although they will over time make a smaller contribution to vehicle miles travelled) and hundreds of millions of pieces of nonroad equipment not designed for and prohibited from E15 use. The existing conditions on the E15 partial waivers under CAA sec. 211(f)(4) help ensure E15 fuel quality and mitigate the misfueling of vehicles, engines, and equipment and we believe it is appropriate to continue to impose the same conditions on parties that introduce E15 into commerce under a CAA sec. 211(f)(1) sub sim interpretative rulemaking. Therefore, we are proposing and seek comment on certain limitations, including those contained in the current CAA sec. 211(f)(4) waiver, as part of an interpretative rulemaking which defines E15 as substantially similar to Tier 3 E10 certification fuel under CAA sec. 211(f)(1).

Additionally, we seek comment on whether this proposed sub sim interpretation for E15 should be limited to the subset of the national vehicle and engine fleet to which the current E15 waivers apply (MY2001 and newer light-duty motor vehicles) or on which our assessment in Section II.C is based (*i.e.,* only to vehicles and engines certified using Tier 3 E10 certification fuel). While we have not previously imposed conditions in substantially similar interpretative rulemakings designed to limit the applicability to certain classes of vehicles, engines, and equipment, for the reasons explained above, we are seeking comment in this case. The record has not changed with respect to the inability of older vehicles, nonroad equipment, motorcycles, or heavy-duty trucks to use E15, which formed the basis of our denial of the E15 waiver request for such vehicles, engines, and equipment.

Furthermore, our assessment in Section II.C was limited to only Tier 3 E10 certification fuel used to certify MY2020 (some earlier) light-duty vehicles, not all in-use vehicles and

[128] As noted above, these restrictions remain necessary, and we are not proposing to lift the prohibition at 40 CFR 80.1504(a)(1) on the sale, introduction, or use of E15 into MY2000 and older light-duty motor vehicles, heavy-duty motor vehicles, or nonroad engines, vehicles, and equipment, nor are we proposing to remove any of the misfueling mitigation requirements in the E15 MMR. Consequently, those marketplace protections will be unaffected by this proposed action.

[129] See 75 FR 68127–68138 (November 4, 2010).

engines that run on gasoline. Such a condition would be in recognition of the fact that, in contrast to the date when CAA sec. 211(f)(1) was enacted, not all gasoline vehicles and equipment are certified on the same gasoline. All other vehicles, engines, and equipment prior to Tier 3 used certification fuel without ethanol, and some nonroad vehicles, engines, and equipment are still certified using E0. A condition limiting the applicability of the sub sim interpretative rulemaking to vehicles certified on Tier 3 certification fuel would recognize the fact that most vehicles, engines, and equipment were not certified on E10, and prevent emission exceedances by limiting which vehicles, engines, and equipment could use E15 under the proposed sub sim interpretative rulemaking.

Finally, we seek comment on whether we can impose the existing waiver conditions in the E15 partial waivers, in their entirety, as conditions in the proposed substantially similar interpretative rulemaking. The conditions on the E15 partial waivers provide additional misfueling mitigation and fuel quality protections, which as mentioned above some stakeholders believe may need to be bolstered in the future as E15 becomes more available to consumers.

D. E15 Misfueling Mitigation

Some stakeholders have raised concerns since the President's announcement over whether the remaining E15 misfueling mitigation measures would be sufficient in light of this proposed action.[130] These stakeholders suggested that a possible consequence of this proposed action would be an increase in the availability of E15 in the market resulting in an increase in the potential misfueling of E15 in nonroad vehicles, engines, and equipment and MY2000 and older light-duty vehicles. These stakeholders suggested that, in light of their concerns and advancements in technology since our MMR rule, we seek comment on a wide range of additional misfueling mitigation measures to help avoid the misfueling of E15.

While we believe additional misfueling measures are unnecessary at this time and outside the scope of this proposed action, we recognize that as E15 and other higher-level ethanol blends become more prevalent in the marketplace, the use of additional misfueling mitigation measures may be appropriate. We also recognize that additional misfueling mitigation measures would most likely place a significant burden on retailers, many of whom are small businesses, to upgrade fuel dispensers to implement physical barriers to E15 use or employ radio-frequency identification (RFID) technology. Therefore, we seek comment on whether additional misfueling mitigation measures would be appropriate and we specifically seek comment on the costs and benefits of such measures on affected parties.

E. E15 Criteria Pollutant and Air Toxics Emission Impacts

As discussed above, we expect the emissions of E15 to be substantially similar to those of E10 Tier 3 certification fuel when used in Tier 3 light-duty vehicles. This section describes expected emissions effects of the proposed action on evaporative and exhaust emissions of E15 relative to E10 typically available in the marketplace.

Evaporative emissions from vehicles comprise approximately 60 percent of the VOC emissions during summertime conditions from the current vehicle fleet based on results produced by MOVES2014b, and such VOC emissions contribute to ambient levels of ozone, PM, and air toxics, all of which endanger public health and welfare. Today's vehicles are equipped with charcoal canisters to capture vapors generated during refueling as well as daily diurnal temperature fluctuations. This stored vapor is then drawn into the engine and combusted during vehicle operation.

Currently and historically, vehicle manufacturers have been required to certify their vehicles on test gasoline with a volatility of 9.0 psi RVP under severe operating conditions similar to what might be expected on high ozone days. The evaporative emission standards have been progressively made more stringent over time, such that under the Tier 3 standards they require essentially zero vapor loss during normal operation on 9.0-psi fuel. Increasing fuel RVP from 9.0 psi to 10.0 psi increases fuel vapor generation significantly under summertime conditions, which can overwhelm a vehicle's evaporative control system and push it out of compliance. Consequently, controlling the volatility of gasoline during the summer is important in order to control the evaporative VOC emissions produced by vehicles and engines in-use.

This proposal changes the volatility standard that applies to E15 in-use from 9.0 psi to 10.0 psi RVP. Viewing this change in isolation, one might expect a significant increase in evaporative emissions. To accurately assess emission impacts in this case, however, we need to examine current real-world circumstances. Namely, we expect any E15 introduced into the market to displace E10 that is already being sold and that carries the 1-psi waiver in conventional gasoline areas (E10 has nearly 100 percent market share for gasoline sold in the U.S.). E15 has a slightly lower RVP than E10 when made from the same BOB, a situation we believe will be the case unless E15 use becomes widespread.[131] Thus, to the extent that E15 displaces E10 in the short term, E15 is expected to lower the volatility of in-use gasoline by as much as 0.1 psi.[132]

Use of E15 blends will have other criteria pollutant emission impacts beyond those related to volatility described above. Assuming E15 is made from the same BOB as E10, we expect the additional 5 volume percent ethanol to further dilute hydrocarbon fuel components such as aromatics, producing changes in several exhaust emissions such as NO_X, NMOG, and benzene.[133] [134] Ethanol also causes changes in the volatility profile of the blended fuel, typically lowering the mid-point distillation temperature (T50) significantly, and the 90 percent temperature (T90) slightly.[135] Table II.E–1 shows predicted fuel property and exhaust emission changes for Tier 2 vehicles using both E10 certification gasoline and a typical market E10 as baselines for comparison. Results using the EPAct model developed from the EPAct/V2/E–89 study described in Section II.C.5.a suggest E15 blends are expected to produce slightly lower CO, and slightly higher NO_X and PM

[130] See ''Joint Comments on E15 Education and Outreach'' from the Outdoor Power Equipment Institute and the National Marine Manufacturers Association to EPA, January 29, 2019.

[131] We believe it would be unlikely for refiners to produce an E15 CBOB for such a small difference in RVP. However, refiners may want to create a CBOB with a slightly lower octane level to account for the increased octane from the additional ethanol in E15 versus E10. We believe this would only occur if E15 comprised a large part of a conventional gasoline area's market.

[132] ''Determination of the Potential Property Ranges of Mid-Level Ethanol Blends.'' American Petroleum Institute, Washington, DC. April 2010.

[133] For the effects of sulfur on emissions see Table ES–3 in ''The Effects of Ultra-Low Sulfur Gasoline on Emissions from Tier 2 Vehicles in the In-Use Fleet.'' U.S. EPA Office of Transportation and Air Quality, Ann Arbor MI. EPA–420–R–14–002, March 2014.

[134] For the effects of ethanol and aromatics on emissions see Tables ES–1 through ES–4 in ''Assessing the Effect of Five Gasoline Properties on Exhaust Emissions from Light-Duty Vehicles Certified to Tier 2 Standards: Analysis of Data from EPAct Phase 3 (EPAct/V2/E–89): Final Report.'' U.S. EPA Office of Transportation and Air Quality, Ann Arbor MI. EPA–420–R–13–002, March 2013.

[135] ''Determination of the Potential Property Ranges of Mid-Level Ethanol Blends.'' American Petroleum Institute, Washington, DC. April 2010.

compared to their E10 blending base. Changes in NMOG (or VOC) vary in direction depending on the T50 of the blending base.

TABLE II.E–1—EXAMPLE EMISSION IMPACTS OF E15 BLENDS BASED ON EPACT MODEL

	Fuel properties used in analysis					E15 emissions impact relative to indicated baseline			
	Eth. vol (%)	Arom. vol (%)	RVP (psi)	T50 (°F)	T90 (°F)	CO (%)	NMOG (%)	NO_X (%)	PM (%)
Baseline: E10 certification fuel at 9 psi	10.0	23.0	9.0	200	325	.....	.....	.....	.....
E15 at 9 psi (splash)	15.0	21.9	9.0	163	321	−2.5	−5.6	1.8	2.7
E15 at 10 psi (splash)	15.0	21.9	10.0	163	321	−1.3	−8.0	1.8	2.7
Baseline: E10 market fuel at 10 psi	10.0	23.0	10.0	180	320	.....	.....	.....	.....
E15 at 10 psi (splash)	15.0	21.9	10.0	160	316	−2.0	2.2	2.5	4.0
E15 at 10 psi (MOVES Fuel Wizard)*	15.0	21.7	10.0	167	318	−2.6	1.4	2.7	4.1

*The MOVES Fuel Wizard attempts to estimate how properties would change in a widespread blending scenario.

If E15 use becomes widespread in the longer term, refiners may adjust the base blendstock to accommodate the additional ethanol. During the rapid expansion of E10 blending between 2007–2012, aromatics levels were observed to decline by a few volume percent while pump octane levels stayed constant, and octane match-blending is understood to have been a contributing factor.[136] [137] For other fuel properties, such as sulfur and benzene content, refiner control could be relaxed slightly for E15 blendstocks with the finished market E15 blend still meeting with the regulatory limits. Moving from E15 splash blends to match blends may then undo some small emission reductions occurring when E15 is made from refinery blendstocks designed for E10.

F. E15 Economic Impacts

1. Benefits for E15 RVP

We anticipate that providing the flexibility to use E15 at 10.0 psi RVP in the summer could help incentivize retailers to introduce E15 into the marketplace. In situations where denatured fuel ethanol is cheaper than gasoline, parties may elect to make E15 more widely available, which may result in a modest decrease in fuel prices at the pump. This could help to further the use of increased volumes of renewable fuels under the RFS program, which in turn could provide energy security benefits.

2. Costs for E15 RVP

Our proposal to allow E15 to take advantage of the 1-psi waiver in the summer may help open new market opportunities for E15. However, fuel manufacturers and distributors of E15 would not be compelled to make or offer E15 and could choose to offer E15 as dictated by market demands and individual business decisions.

Overall, we anticipate very little change in costs regarding the proposed regulatory provisions to allow E15 to receive the 1-psi waiver in the summer. This action places no new regulatory burdens on any party in the gasoline or denatured fuel ethanol distribution system and modifies, but does not remove, PTD requirements for E15. Hence, we expect that these proposed provisions would not substantially alter the cost of compliance for parties that produce and distribute E15.

III. RIN Market Reforms

A. Overview of RFS Compliance

The RFS program began in 2006, pursuant to the requirements in CAA sec. 211(o) that were added through the Energy Policy Act of 2005 (EPAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), leading to the publication of major revisions to the regulatory requirements on March 26, 2010.[138]

Under CAA sec. 211(o), EPA is required to set renewable fuel percentage standards every year.[139] To comply, obligated parties [140] can purchase and blend the requisite volumes of renewable fuels into the petroleum-derived transportation fuels they produce or import. However, to allow the market to function more efficiently and avoid market disruption, in implementing the statutorily-required credit program, and to assist obligated parties in meeting their individual RVOs, Congress directed EPA to establish, through a transparent public rulemaking process, a system for the generation and use of renewable fuel program credits.[141] The credits created under this program are known as RINs. RINs are credits that are generated upon production of qualifying renewable fuel and ultimately used by obligated parties to demonstrate compliance. Renewable fuel producers and importers generate and assign RINs to the renewable fuel they produce or import. These RINs are then transferred with the renewable fuel to the downstream parties that blend the renewable fuel into transportation fuel. In lieu of blending the renewable fuels themselves to demonstrate compliance, obligated parties have the option to instead purchase RINs from other parties that blend renewable fuels.

The assigned RINs that accompany the renewable fuel can primarily be separated from the fuel if the fuel is purchased by an obligated party or blended into transportation fuel. Once separated, RINs can be traded as a separate commodity from the renewable fuel. Obligated parties accumulate RINs over the course of the year, either by buying renewable fuel with assigned RINs that they separate and retain for compliance (and either blend the fuel themselves or rely on others to do on their behalf), or by purchasing separated RINs on the open market. All RIN

[136] See Figure 3–4 of the Regulatory Impact Analysis for ''Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.'' EPA–420–R–14–005, February 2014.

[137] See Figure 65 of ''Fuel Trends Report: Gasoline 2006–2016.'' EPA–420–R–17–005. October 2017.

[138] See 75 FR 14670 (March 26, 2010).

[139] See, *e.g.,* final rule establishing the RFS standards for 2019 and biomass-based diesel volume for 2020 (83 FR 63704, December 11, 2018).

[140] Obligated parties are refiners and importers of gasoline and diesel fuel. See 40 CFR 80.1406.

[141] See CAA sec. 211(o)(5).

transactions, including the generation of RINs, RIN trades, and the retirement of RINs to satisfy an obligated party's RVOs, are reported to EPA using the EPA Moderated Transaction System (EMTS).[142]

The annual RVOs for a given obligated party are calculated by multiplying the obligated party's total annual production and import of gasoline and diesel fuel by four annual percent standards corresponding to the four renewable fuel categories established by Congress.[143] Each obligated party must obtain sufficient RINs of each category to demonstrate compliance with its individual RVOs for the four annual percentage standards. Obligated parties comply on an annual average basis, through their annual compliance report to EPA that identifies their obligation based on gasoline and diesel production/import and identifies the RINs acquired and retired for that year's compliance. Thus, compliance under the RFS program requires obligated parties to understand how to calculate their individual obligations based on the four percentage standards, and then to plan for their annual compliance demonstration through RIN acquisition, either through blending or through trading, over the course of the year. There are also associated registration, reporting, and recordkeeping requirements.

B. RIN Market Assessment

Renewable fuel producers and importers generate RINs by entering their renewable fuel production or import information into EMTS. When a renewable fuel producer or importer transfers ownership of the fuel to another party, the assigned RINs usually transfer as well. Both parties must report information about the RIN transaction to EMTS within five days of the transfer. Parties must also report in EMTS when they separate RINs from fuel, when they trade separated RINs with another party, and when they retire RINs for compliance or other reasons. EMTS effectively acts as an electronic platform that records RIN transactions, conducts RIN title transfers between parties, and maintains a RIN account balance for each registered party.

RINs are transacted through contracts or on the spot market, in bilateral trades directly between buyers and sellers, or facilitated by third-party brokers. EPA designed the RIN system to operate as a relatively ''open'' trading market in order to maximize liquidity and ensure a robust marketplace for RINs. For example, in establishing the original trading program, EPA attempted to provide as much compliance flexibility as possible and did not place limits on the number of allowable RIN trades, nor restrict the types of parties that could acquire and trade RINs. Several stakeholders from across the fuels industries supported the trading system we finalized in 2007.[144] In the RFS1 final rule preamble, we summarized the comments of several parties as saying ''that unlimited trading among all interested parties would increase liquidity and transparency in the RIN market,'' and ''that increasing the number of participants would facilitate the acquisition of RINs by obligated parties and promote economic efficiency.'' [145]

Individual transaction prices are generally not made public, but some services, such as OPIS and Argus, offer daily price information on commodities such as RINs from a subset of parties that trade in the RIN market. The public can access this information for a fee paid to these service providers. Recently, EPA began posting aggregated weekly RIN price information reported to EPA through EMTS on our public website, which is updated monthly.[146] RIN prices are a function of multiple factors, including but not limited to changes in petroleum prices, agricultural feedstock (*e.g.,* corn, soy) prices, and expectations of future market shifts and standards. RIN prices may also fluctuate as the market responds to RFS standards and expectations of future EPA policy decisions.

[142] Public EMTS data can be found on EPA's website at *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard.*

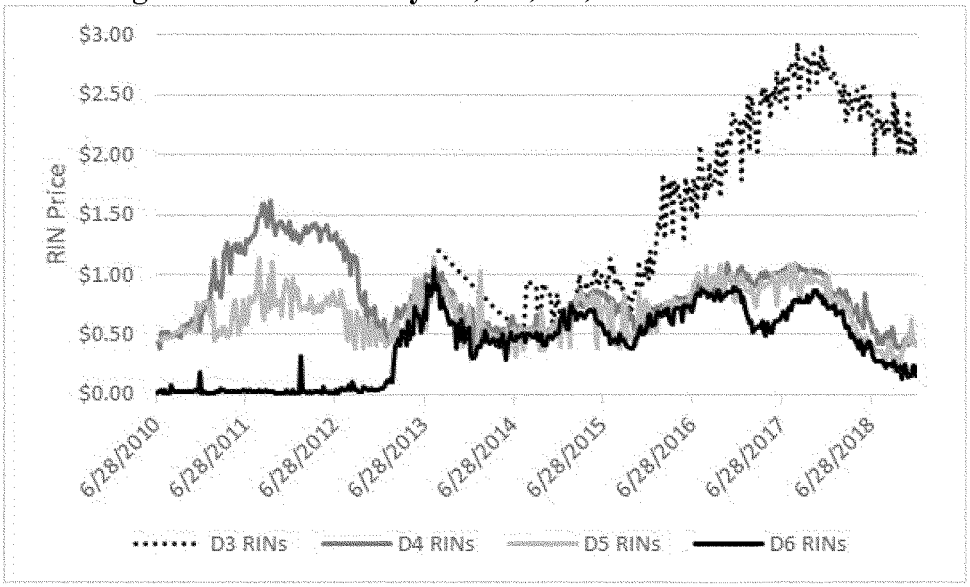
[143] The 2019 percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel are 0.230%, 1.73%, 2.71%, and 10.97%, respectively. The cellulosic and biomass-based diesel standards are nested within the advanced biofuel standard, which is itself nested in the total renewable fuel standard. This implies a conventional renewable fuel percentage standard of 8.26%. See 83 FR 63704 (December 11, 2018).

[144] See Chapter 5.4.3 of ''Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Program—Summary and Analysis of Comments.'' EPA 420–R–07–006, April 2007, available at *https://www.epa.gov/sites/production/files/2015-08/documents/420r07006.pdf.*

[145] See 72 FR 23944 (May 1, 2007).

[146] See *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rin-trades-and-price-information.* The RIN Price dataset shows historical, weekly, volume-weighted average RIN price data for separated RINs as reported to EPA through EMTS. Price filters are applied to the data set to remove outliers and data is aggregated to protect confidential business information.

Figure III.B.-1: Weekly D3, D4, D5, and D5 RIN Prices[a]



[a] All data from EMTS and publicly available at: *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rin-trades-and-price-information*

While there are many different factors that impact RIN prices, a review of the historical RIN price data demonstrates that RIN prices generally follow expected market principles. For example, in the early years of the RFS program (2010–2012) D6 RIN prices (for mostly corn ethanol) were generally only a few cents. During this time, the implied conventional biofuel volume (the difference between the total renewable fuel volume and the advanced biofuel volume and the only volume to which D6 RINs can be applied) could be met by blending ethanol as E10. The blending of ethanol up to E10 was driven by economic factors rather than financial incentives provided by the RFS program.[147] First, ethanol has a relatively high octane value, and thus is attractive as a gasoline blendstock component. Second, ethanol was cheaper on a volumetric (per gallon) basis than gasoline during this time period, and it was therefore economic to blend at levels up to 10 percent. Third, though ethanol contains about one-third less energy than gasoline on a per-gallon basis, that fuel economy difference between E10 and gasoline without ethanol (E0) is relatively small (approximately 3 percent) and is largely unnoticed by consumers. In light of these factors, the blending of ethanol up to E10 was economically viable for blenders in these years. The D6 RIN price was therefore very low, approximately equal to the transaction costs of trading RINs between parties.

In 2013, however, the implied conventional biofuel volume established by the RFS program exceeded the volume of ethanol that could be blended into gasoline at a rate of up to 10 percent (the E10 blendwall). To meet the aggregate RVOs, obligated parties now needed to acquire RINs beyond those that were available from blending ethanol as E10. These additional RINs had to come from either blending ethanol into higher-level ethanol blends (*e.g.,* E85) or blending non-ethanol biofuels (such as biodiesel or renewable diesel beyond what was needed to satisfy the biomass-based diesel (BBD) and advanced biofuel volume standards). Blending ethanol into higher level blends, unlike the blending of ethanol into E10 blends, was not an economically viable practice in 2013 (nor is it currently) absent the incentives provided by the RFS program (*i.e.,* the RIN price). Although ethanol has a higher octane value than gasoline, the existing vehicle fleet in the United States does not realize an additional benefit from the higher octane level of high ethanol blends such as E85. Further, consumers notice the decrease in fuel economy (between 15 and 27 percent) in such blends. This is because ethanol contains about one-third less energy than gasoline on a per-gallon basis. The sale of higher-level ethanol blends is also limited to flexible fuel vehicles, and relatively few retail stations offer these higher-level ethanol blends due to the combination of the high cost of the infrastructure upgrades to enable most existing stations to sell E85 and the low demand for E85, even among FFV owners.[148] The relatively low number of stations selling E85 has also hindered the competitiveness of the pricing of the few retail stations that do sell these blends. As a result, in most cases obligated parties have turned to additional volumes of biodiesel and renewable diesel instead of E85 or other higher level ethanol blends to meet their implied conventional biofuel volume obligation and therefore their total renewable fuel obligation.[149] D4 (BBD) RINs, generated for biodiesel and renewable diesel, have in effect served as a ceiling for D6 RIN prices since excess D4 RINs can be used to satisfy an obligated party's total renewable fuel obligation. As a result, the D6 RIN price rose to just slightly below the D4 RIN price. With a few exceptions (such as in the first half of 2017) when the total renewable fuel obligation has been at or below the E10 blendwall, the D6 RIN price has generally moved in

[147] Until 2013, the price for D6 (conventional biofuel) RINs, the vast majority of which were generated for ethanol produced from corn starch, was negligible (See Figure III.B–1). The Volumetric Ethanol Excise Tax Credit was also available to ethanol blenders through 2011.

[148] Pouliot, S., Liao, K.A., Babcock, B.A.; ''Estimating Willingness to Pay for E85 in the United States Using an Intercept Survey of Flex Motorists.'' Working Paper 16–WP 562, Center for Agricultural and Rural Development, Iowa State University, June 2018.

[149] While biodiesel and renewable diesel remain considerably more expensive than diesel fuel, the recently expired tax subsidy for them, coupled with a lesser infrastructure hurdle enabled them to be a more economical option than higher level ethanol blends in recent years.

conjunction with the D4 RIN price since 2013.

D5 RIN prices similarly followed distinct pricing patterns prior to reaching the E10 blendwall in 2013 and in the years since 2013. Prior to reaching the blendwall, a significant volume of the D5 RINs were generated for imported sugarcane ethanol. Since sugarcane ethanol was generally more expensive to produce than corn ethanol (driven by high world sugar prices), the D5 RIN price generally reflected the price difference between corn ethanol and sugarcane ethanol during this time period. When the E10 blendwall was reached in 2013 it became much more expensive to blend additional volumes of ethanol (both for corn ethanol and sugarcane ethanol) since additional ethanol had to be sold in higher-level ethanol blends. As a result, the primary fuels used to satisfy the implied volume of ''other advanced'' biofuels (the remaining advanced biofuel volume after subtracting the required volumes of BBD and cellulosic biofuel) in 2013 and the following years have been biodiesel and renewable diesel. The D5 RIN price in these years has followed the D4 RIN price, with the few cents difference between the two RIN prices reflecting the fact that, unlike D4 RINs, D5 RINs can only be used towards an obligated party's advanced biofuel and total renewable fuel obligations (and not the BBD obligation).

As with D6 and D5 RIN prices, D4 RIN prices generally follow expected market fundamentals. D4 RIN prices are generally equal to the difference between the market prices of biodiesel and petroleum diesel, after accounting for the biodiesel tax credit. For each year from 2010 through 2017, a $1 per gallon biodiesel blenders tax credit from the Internal Revenue Service has also been available. In some years, such as 2013 and 2016, this tax credit was available prospectively (*i.e.,* the tax credit was in place throughout the year). In other cases, such as in 2012 and 2017, the tax credit was only available retroactively (*i.e.,* the tax credit was not extended until near the end of the year or after the year had ended but applied to all qualifying biodiesel and renewable diesel blended in that year). The biodiesel blenders tax credit has not yet been extended to 2018 or 2019 by Congress.[150] For years in which the biodiesel tax credit was not in place prospectively, the D4 RIN prices generally reflected the market's confidence that the tax credit would ultimately be applicable. A recent paper investigating the price of D4 RINs and economic fundamentals further supports this view of the D4 RIN market stating that ''movements in the D4 RIN price at frequencies of a month or longer are well explained by two economic fundamentals: the spread between the biodiesel and Ultra Low Sulfur Diesel prices and whether the biodiesel tax credit is in effect.'' [151]

Finally, the D3 RIN price has generally followed the combined prices of the cellulosic waiver credit (CWC) and the D4/D5 RIN price. Each year since 2010, we have reduced the required volume of cellulosic biofuel from the statutory volumes using the cellulosic waiver authority set forth in CAA sec. 211(o)(7)(D). When EPA takes this action, the statute requires that we make CWCs available for purchase to obligated parties at a price determined using a formula given in the statute. CWCs can be used to satisfy an obligated party's cellulosic biofuel obligation, but unlike a D3 (or D7) RIN, a CWC cannot be used towards satisfying an obligated party's advanced biofuel or total renewable fuel obligations. Thus, a D3 RIN has the ''compliance equivalency'' of a CWC plus a D5 (or D4) RIN. As expected, the D3 RIN price has generally been slightly less than the sum of the CWC price and the D4/D5 RIN price. This price point reflects the compliance certainty that the CWC offers (CWCs cannot later be determined to be invalid) as well as the fact that CWCs can simply be purchased directly from EPA at the compliance deadline rather than purchased in relatively small quantities from biofuel producers or blenders.

Obligated parties that purchased RINs on the market for compliance in 2013 saw their D6 RIN prices substantially increase from the year prior (see Figure III.B.1). Though this increase in D6 RIN prices was the result of structural changes in the market, as described above, increasing D6 RIN prices did raise concerns regarding whether market manipulation played some role in elevated prices. Some RFS stakeholders petitioned EPA to change the definition of obligated party, arguing in part that the current point of obligation facilitates price manipulation. In response to those petitions, EPA conducted an extensive analysis of RIN prices and market dynamics. After studying the data, we concluded that RIN prices generally reflected market fundamentals and that obligated parties (including parties that purchase separated RINs) recover the cost of RINs in the market price of the gasoline and diesel fuel they sell.[152]

C. President's Directive

Some RFS stakeholders have voiced concerns regarding whether elevated RIN prices and excessive RIN price volatility are being caused at least in part by some type of market manipulation. In comments to proposed EPA rulemakings, litigation filings and arguments, and via meetings with EPA staff, some stakeholders have described conditions that they believe make the RIN market vulnerable to anti-competitive behavior. For example, commenters have described a thin market volume, opaque price signals, and inelastic demand and supply curves and have provided specific examples of behavior they find manipulative, such as phantom RIN offers that suddenly vanish and reappear at higher prices after a party attempts to buy them at the purported asking price.[153] These stakeholders also speculate that, as a result of market conditions and price volatility, anti-competitive behavior is taking place. For example, commenters have argued that a small number of sophisticated market participants control a large number of ''surplus'' RINs that they hoard and use to squeeze the market.

We take these claims of market manipulation seriously and have taken formal action previously to investigate claims of manipulation. In March 2016, EPA entered into a Memorandum of Understanding (MOU) with the Commodity Futures Trading Commission (CFTC).[154] Under the MOU, we provided CFTC with certain RIN data for analysis in order to facilitate an EPA investigation.

Although we have yet to see data-based evidence of RIN market manipulation, the potential for such behavior is a concern, and we have already formally solicited comment from stakeholders on potential changes that might address such issues. In the 2018 RVO proposal, we broadly sought input on potential regulatory changes related to RIN trading as well as on ways to increase program

[150] As of February 28, 2019.

[151] Irwin, S.H., K. McCormack, and J.H. Stock (2018). ''The Price of Biodiesel RINs and Economic Fundamentals,'' NBER Working Paper Series, Working Paper 25341.

[152] See ''Denial of Petitions for Rulemaking to Change the RFS Point of Obligation'' (2017), available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100TBGV.pdf.*

[153] See, *e.g.,* comments from Monroe Energy (Docket Item No. EPA–HQ–OAR–2018–0167–0622).

[154] See ''Memorandum of Understanding Between the Environmental Protection Agency and the Commodity Futures Trading Commission on the Sharing of Information Available to EPA Related to the Functioning of Renewable Fuel and Related Markets'' (2016), available at *https://www.epa.gov/sites/production/files/2016-03/documents/epa-cftc-mou-2016-03-16.pdf.*

transparency.[155] We received comments from stakeholders suggesting a number of regulatory changes related to who may purchase RINs, the duration for which RINs could be held, and other potential requirements related to the buying, selling, or holding of RINs. We also received a number of suggestions for increasing the amount of data related to the RIN market that we make publicly available. We evaluated these ideas, and in the 2019 RVO proposal, we listed those that were under consideration for implementation at that time, including: Prohibiting parties other than obligated parties from purchasing separated RINs; requiring public disclosure if a party holds a certain percentage of the RIN market; requiring obligated parties to retire RINs for compliance purposes on a more frequent basis; and publicly posting information on RIN prices, small refinery exemptions, and RIN holdings by different categories of entities.[156] We requested comment on the expected impact that these specific changes could have on the RIN market, either positively or negatively.

We received many comments in support of publicly posting more RFS program data. In response, in September 2018, we began publishing weekly aggregated RIN prices, as reported in EMTS by sellers and buyers, as well as weekly aggregated transaction volumes. We believe publishing as much data and information on the RIN market as possible, while still protecting confidential business information, improves market transparency and helps obligated parties and other market participants make informed decisions. We also believe that these data can reduce information asymmetry among market participants increasing confidence in the market. In addition, we began publishing information on small refinery exemption requests received and granted by EPA and the volumes of gasoline and diesel fuel exempted. This helped all obligated parties account for the potential volume exempted under these provisions and make adjustments to their compliance strategies accordingly.

We also received a wide variety of comments regarding the other ideas we put forth for comment in the 2019 RVO: prohibiting parties other than obligated parties from purchasing separated RINs, requiring public disclosure if a party holds a certain percentage of the RIN market, and requiring obligated parties to retire RINs for compliance purposes on a more frequent basis. Some commenters expressed support for these ideas and offered others for our consideration while some commenters opposed both the specific reform proposals and the general concept of interfering with the open RIN market in any way. Summaries of, and responses to, those comments are included throughout this action as we explain the rationale behind the proposals we are making today.

On October 11, 2018, President Trump issued a White House statement [157] explaining that EPA was being directed to initiate a rulemaking to address RIN price manipulation claims and increase transparency in the RIN market. Specifically, the memorandum directs EPA to consider potential reforms to the RIN regulations, including but not limited to the following proposals:

- Prohibiting entities other than obligated parties from purchasing separated RINs.
- Requiring public disclosure when RIN holdings held by an individual actor exceed specified limits.
- Limiting the length of time a non-obligated party can hold RINs.
- Requiring the retirement of RINs for the purpose of compliance be made in real time.

Pursuant to this directive, we are proposing these reforms.

D. Objectives

We are interested in ensuring that the RIN market works efficiently and is free of anti-competitive behavior. We affirm that price manipulation through anti-competitive behavior, similar to what is referred to as cornering or squeezing the market, and false or misleading representations in transactions, is antithetical to effective market operation and should be discouraged.[158] Were such anti-competitive behaviors to occur, it could undermine the confidence of market participants in the RIN market and undermine the RFS program itself. Consequently, in this action, we are proposing regulatory changes based upon the President's Directive that could help prevent anti-competitive behavior. For each reform, we evaluated comments already submitted to EPA describing its advantages and disadvantages. We also evaluated how a reform could be designed and implemented, whether a reform could be gamed or have unintended consequences, and what potential burden and cost it could place on regulated parties and on EPA. In Section III.E, we describe our evaluation in detail for each reform, including sharing comments received from stakeholders on similar market reform ideas solicited in prior rulemakings.

EPA designed the RIN system and regulations to maximize compliance flexibility and market liquidity. We realize that new market restrictions could impact that flexibility and liquidity. For example, we note the numerous comments received on the 2019 RVO rule stating that changes to the RIN market structure could reduce liquidity, increase volatility, and make the RIN market function less efficiently, increasing costs to obligated parties and consumers.[159] In addition, a white paper on the President's Directive recently released by the American Petroleum Institute (API) cautions that ''the proposed regulatory changes are likely to create additional significant problems of their own'' and that ''history suggests that regulatory agencies should be extremely cautious in changing established rules in regulated markets.'' [160] Interested stakeholders have also suggested that some reforms could impact the ability of small, less recognized, or new renewable fuel producers and blenders to enter the market. Finally, we understand that some reforms could inadvertently affect otherwise legitimate market behavior. For example, parties that make a profit on the RIN market are not necessarily conducting

[155] See 82 FR 34206 (July 21, 2017).

[156] See 83 FR 32024 (July 10, 2018).

[157] See ''President Donald J. Trump is Expanding Waivers for E15 and Increasing Transparency in the RIN Market'' Fact Sheet, available at: *https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-expanding-waivers-e15-increasing-transparency-rin-market.*

[158] Such behaviors may also violate the anti-fraud and anti-manipulation provisions of the Commodity Exchange Act. See, *e.g.,* Section 9(a)(2) of the CEA, 7 U.S.C. 13(a)(2) (2012), states that it is a felony for ''Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce . . . or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce.'' Section 6(c)(1) of the CEA, 7 U.S.C. 9(1) (2012), titled Prohibition against manipulation, states that ''it shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with . . . a contract of sale of any commodity in interstate commerce . . . any manipulative or deceptive device or contrivance. . . .''

[159] See, *e.g.,* comments to the 2019 RVO rule from Steptoe & Johnson LLP on behalf of the National Association of Convenience Stores (NACS) and the Society of Independent Gasoline Marketers of America (SIGMA), BP, and American Petroleum Institute (API) in Docket No. EPA–HQ–OAR–2018–0167.

[160] See ''An Analysis of the Renewable Fuel Standard's RIN Market'', Covington & Burling LLP, February 15, 2019, available at *https://www.api.org/~/media/Files/Policy/Fuels-and-Renewables/2019/RIN-market-paper.pdf.*

manipulative or anti-competitive behavior and may very well be increasing market efficiency and liquidity with their actions. Therefore, we have taken into consideration the potential for reforms to harm the RIN market in this proposed action.

We are proposing regulatory changes in this action for all four reforms identified in the President's Directive and request comments on both the positive and negative consequences of each reform. We intend to finalize the reforms that we conclude are beneficial for the RFS program, the RIN market, and the RFS stakeholders, and do not impose unnecessary burden. For all four reforms outlined in this action, we focus on separated RINs only; we believe the physical storage limitations faced by renewable fuel already reduce the opportunity for price manipulation of assigned RINs and that the existing regulations at 40 CFR 80.1428 already include anti-hoarding provisions for RINs attached to renewable fuel. Furthermore, for each of the four reforms, we evaluate whether we should limit the proposed regulatory provision to D6 RINs only. Stakeholder concerns over market manipulation focused mainly on D6 RINs because, as described in Section III.B, in 2013 the overall demand for RINs increased due to the increased RVO set in the statute while the supply of D6 RINs remained nearly flat due to the E10 blendwall.[161] D6 RINs are also the predominant RIN type generated, and therefore impacts on D6 RIN prices have much larger consequences for obligated parties than impacts on the prices of other RIN types.[162] For each reform discussed in Section III.E, we explain whether it is feasible to propose that the reform apply to D6 RINs only and our rationale. We seek comment on narrowing the scope of the proposals in this action to D6 RINs only.

E. Proposed Approach to Individual Regulatory Reforms

For each potential reform, we discuss the basic concept, its implications for the program and marketplace, the scope and design of the specific regulatory modification in question, and other relevant details. Broadly speaking, EPA is interested not only in comments on specific individual reforms, but also on how the various reforms might work in combination, and the degree to which the reforms provide, or detract from, symmetry in the marketplace, so that one set of actors is not advantaged at the expense of another set operating in the same market.

1. Reform One: Public Disclosure if RIN Holdings Exceed Certain Threshold

The first potential reform from the President's Directive that we address in this action is a requirement for public disclosure when a party's RIN holdings exceed a certain threshold. The fundamental concept underpinning this reform is that increased transparency can help deter market actors from amassing an excess of separated RINs, which due to the concentration in ownership of available supplies could result in undue influence or market power. This reform could also let market participants know the underlying status of the market. A concentration of separated RINs, if sufficiently large in scope, could be used by a party to manipulate the market by artificially affecting prices in any direction. The most extreme examples of market power are monopolies, but concentration can be a concern even for markets with many participants when only a few control the majority of available supply at any given point in time.

In this action, we are proposing to set two thresholds that would work in tandem to identify parties that have amassed RINs in excess of normal business practices, which could indicate an intent to assert an inappropriate influence on the market. These thresholds would apply to holdings of separated D6 RINs only. The first threshold would be triggered if a party's end-of-day separated D6 RIN holdings exceeded three percent of the total implied conventional biofuel volume requirement (*e.g.,* 15 billion gallons for compliance year 2018) set for that year by EPA in the RVO rule, which is the total renewable fuel volume requirement minus the advanced fuel volume requirement. A party without an RVO (a non-obligated party) that triggered the first threshold would notify EPA of an exceedance at the end of the quarter. An obligated party that triggered the first threshold would apply the second threshold by comparing its end-of-day separated D6 RIN holdings with 130 percent of its individual implied conventional RVO. Only obligated parties that triggered both the first and second thresholds would notify EPA of an exceedance at the end of the quarter. In this action, we are proposing to publish on our website on a quarterly basis the names of any parties that report exceeding the thresholds. We are also proposing that the RIN holdings of corporate affiliates be included in a party's calculations to determine if they trigger a threshold. The definition of corporate affiliate, calculation of the thresholds and specifics of the reporting requirements are discussed in more detail below.

The purpose of putting into place a disclosure requirement is twofold: first, to provide transparency in the market regarding how often certain RIN position thresholds are reached and exceeded, and second, to disincentivize such behavior by requiring public disclosure. If the threshold were ever exceeded, public disclosure would alert market participants and where appropriate prompt a closer review of the circumstances by EPA. Were the threshold to be exceeded, we could then consider further actions to investigate for anti-competitive behavior and help prevent similar behavior in the future. We seek comment on what those further actions might entail, including actions to address concerns within the broader RIN market generally.

It is important to emphasize that we use the term ''threshold'' in this proposed regulatory modification to mean a level that may be exceeded, with only a disclosure consequence if exceeded. We use the term ''limit'' in this action to mean a level that may not be exceeded, with a potential enforcement consequence if exceeded. As an alternative to the RIN holding thresholds we are proposing, we seek comment on establishing a RIN holdings limit, whereby we would prohibit parties from holding more than a certain level of RINs. Other marketplaces have established such limits, and we discuss the distinction, as well as the reasons for pursuing the threshold/disclosure approach, below. We seek comment on this alternative proposal and on the issue generally.

Regulatory bodies supervising markets regularly take measures to prevent excessive market power, and it is useful when considering new regulations in the RIN market to assess the tools used in other comparable areas. Tools used in other markets to accomplish similar market power-limiting objectives include collecting market participant data, conducting market surveillance, publicly disclosing market information, and restricting the activity of certain market participants. Physical commodity markets are not typically regulated with holdings thresholds or limits, however, because the physical restrictions to hoarding, like limited physical storage space, obviate the need for regulatory restriction and oversight. Rather,

[161] We acknowledge that the stock of D6 RINs has fluctuated over time due to market shifts, EPA actions, and other factors, and that a larger stock of RINs puts downward pressure on RIN prices.

[162] According to data from EMTS approximately 78 percent of all RINs generated in 2018 were D6 RINs.

holding thresholds and limits are usually reserved for futures and derivative markets where such physical constraints do not serve as a check on market concentration. For example, the CFTC currently maintains limits on the number of open positions [163] that parties can take at a given time in nine agricultural markets.[164] Other entities registered with the CFTC, called Exchanges, impose and enforce position limits on a large number of remaining futures and options.

RINs do not fall neatly into either category; they are neither limited by physical storage space nor a derivative. In looking for analogs in other regulated markets, it is therefore helpful to see how other environmental allowance markets operate for purposes of comparison. For this action, we looked at other environmental credit programs and their markets to better understand options for the RIN market and found that different markets operate with different approaches. For example, the California Air Resources Board (CARB) enforces an allowance holding limit in the California Cap-and-Trade Program for greenhouse gas emissions; [165] the Regional Greenhouse Gas Initiative (RGGI) [166] enforces a credit purchasing limit in the RGGI cap-and-trade program credit auctions; and the Government of Canada enforced a limit in its Federal Renewable Fuels Regulations on the number of compliance credits a primary supplier can own at the end of each month.[167] On the other hand, neither EPA's Acid Rain Program[168] nor California's Low Carbon Fuel Standard (LCFS) [169] has limits or thresholds on allowance or credit holdings, and we are unaware of any state Renewable Portfolio Standard (RPS) program [170] that enforces a renewable energy credit holding threshold or limit.

a. Implications and Discussion

We believe that requiring public disclosure by parties that exceed a certain RIN holding threshold could prove beneficial for the market as a whole. It could disincentivize parties from gaining market power, signal potentially harmful behavior to competitors, regulators, and policy makers, and be used to justify stronger preventative actions. However, this reform could also have detrimental effects, especially if not designed properly. Excess market power is very difficult to quantify in any given market, even if regulators have perfect knowledge of all market conditions. A real risk exists of setting a RIN holding threshold in this rulemaking incorrectly. If a threshold is set too low, it could unnecessarily compromise market efficiency and liquidity and interfere with obligated parties' ability to comply with regulations by disincentivizing them from holding the necessary quantity of RINs to meet their RVO. We therefore believe that a threshold with a consequence of public disclosure is appropriate rather than a holding limit with an enforcement consequence. A threshold serves as a deterrent and warning bell without the risk of unnecessarily causing harm. We also believe that, in the face of insufficient evidence of any identified parties currently exhibiting what might be considered excessive market power, public disclosure is an appropriate first action. EPA could follow up with more restrictive measures later if warranted and seeks comment on what follow-up actions might be appropriate.

The following sections outline the various considerations we made in designing this proposed measure.

b. Scope

As discussed in Section III.D, for each of the four potential reforms, we evaluated whether we could limit the scope of the measure to D6 RINs. For this provision of publicly disclosing when a party exceeds a RIN holding threshold, we concluded that we could limit its scope to D6 RINs without compromising its intended effect. Also, we believe that we can practically design and propose a maximum D6 RIN holding threshold without setting one for D3, D4, or D5 RINs. Not only have D6 RINs raised the most stakeholder concern, as discussed above, but the nested nature of the RVOs and the unique characteristics of other RIN markets (*e.g.,* D3) would make covering all RIN categories considerably more complicated. As also discussed in Section III.D, we are further limiting our proposal of this measure to separated RINs because we believe the physical storage limitations faced by renewable fuel already reduce the opportunity for price manipulation of assigned RINs and that the existing regulations at 40 CFR 80.1428 already include anti-hoarding provisions for RINs attached to renewable fuel. Finally, we are proposing that this threshold cover any vintage D6 RINs that are available for compliance with the current year RVO. We seek comment on these proposed aspects of this reform.

c. Methodology for the RIN Holding Threshold [171]

In this action, we are proposing to set two holding thresholds. As stated above, it is extremely difficult to pinpoint a specific market share that would equate to concerning market power. Therefore, we approach this reform by instead estimating the holding level that we believe would be consistent with legitimate market needs. We recognize that legitimate holdings for obligated parties relate to the number of RINs they need for compliance with their RVO, so we logically conclude that an obligated party threshold should relate to its RVO. We also recognize that non-obligated parties have no RVO and require a different threshold methodology. Non-obligated parties have less need to hold RINs than obligated parties because they have no compliance use for them, so we believe their threshold should generally be set lower. Thus, we believe one lower threshold that covers everybody and a second higher threshold that adjusts to the compliance needs of obligated

[163] An open position refers to a contract for the purchase or sale of a commodity fur future delivery. See CFTC Regulation 150.2, 17 CFR 150.2 (2012), available at *https://ecfr.io/Title-17/se17.2.150_12.*

[164] See CFTC Regulation 150.2, 17 CFR 150.2 (2012), available at *https://ecfr.io/Title-17/se17.2.150_12.*

[165] More information on California's Cap and Trade program can be found at *https://www.arb.ca.gov/cc/capandtrade/capandtrade.htm.* Information about the allowance holding limit can be found in ''Facts About Cap and Trade: Market Oversight and Enforcement'' (2011), available at *https://www.arb.ca.gov/cc/capandtrade/market_oversight.pdf.*

[166] The Regional Greenhouse Gas Initiative (RGGI) is a cooperative effort among the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont to cap and reduce CO_2 emissions from the power sector. More information on RGGI can be found at *https://www.rggi.org.* Information about the credit purchasing limit can be found in ''CO_2 Allowance Auctions Frequently Asked Questions'' (2017), available at *https://www.rggi.org/sites/default/files/Uploads/Auction-Materials/38/RGGI_CO2_Allowance_Auction_FAQs_Jan_10_2017.pdf.*

[167] More information on Canada's Federal Renewable Fuel Regulations, including about the credit limit, can be found in ''Questions & Answers on the Federal Renewable Fuels Regulations'' (2012), available at *https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/publications/revised-questions-answers-renewable-fuels.html.*

[168] More information on EPA's Acid Rain Program can be found at *https://www.epa.gov/airmarkets/acid-rain-program.*

[169] More information on California's LCFS Program can be found at *https://www.arb.ca.gov/fuels/lcfs/lcfs.htm.*

[170] An RPS is a regulatory method mandating utility companies operating within a certain jurisdiction to increase production of energy from renewable resources. More information on RPS programs can be found in ''Chapter 5. Renewable Portfolio Standards'' of ''EPA Energy and Environment Guide to Action'' (2015), available at *https://www.epa.gov/sites/production/files/2017-06/documents/guide_action_full.pdf.*

[171] We refer to the threshold in the singular in the title to describe the overall policy, but as described in this section, we are actually proposing a dual threshold approach.

parties together would adequately constrain a market with a very wide range of participants. Both non-obligated parties and obligated parties would be held to similar incentives.

We are proposing a primary D6 RIN holding threshold for all RIN-holding parties relative to the implied conventional biofuel volume requirement finalized by EPA each year. We determine the implied conventional biofuel volume requirement by subtracting the advanced fuel volume requirement from the total renewable fuel volume requirement because D6 RINs can only be used to meet the implied conventional biofuel portion of the total RVO. For example, if the implied conventional biofuel volume requirement were 15 billion in a given year, a certain percentage of 15 billion would be the primary threshold for that year. A threshold relative to the volume requirement adjusts over time to the size of the annual standard rather than to the number of RINs in the market. The benefit of this approach is that the volume requirement does not change, so parties know exactly what level to avoid at all times. This approach is similar to the calculation of the allowance holding limit used in the linked cap-and-trade programs implemented by California and Quebec.[172]

In this action, we are proposing to set a secondary threshold for obligated parties. We recognize that larger obligated parties with large RVOs have valid reasons to accumulate and hold a volume of RINs that might exceed the primary threshold, not only to meet their next annual compliance obligation but also to bank additional RINs for compliance with the following year's obligation. As explained in Section III.D, many instances of RIN accumulation are legitimate and are not related to price manipulation, making it that much harder for regulators to pinpoint the instances of RIN accumulation that are not based on legitimate commercial or compliance needs. For example, parties that anticipate an increase in the price of RINs and/or the quantity of RINs they will need for compliance purposes in future years may choose to acquire RINs beyond their needs for the current year for use in the following year. Therefore, we recognize that the threshold would have to somehow account for and allow RINs held to meet compliance obligations. For example, exemptions to position limits in futures and options markets are granted by the CFTC or Exchanges on a case-by-case basis to parties that demonstrate valid commercial stakes in the underlying physical market.[173] In addition, parties that are covered by the cap and have an emissions compliance obligation under the California Cap-and-Trade Program are allowed to hold more allowances than parties not covered by the cap. While all parties participating in the California Cap-and-Trade Program are subject to the same fixed annual holding limit, parties with a compliance obligation qualify for a limited exemption from the holding limit. Allowances placed in a covered entity's compliance account (from which the entity can no longer remove or trade allowances) up to the limited exemption do not count against the holding limit. The limited exemption is based on lagged values of the entity's reported emissions and is large enough to cover the entity's cumulative emissions obligations. This ensures that entities with compliance obligations greater than the holding limit can still acquire and hold compliance instruments to comply with their obligations.[174] We seek comment on the general concept of a secondary threshold for obligated parties in the RFS program.

d. Setting the Primary Threshold

We are proposing that all RIN-holding parties would be subject to a primary threshold for disclosure. We are proposing one approach to calculating the primary threshold that adjusts depending on how many RVOs are in effect. For anytime between April 1 and December 31, when only one set of annual RVOs is in effect, we are proposing that the primary threshold would equal three percent of the annual implied conventional biofuel volume requirement established by EPA in a rule promulgated each year to set the annual renewable fuel standards. In our hypothetical example, this would amount to three percent of 15 billion D6 RINs, or 450 million D6 RINs. For anytime between January 1 and March 31, when two sets of annual RVOS are in effect, we are proposing that the primary threshold would be three percent of 125 percent of the annual implied conventional biofuel volume requirement. We are proposing that the threshold in the first quarter of the year should be 125 percent of the other months because parties may need to hold RINs for two overlapping RVOs in that quarter rather than just one. In our hypothetical example, this would amount to three percent of 18.75 billion D6 RINs, or 562.5 million D6 RINs. We propose that a party's RIN balance at the end of each day in EMTS would be combined with any RINs in pending trades at the end of the day. We seek comment on this approach.

To determine the primary threshold of three percent, we considered thresholds in other programs as well as an analysis of RFS RIN holdings. We looked at the linked cap-and-trade programs implemented by California and Quebec as examples. They use a formula that calculates a holding limit of about three percent of their combined annual allowance budgets every year.[175] Based on our discussions with CARB concerning the implementation and effectiveness of that threshold, we are proposing a similar level. We therefore conclude that a holding limit or threshold of three percent of an allowance or credit standard can identify parties which have acquired RIN holdings larger than necessary for normal business operations and which may indicate an effort to assert inappropriate market power. To help inform our assessment of a three-percent threshold, we conducted a screening analysis using individual-level data to evaluate historical market shares. Specifically, we looked at daily D6 RIN holdings aggregated by company between April 1, 2017 and April 1, 2018, compared to the overall market. For simplicity, we looked at D6 RINs of all vintages. Using our proposed equations for the primary threshold, we found that in that one-year period, 13 out of 126 obligated parties would have exceeded the three percent primary threshold. None of the 280 non-obligated parties that held separated D6 RINs in that time period exceeded the three percent primary threshold.[176]

We seek comment on the general approach of setting the primary D6 RIN holding threshold relative to the implied conventional biofuel volume requirement and the specific application of a three-percent threshold. We also seek comment on the actual thresholds that this calculation generates, whether it is appropriate, and whether it could harm any market participants and, if so,

[172] See ''Facts About Holding Limit for Linked Cap-and-Trade Programs'' (September 14, 2018), available at *https://www.arb.ca.gov/cc/capandtrade/holding_limit.pdf.*

[173] A position limit refers to a limit on the number of contracts for the purchase or sale of a commodity for future delivery a party can hold. See CFTC Regulation 150.2, 17 CFR 150.2 (2012) at *https://ecfr.io/Title-17/se17.2.150_12.*

[174] See ''Facts About Limited Exemption from the Holding Limit'' (December 1, 2017), available at *https://www.arb.ca.gov/cc/capandtrade/limited_exemption.pdf.*

[175] See calculation in the memorandum, ''California and Quebec Holding Limit Percentages,'' available in the docket for this action.

[176] See calculation in the memorandum, ''Threshold Calculations for D6 RIN Holding Parties,'' available in the docket for this action.

how. We also considered setting two primary thresholds, one for obligated parties set at three percent and a lower one for non-obligated parties set at one percent (an obligated party would still apply the secondary threshold if it exceeded its primary threshold). In our hypothetical example, a one percent threshold would amount to 150 million RINs from April 1 to December 31 and 188 million RINs from January 1 to March 31. We considered this approach because a one percent primary threshold for non-obligated parties could potentially meet the objectives outlined in Sections III.E.3 and III.E.4 in a simplified and more streamlined way than the various reforms proposed in those sections. In our screening analysis, we found that two non-obligated parties would have exceeded the one percent threshold during the time period analyzed, though we did not consider whether the parties were affiliated with an obligated party, as described below.[177] We seek comment on this considered approach of limiting non-obligated parties using just one reform, a lower primary threshold of one percent.

We considered but are not proposing setting a threshold relative to total separated D6 RINs available in the market. The downside of this approach is that the quantity of total available RINs changes continuously, and it is not possible for market participants to know what it is at every moment. This makes it difficult to calculate the threshold at any given time. Another downside of this approach is that it uses all unretired, separated D6 RINs as a proxy for available D6 RINs because that is the best information that either the market or EPA has. If a party were to keep D6 RINs off the market, as is alleged by some parties, then our proxy would become an overestimate of the actual number of D6 RINs available. Thus, this approach would underestimate a party's market share. In considering this approach, we also could not find a universal standard for the level of market share that constitutes an inappropriate or concerning level of market power. The only example we could find of another environmental credit program that implements a market share limit is the RGGI program, which applies a 25-percent limit to the number of credits a party can purchase at a single credit auction.[178] Though this is not a holding limit or threshold per se, it is a limit that relates to preventing a party from establishing undue market power. Therefore, if we were to choose this approach to setting a threshold in the final rule, we would consider a D6 RIN holding threshold at or around 25 percent of total available D6 RINs. In our screening analysis, we compared maximum individual end-of-day D6 RIN holdings in every quarter between 2013 and 2018 to total available D6 RINs in that quarter. We looked at all, non-expired D6 RINs regardless of the year in which they were generated.[179] We found that the maximum market share over that entire time period, by any individual RIN holder, was 18 percent. In other words, on one day, one party held 18 percent of the 9.9 billion D6 separated RINs available on that day. In that particular case, an obligated party hit the 18-percent level in the first quarter of 2017, at a time when other obligated parties were retiring hundreds of millions of RINs in single EMTS transactions for the upcoming compliance deadline. This activity dropped the total available RINs in the market suddenly and drastically. Setting aside those periods of time where significant and sudden RIN retirements were occurring, the maximum level of D6 RINs that any one party held at a time was between 10 and 14 percent of all D6 RINs.[180] These figures are commensurate with the gasoline and diesel production market share of the largest refiners. We seek comment on our proposal to set the primary threshold relative to the annual implied conventional biofuel volume requirement and on the alternative approach considered but not proposed.

e. The Secondary Threshold

If a RIN-holding party exceeded the primary threshold, it would indicate that its D6 RIN holdings were a sizeable share of the market. For parties with no RVO, this would signal a position that could potentially command market power with the potential to artificially influence price. For obligated parties, however, a second test would be needed to evaluate their holdings against their compliance obligation because that could explain their sizeable holdings. For the secondary threshold, we are proposing that an obligated party would compare its implied conventional biofuel RVO to its D6 RIN holdings of all vintages, on a daily basis. If the D6 RIN holdings are more than 130 percent of the implied conventional biofuel RVO on any day, the obligated party would trigger the public disclosure requirement. We are proposing one approach to calculating the secondary threshold that adjusts depending on how many RVOs are in effect. We want to account for the fact that, generally, an obligated party holds more D6 RINs in the first three months of the year when it is preparing to retire for the prior year's obligation while also accumulating RINs for the current year's obligation.

For days between April 1 and December 31, an obligated party would multiply its gasoline and diesel production and import volume from the prior year by the difference between the renewable fuel percentage standard from the prior year and the advanced fuel percentage standard from the prior year. It would also account for any deficit volume it carried over from the prior year. See the proposed equations at 40 CFR 80.1435 for more detail on this proposed approach.

For days between January 1 and March 31, an obligated party would multiply its gasoline and diesel production and import volume from the prior year by 125 percent of the difference between the renewable fuel percentage standard from the prior year and the advanced fuel percentage standard from the prior year. It would also account for any deficit volume it carried over two years ago to the prior year. See the proposed equations at 40 CFR 80.1435 for more detail on this proposed approach. We are proposing that obligated parties who triggered the primary threshold would conduct this secondary threshold calculation at least quarterly using daily RIN holding levels and implied conventional biofuel RVOs.

We also considered requiring the calculations at the end of the compliance year when the actual annual RVO becomes known. For example, on March 31, when a large obligated party reports to EPA its actual gasoline and diesel production and import volume and its RVOs for the prior year, it could also evaluate its daily D6 RIN holdings against the implied conventional biofuel

[177] See calculation in the memorandum, ''Threshold Calculations for D6 RIN Holding Parties,'' available in the docket for this action.

[178] See ''CO_2 Allowance Auctions Frequently Asked Questions'' (January 10, 2017), available at *https://www.rggi.org/sites/default/files/Uploads/Auction-Materials/38/RGGI_CO2_Allowance_Auction_FAQs_Jan_10_2017.pdf.*

[179] CAA sec. 211(o)(5) requires that EPA establish a credit program as part of its RFS regulations, and that the credits be valid to show compliance for 12 months as of the date of generation. EPA implemented this requirement through the use of RINs, which can be used to demonstrate compliance for the year in which they are generated or the subsequent compliance year. Obligated parties can obtain more RINs than they need in a given compliance year, allowing them to ''carry over'' these excess RINs for use in the subsequent compliance year, although use of these carryover RINs is limited to 20 percent of the obligated party's RVO.

[180] The full analysis is detailed in the memorandum, ''Daily Comparison of Individual RIN Holdings to Total Available RINs,'' available in the docket for this action.

RVO for the year. The downside to this approach is that the red flag for potentially problematic market power could come long after the excessive RIN holding level occurs, in some cases over a year later. This delay between the RIN holding level and public disclosure of the exceedance would decrease the effectiveness of the reform and hamper its intended purpose of deterrence and market notification. Therefore, we are not proposing such an option. We seek comment on the quarterly interval proposed. We chose 130 percent because it allows for holdings of 100 percent of their implied conventional biofuel RVO, 20 percent for banking, and 10 percent for additional flexibility and uncertainty. This flexibility would, for example, cover potentially invalid D6 RINs that may not be sold or retired according to the existing part 80 regulations. With the secondary threshold in place, an obligated party with end-of-day D6 RIN holdings in a given quarter below the primary threshold would not trigger public disclosure, while an obligated party with D6 RIN holdings above the primary threshold would conduct a second test against 130 percent of their implied conventional biofuel RVO to date to determine whether public disclosure would be triggered.

In our screening analysis, we found that in the 2017 compliance year, thirteen obligated parties would have exceeded a three-percent primary threshold and would have applied the secondary threshold. We found that three would have also exceeded the 130-percent threshold at least once.[181] We note that we were unable to fully aggregate holdings and RVOs by corporate affiliates, as described further below, or account for RINs that an obligated party was holding for a small refinery with an exemption approval from EPA.[182] Nonetheless, this analysis suggests that a few obligated parties might have to report triggering the proposed D6 RIN holding threshold in the future. We seek comment on proposing to set the secondary threshold at 130 percent of the implied conventional biofuel RVO to date for obligated parties and the 125 percent factor that would be applied in the first quarter of the year.

[181] We aggregated all facilities by their company ID in EMTS to get a company total for both RIN holdings and thresholds. See calculations in the memorandum, ''Threshold Calculations for D6 RIN Holding Parties,'' available in the docket for this action.

[182] While our analysis could not account for this, our proposed regulations do.

f. Aggregating RIN Holdings

Market power can be applied in an anti-competitive way when a party controls a sufficiently large share of available supply, in this case separated D6 RINs. As already described, we are proposing in this action to require a RIN holding reporting threshold on at least each individual entity registered to transact RINs in EMTS. However, two individual entities with independent registration profiles in EMTS may be affiliated and may have control over each other's RIN holdings and each other's actions. For example, two entities may be subsidiaries of the same parent company or one entity may be the official financial asset trading arm of the other. In each of these cases, each entity may have control over a larger RIN holding than its individual EMTS account would suggest.

In addition, we note that a RIN holding threshold applied to individual parties, without regard to their affiliations, would create a large gaming opportunity. One party that wanted to gain market power but evade the RIN holding reporting threshold provision could spin-off various subsidiaries that would each hold RINs below the reporting threshold. It is our intent to design this reform to prevent such gaming.

As a result, we are proposing in this action that a party would aggregate its RIN holdings with the holdings of all other parties with overlapping ownership or corporate control for evaluation against the thresholds. This methodology is similarly applied by CARB for the California cap-and-trade credit holding limit and by RGGI for the RGGI program auction purchasing limit. We provide a few examples to illustrate this proposed concept. If an obligated party were owned by a non-obligated party, then the combined D6 RIN holdings would first be applied against the primary threshold. If the primary threshold were triggered, then the combined D6 RIN holdings would be applied against the secondary threshold using the obligated party's implied conventional biofuel RVO. If two non-obligated parties were affiliated by corporate ownership, then their combined D6 RIN holdings would be applied against the primary threshold only. If two obligated parties were affiliated by corporate ownership, then their combined D6 RIN holdings would be applied against the primary threshold first and then, if necessary, against the secondary threshold using the obligated parties' implied combined conventional biofuel RVO. Were we to finalize any other approaches to establishing RIN holding thresholds for reporting, we would intend to require that the RIN holdings of all parties affiliated by corporate ownership would nevertheless still be aggregated together.

In order to propose a definition for the term ''corporate affiliate,'' we reviewed how other environmental credit programs define and apply this concept. California's Cap-and-Trade Program applies a shared, single allowance holding limit to entities and their direct corporate associations, which they generally define as when one entity has more than 50-percent ownership in another entity or when two entities share a common parent (*i.e.,* when there is a common entity of which the two entities are subsidiaries). In addition, the California Cap-and-Trade Program requires that entities report, when requested, information related to indirect corporate associations, which they define as ownership of more than 20 percent but less than or equal to 50 percent.[183] For the RGGI program auction purchase limit, corporate association occurs when one applicant has more than 20-percent ownership in another applicant or when one party has 20-percent ownership in two applicants (parent company).[184]

In this action, we are proposing that two parties are corporate affiliates if one has more than 20-percent ownership in the other or if both parties are owned more than 20 percent by the same parent company. We are proposing a ''more than 20'' percent ownership level because it is consistent with the value that the other programs apply. For this proposed provision on a D6 RIN holding threshold, we are proposing that only corporate affiliates registered to own RINs in EMTS would be included in the RIN holding aggregation. Corporate affiliates that are not registered in EMTS to own RINs would not need to be included in the threshold calculations as these affiliates cannot hold RINs.[185]

We considered but are not proposing to require aggregation of RIN holdings for comparison to the threshold among parties with a contractual relationship, for example if there is an implicit or

[183] See ''Chapter 3.1.A: Disclosure of Corporate Associations, Consultants or Advisors, and Knowledgeable Employees'' of ''Cap-and-Trade Regulation Instructional Guidance'' (February 2015), available at *https://www.arb.ca.gov/cc/capandtrade/guidance/guidance.htm.*

[184] See ''Auction Notice for CO_2 Allowance Auction 42 on December 05, 2018'' (October 9, 2018), available at *https://www.rggi.org/sites/default/files/Uploads/Auction-Materials/42/Auction_Notice_Oct_09_2018.pdf.*

[185] For diagrams and examples of different types of affiliates, see the memorandum, ''Affiliates and Groups Definitional Relationship and Requirements,'' available in the docket for this action.

explicit agreement in place for one to purchase RINs for the other. As such, an obligated party that has a contract in place with a trader or a blender for delivery of D6 RINs would not add those D6 RINs to its holdings for comparison to the threshold until delivery occurred. We realize that this proposed approach would omit some RINs from the threshold comparison that could be under a party's control. However, we believe that a methodology for including such contractual relationships in the aggregation would be too complex and could result in double-counting RINs. We seek comment on our proposed approach to defining corporate affiliate and on omitting contractual affiliates from the RIN holding aggregation.

g. CBI Determination

We are proposing to require public disclosure of the name of a party that reported exceeding the EPA-set RIN holding threshold. We are not proposing to publicly disclose the actual RIN holding level, the amount by which it exceeded the threshold, when it exceeded the threshold, how many times it did so, or which threshold was applied. As such, we are proposing to determine that a yes/no answer to this threshold question does not qualify as CBI under the CAA. We find that whether a party exceeded a RIN-holding threshold provides very little insight into its actual RIN holding level, its gasoline or diesel production or import volume, or any other information that competitors could use to discern sensitive information.

In responding to a Freedom of Information Act (FOIA) request in 2013, we determined that certain data collected and stored by EMTS at that time were CBI, including a party's RIN holdings at the end of the quarter.[186] We recognize that in our evaluation of disclosing whether an entity exceeded a RIN holding threshold, we therefore need to carefully consider whether the underlying RIN holding level is sufficiently masked. In other words, we need to ensure that we do not disclose underlying CBI data or allow the CBI to be computed, back-calculated, or otherwise discerned using other publicly available data. Since the actual RIN level cannot be discerned or back-calculated by knowing whether the threshold was exceeded, we believe our proposed public disclosure accomplishes this objective.

Under the approach proposed in this action, a large obligated party that triggers the primary threshold would apply the secondary threshold of 130 percent of its implied conventional fuel RVO to date, which in turn is calculated by multiplying a publicly known percentage standard with its annual gasoline and diesel production or import volume. We recognize that fuel production volume and import volume are closely protected by refiners and importers as sensitive information that could potentially harm competitiveness if disclosed. Therefore, in our evaluation of public disclosure, we also need to consider whether fuel volume could be computed, back-calculated, or otherwise discerned by publishing whether a party exceeded an RVO-relative threshold. We find that it could not, since neither the threshold nor any numbers above it relates to or requires a specific fuel volume. The threshold and the figure of comparison are ratios and do not disclose or make discernable information about the actual fuel production or import volume.

We also considered whether any information related to this proposed disclosure could warrant CBI treatment, such as information that has not yet gone through a formal CBI determination process by EPA. We do not believe the information we propose to disclose constitutes CBI because, as previously discussed, the underlying RIN holding level is sufficiently masked. We believe it is in the interest of the market and the program to publicly disclose exceedances of the proposed threshold. We are proposing a threshold in this action that is sufficiently high to only be exceeded by volume of RINs that is likely more than a party would need for compliance or for any other legitimate business need. We believe that our proposed threshold is consistent with the level of RIN holdings that could cause excessive market power, and we want to protect the integrity and functioning of the RIN market by deterring potentially anti-competitive behavior through public disclosure. We also note that the disclosure would come after the sale were completed and would not be associated with a date or dates, so disclosing the threshold-related information could not interfere with a sale negotiated in the past. Finally, we note that a company can control whether it exceeds the threshold and therefore whether its exceedance will be publicly disclosed by ensuring that its RIN holdings never exceed the threshold. In this way, a company has the power to control whether this information is released.

We seek comment on whether publication of whether the parties in a corporate affiliate group exceeded the RIN holding threshold would disclose underlying CBI or otherwise would likely result in substantial competitive harm to a particular company. Please identify the specific data element and explain how the public release of that particular value would or would not be likely to result in disclosure of underlying CBI or otherwise cause substantial competitive harm. If the concern is that the release of being above a threshold would allow competitors to derive a CBI value for an individual facility or company, specifically describe the mechanism by which this could occur. Describe any unique process or aspect of a facility or company that would be revealed if the data were made publicly available. If the value would disclose underlying CBI only when used in combination with other publicly available data, then identify the information that could be revealed, describe how it would be calculated or otherwise discerned, explain why the information is sensitive, describe the competitive harm that its disclosure would be likely to cause, and identify the source of the other data. If the data are physically published, such as in a book, industry trade publication, or federal agency publication, provide the title, volume number (if applicable), author(s), publisher, publication date, frequency of publication, and International Standard Book Number (ISBN), or other identifier. For data published on a website, provide the address of the website, the date the website was last visited, and identify the website publisher and content author. Avoid conclusory and unsubstantiated statements or general assertions regarding potential harm.

In summary, we have found that the information described in this section for public disclosure is clearly not entitled to CBI treatment. We are describing our finding and the rationale behind it in this notice of proposed rulemaking because we expect this finding to be of high interest to stakeholders. We encourage those with CBI concerns to submit comments, which we will take into consideration in the finalization of this rulemaking.

h. Reporting and Recordkeeping Requirements

In this action, we are proposing that parties would calculate the threshold for each day, and parties that triggered the threshold for a day would be required

[186] See EPA's FOIA Request Confidentiality Determination document (Docket Item No. EPA-HQ-OAR-2016-0041-0023).

to report the event to EPA by the quarterly reporting deadlines specified in Table 1 to 40 CFR 80.1452. We seek comment on the proposed quarterly frequency and whether quarterly notice allows for too much lag between an exceedance and disclosure . For a corporate affiliate group that triggered the threshold together, each registered party would be required to separately notify EPA of the event. We are proposing to add a yes/no question on triggering the threshold to the RIN Activity Report that all RIN-holding parties are already required to submit to EPA quarterly. The party would select ''no'' if the threshold was never triggered during the given quarter or ''yes'' if it was triggered at least once in the quarter. The submitting official would be required to certify the completeness and accuracy of that answer upon report submission. We are also proposing that independent auditors would need to review all daily threshold calculations during the attest engagement process and would need to include in their attest engagement report to EPA confirmation that the party notified EPA as required of all instances of the threshold being triggered. This would include confirmation that the D6 RIN holdings and RVOs, if applicable, of all corporate affiliates were fully and properly accounted for in the calculations. We therefore are proposing that parties registered to hold RINs be required to keep as records all threshold calculations, including corporate affiliate values, and provide those records to the auditor for review.

The proposed calculation would use gasoline and diesel production and import volumes from the prior compliance year as a proxy for volumes in the current year. We recognize that the calculations could be an inaccurate representation of current year volumes in some cases, such as mergers or big changes in import volumes from year to year. However, in most situations we envision that these year-to-year changes may not impact the necessity to report. We seek comment on ways to fairly account for these limited situations.

In this action, we are proposing that EPA would be responsible for publicly disclosing that a party notified us of exceeding the threshold. We already maintain and regularly update a centralized website for RFS data [187] that has become the hub for up-to-date program information and transparency. Stakeholders, as well as the public at large, who want to know the identity of those that hold RINs in excess of the amount that flags potential market power concerns would only need to go to one place, EPA's website, to find all publicly available information on the topic. We seek comment on our proposal to publish the names of parties that exceed the RIN holding disclosure threshold on the EPA website.

2. Reform Two: Increase RFS Compliance Frequency

The second potential reform we address in this action is establishing a requirement for more frequent retirement of RINs for purposes of program compliance. The fundamental concept underpinning this reform is that, if it were finalized, obligated parties would be required to retire RINs in their accounts gradually over the year rather than all at once at the end of the year. We believe that requiring RINs to be retired for compliance on a more frequent basis could potentially help minimize opportunities for hoarding or other behavior that could negatively impact the RIN market. Further, we believe this regulatory modification would have the added benefit of helping obligated parties reduce the risk of non-compliance at the end of the year since they would be required to obtain RINs to meet a portion of their individual RVO on a quarterly basis.

Under this reform, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year, calculated as the gasoline and diesel production and import volume through the end of the quarter multiplied by 80 percent of the current year renewable fuel standard. We are proposing to include the 80 percent factor for these interim RIN retirements to address the inherent uncertainty of projecting an obligated party's obligation without full information. Obligated parties would submit reports to EPA 60 days after the end of the quarter to demonstrate compliance with these requirements and could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance, including the two-year RIN life, the annual deficit carryover, or the 20 percent carryover provisions. Specifics on the calculations, reporting requirements and schedules are discussed in more detail below.

Some stakeholders have voiced concern about asymmetry in the market if EPA were to establish a more frequent compliance period for obligated parties without requiring RIN holders to make RINs available more frequently, and vice versa. Taking this concern under consideration, we have tried to balance this reform with our proposed reform that would limit the duration that a non-obligated party could hold separated RINs (discussed in Section III.E.4). Namely, this proposal would establish that both program compliance and the requirement for non-obligated parties to sell their separated RINs apply at quarterly intervals. We believe this symmetry will help to facilitate more frequent compliance and reduce the risk of one party having an unfair advantage over the other since both sides would face similar obligations to buy and sell RINs within the required timeframes.

We believe that more frequent RIN retirement could help smooth demand for RINs across the year. However, under this proposed reform, RIN demand could still increase at certain times of the year due to circumstances beyond EPA's control, which could make purchasers particularly vulnerable to manipulative terms from sellers at those times. Even though the magnitude of the obligation would be roughly decreased by a factor of four, sellers with excess RINs beyond their quarterly retirement requirements could still exercise power over the RIN market—now several times throughout the year before each quarterly deadline instead of just once annually. Market power is relative, and we recognize that a smaller stockpile of RINs in a party's account relative to a smaller pool of available RINs can still result in market power. Therefore, the ultimate benefit of this reform on the RIN market and on parties' behavior is unclear.

a. Implications on the Annual RVO

In this action, we are not proposing to change the timeframe of the annual RVO or the annual RVO compliance obligation. Rather, we are proposing to maintain the annual RVO and annual RVO compliance obligation and to add requirements for periodic RIN retirement throughout the year. This is similar to personal tax requirements imposed by the IRS and states; money is generally withheld from an individual's paycheck throughout the year based on an estimate of their annual tax burden, but the actual annual tax burden is only calculated and due for full payment once the tax year is over. By proposing a requirement for obligated parties to retire RINs periodically through the year, we are able to leave intact the many elements of the RFS program that are based on an annual program (*e.g.,* the annual deficit provision, the annual 20 percent carryover provision, and the two-year life of a RIN). We believe that these annual program components, as

[187] Public EMTS data can be found on EPA's website at *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard.*

described further below, are functioning effectively and that changing these annual program components could create harmful unintended consequences. We believe we can leave these annual elements of the program unchanged while still accomplishing the objective of this reform.

The current RFS program is designed around an annual RVO. As specified in 40 CFR 80.1407(a), obligated parties wait until the compliance year has passed to calculate their annual RVOs using their actual annual gasoline and diesel production and import volume. The RVO equations also account for deficits on an annual basis, such that a deficit incurred in the prior year is carried over into the current year. 40 CFR 80.1427(a) specifies how obligated parties demonstrate compliance with this annual RVO. These equations were designed so that an obligated party has an entire year to collect enough RINs to address any deficit carried over from the prior year. We believe that this annual approach to satisfying prior year deficits should continue unchanged. Therefore, we are not proposing any edits to 40 CFR 80.1407(a) or 80.1427(a).

The deficit provision comes from direction in the CAA for EPA to include provisions allowing any person to carry forward a renewable fuel deficit from one calendar year to the next when certain conditions are met. The conditions outlined in the CAA are ''that the person, in the calendar year following the year in which the renewable fuel deficit is created (i) achieve compliance with the renewable fuel requirements under paragraph (2); and (ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.'' [188] Since the statute specifies that an obligated party can create a deficit on an annual basis, we are proposing in this action to maintain that annual flexibility. Therefore, an obligated party would be allowed to fall short of its RIN retirement requirements in any or all periods of one compliance year as long as it retired RINs at some point in the following compliance year to offset the following year's obligation, which includes the current year deficit. See Section III.E.2.e for further discussion on such RIN retirement shortfalls.

Finally, 40 CFR 80.1427(a)(5) specifies that no more than 20 percent of an obligated party's current year RVO can be satisfied with prior year RINs. In this action, we are not proposing any amendments to this part of the regulation. We propose that this carryover provision continue to only apply to the annual RVO. We are not proposing to apply this provision to any interval other than annually. Therefore, an obligated party that retired RINs periodically during the year, pursuant to this action, could use any amount of prior year RINs to do so, subject to the requirements that the final annual RVO compliance demonstration is consistent with the 20-percent carryover provision.

[188] See CAA sec. 211(o)(5)(D).

b. Compliance Frequency

During the development of this proposed rule, we considered establishing compliance frequencies other than quarterly. Ultimately, however, we chose to propose a quarterly compliance frequency for obligated parties; a quarterly requirement appears to balance the objectives of a more frequent compliance requirement without being overly burdensome or introducing excessive complexity. As such, obligated parties would be required to use new equations proposed at 40 CFR 80.1427(d) for the first, second, and third quarters of a year. Obligated parties would not have a separate RIN retirement requirement for the fourth quarter and would instead continue to use the existing RVO equations at 40 CFR 80.1427(a) to demonstrate compliance with the annual RVO. We seek comment on a quarterly frequency and on whether obligated parties that reporting gasoline and diesel production and import volumes to the Energy Information Agency (EIA) weekly and monthly would prefer a frequency greater than quarterly that aligns with the EIA survey frequency.

We considered a provision that would require RIN retirement for every batch of gasoline or diesel immediately or shortly after it is produced or imported, but we do not believe a practical implementation framework for this concept exists. It would be virtually impossible for the market to instantaneously meet such tight demand for RINs by obligated parties. The generation of RINs and the production and import of transportation fuel are not time aligned over the course of the year. We believe that a quarterly RIN retirement requirement is close enough to ''real time'' compliance to meet the objectives of this reform while still providing enough flexibility for obligated parties to feasibly comply.

As part of our analysis, we reviewed the historic pace of RIN generation throughout a calendar year. We observed that RIN generation is not consistent throughout the year and varies depending on the month or season. For example, in calendar year 2017, the monthly generation of biomass-based diesel (D4) RINs is lowest in January because biodiesel blending drops in the winter months when gelling of biodiesel can occur in some regions. The monthly D4 generation rate increased gradually until July when it began to decrease again. Finally, generation spiked higher in December than in any other month as parties worked to meet the RFS requirement that renewable fuel must be generated and blended in the same calendar year (and in some years rushed to take advantage of expiring tax credits). In fact, generation of all four D-code RINs peaked in December. When we compared these monthly generation rates to a potential monthly RIN retirement requirement based on estimated monthly gasoline and diesel volumes,[189] we saw that in many months, the demand for RINs exceeded the generation of new RINs. In addition, when we compared the monthly generation of all D-code RINs with potential monthly RIN retirement requirement, we found that cumulative RIN generation would not catch up to the cumulative RIN retirement requirement until December. This lack of alignment in time between RIN generation and gasoline/diesel fuel demand renders ''real time'' RIN retirement infeasible. We concluded from this analysis that it is important to provide some margin of time-flexibility to allow obligated parties to acquire RINs for compliance and that too-frequent retirement requirements would be too restrictive and counterproductive.

We seek comment on the appropriateness of a quarterly frequency requirement and on other potential frequencies, such as monthly or bi-annually. Because of the need for flexibility, we also considered several compliance deadlines, by which obligated parties would need to achieve the quarterly compliance requirements. See Section III.E.2.f for a discussion of deadline options considered and the deadlines we are proposing in this action.

c. Scope

As discussed earlier in this preamble, for each reform we considered whether we could limit its scope to reduce the risk of unintended negative consequences while still meeting the objective of the reform. In particular, we considered whether we could limit the

[189] See calculation in the memorandum, ''Comparison of Monthly RIN Generation Rates to a Potential Monthly RVO,'' available in the docket for this action.

reforms to just D6 RINs since D6 RINs are the main source of market manipulation concern.

For the compliance frequency reform outlined here in Section III.E.2, we concluded that, because of the nested nature of the RIN system, we could not require retirement of only D6 RINs. For example, an obligated party could choose to retire only D3, D4, and D5 RINs, which are nested in the renewable fuel obligation, to comply with its renewable fuel RVO. Therefore, we are proposing a quarterly RIN retirement requirement based on only the renewable fuel RVO in this action and allowing obligated parties to retire any D-code of RINs to meet it.

d. Incurring a Shortfall

In this action, we are proposing that an obligated party would be allowed to fall short of a quarterly RIN retirement requirement if it met certain conditions. This shortfall provision would mirror the flexibility provided by the annual deficit provision described above. Under one set of conditions, a party would be allowed to incur a shortfall in a quarter of a given year as long as in the following year it satisfied all three quarterly RIN retirement obligations. Under a second set of conditions, a party would be allowed to incur a shortfall in a quarter of a given year and in a quarter of the following year if its annual RVO for the current year were equal to zero (*e.g.,* as the result of an approved small refinery exemption). Under this proposal, a shortfall in one quarter would have the same effect as a shortfall in all three quarters of the year on a party's ability to incur shortfalls in the following year. We are proposing amendments to 40 CFR 80.1427(b) to reflect this provision.

We considered an alternative approach under which a party's shortfall in one or more quarters of a year would not affect a party's ability to incur a shortfall in one or more quarters of the following year. However, we believe this alternative would create a loophole to this reform that could be exploited by obligated parties to circumvent the proposed quarterly RIN retirement requirements. By way of example, consider an obligated party that retired no RINs in the first three quarters of a given year and then fully complied with its annual RVOs at the end of the year by retiring all required RINs. Under the alternative approach, the obligated party would be allowed to incur shortfalls in all three quarters of the following year and could repeat this compliance strategy again and again. This would amount to a circumvention of the proposed quarterly compliance reform altogether. Considering this example under the proposed approach instead, the obligated party that retired no RINs in the first three quarters of a given year would be required to meet the quarterly RIN retirement requirements of the following year. We seek comment on allowing shortfalls under certain conditions and on our approach to preventing shortfalls over multiple years. We seek comment on the alternative we considered as well as other alternative approaches commenters recommend.

e. Calculating the RIN Retirement Requirement

We are proposing in this action that the RIN retirement requirements for the first three quarters of a compliance year would be calculated as 80 percent of an obligated party's cumulative gasoline and diesel production and import volume multiplied by the renewable fuel percentage standard for the current year. As explained above, the quarterly RIN retirement equations would not include an input for any prior year deficit carried over or a limitation on the year of the RINs used. We believe that an 80-percent flexibility would address the seasonal variability in RIN generation that could impede a party's ability to acquire 100 percent of its required RINs. We also believe that an 80-percent flexibility would provide some leeway for volume errors identified at the end of the year through the attest engagement process. We seek comment on this approach to providing obligated parties with this flexibility and on the value of 80 percent that we chose to propose and whether a different value would be more appropriate.

We considered, but are not proposing, setting a RIN holding requirement rather than a RIN retirement requirement. Under this approach, obligated parties would need to demonstrate that they owned at least 80 percent of their cumulative volumes multiplied by the renewable fuel percentage standard. One reason for this approach is that it could better align with the RIN holding threshold calculations proposed in Section III.E.1, which would not adjust the threshold as RINs were retired every quarter. As such, an obligated party that had retired 60 percent of its annual renewable fuel obligation after three quarters would only have a legitimate need to hold the 40 percent of its annual obligation remaining plus 30-percent headroom, but it would be allowed under our proposal to hold 130 percent. We proposed these calculations in Section III.E.1 to keep them simple, but we realize that some commenters may find it unbalanced and unfair. We seek comment on adjusting this reform to a holding rather than retirement requirement to address concerns with the threshold calculations.

f. Compliance Deadline

Under the existing regulations, the deadline by which obligated parties must demonstrate compliance with their annual RVOs is March 31 of the year following the compliance year. As such, parties have three months after the last day of the compliance period to compile their gasoline and diesel production and import volumes, calculate their RVOs, acquire the necessary number of RINs, and submit their annual compliance reporting forms. This three-month administrative period is necessary for obligated parties to complete all of the required compliance steps properly.

In this action, we are proposing that an administrative period be added to the end of the first, second, and third quarters for demonstration of compliance with the periodic RIN retirement requirements. We are proposing a two-month administrative period such that the compliance demonstration deadlines would be June 1, September 1, and December 1 of the compliance year. This delayed schedule would provide obligated parties with additional time to gather production and import volumes, acquire RINs, and complete the reporting forms and would align with existing quarterly reporting deadlines. RINs generated during the administrative period could be used for compliance in the previous quarter. We are proposing that a three-month administrative period and the March 31 compliance demonstration deadline continue to apply to the annual RVO. We seek comment on these proposed deadlines and on whether a different administrative period or periods would be more appropriate.

g. Reporting and Recordkeeping

In this action, we are proposing that compliance with the quarterly RIN retirement requirements would be demonstrated to EPA through reporting. The quarterly deadlines described above would be reporting deadlines and would align with the existing deadlines for RIN generation, transaction, and activity reports. We believe that aligning our proposed quarterly deadlines with deadlines for existing reporting requirements would be an easier adjustment for parties. To implement this reporting requirement, we are proposing that obligated parties would report cumulative gasoline and diesel production and import volumes and demonstration of compliance with

requirements in the first three quarters. We are also proposing to update recordkeeping requirements to include all applicable quarterly values and calculations. We are not proposing to amend the attest engagement due date, so it would continue to be required once at the end of each compliance year. The RIN generation, transaction, and activity reports would continue to be required quarterly.

We are proposing that any minor adjustments that an obligated party would need to make to a prior quarter's reported volumes due to an EPA-reported remedial action would be required to be accounted for in the next RIN retirement calculation and demonstration. Since the obligated party would be certifying that their reported values were accurate to the best of their knowledge, we believe that the risk of gaming the regulations by consistently under-calculating a quarterly RIN retirement requirement is low. A continued pattern of under-calculating by one party could potentially result in an enforcement action. We seek comment to this approach to remedial action volume adjustments and on alternatives to account for them in this action.

h. Small Refinery Exemptions

Under this reform, we are proposing that all obligated parties would be required to meet RIN retirement requirements on a quarterly basis. This means that small refineries that submit a petition for an extension of the small refinery exemption would typically face reporting and RIN retirement requirements before EPA issues a decision on the petition. Even under the current annual reporting requirements, many small refineries already choose to retire RINs before EPA acts on their petitions, understanding that EPA will later ''unretire'' those RINs should EPA ultimately decide exemption is warranted for that refinery in that compliance year. However, we recognize that quarterly RIN retirement obligations for small refineries that may receive an exemption would not necessarily be efficient. As described below, small refineries that expect to receive hardship relief can alternatively defer quarterly reporting under the retirement shortfall provisions proposed in this action provided they did not carry a deficit from the previous compliance year (*e.g.,* if they received hardship relief in the previous year).

Under this proposal, all refineries including small refineries would be able to incur a full RIN requirement shortfall in the first three quarters as long as they had not incurred a deficit in the prior year. When EPA grants an RFS exemption, the exempt refinery has no RFS obligation during the compliance year for which an exemption has been granted. For small refineries that received RFS hardship exemptions, their annual RVO would be zeroed out. Since the small refineries wouldn't trigger the annual deficit provision in that year, they could repeat the same steps in the next year if they still faced hardship. We note that an obligated party reporting at an aggregated level for multiple refineries, including at least one small refinery, would not zero out its total annual RVO. Rather, when EPA approved its small refinery exemption(s), it would exclude the small refinery volumes from its annual RVO calculations but still include volumes from the other refineries. As such, we believe that a small refinery that would like to take the compliance path outlined above would have to report on a facility-by-facility basis, rather than on an aggregated basis. An obligated party that wished to report at an aggregated level would have to account for any small refinery volumes when calculating and complying with its quarterly RIN retirement requirement.

If the small refinery chose to comply with the proposed quarterly RIN retirement requirements and then received an RFS exemption from EPA, then we would work with the small refinery to unretire its RINs as we do now under the current annual reporting requirements. We are not seeking comment on whether EPA can unretire RINs after granting a small refinery exemption. If the small refinery chose to incur a RIN retirement shortfall in the first three quarters but did not receive an exemption from EPA, then it would be required to comply with the annual RVO by March 31 as they also do under the current annual reporting requirement by either obtaining the appropriate number of RINs or by taking a deficit. In that case, whether they met the annual obligation or carried a deficit into the following year, they would be prohibited from incurring a shortfall in any quarter of the following year.

3. Reform Three: Limiting Who Can Purchase Separated RINs

The third potential reform from the President's Directive that we address in this action is limiting the purchasing of separated RINs to obligated parties only. Canada structured its Federal Renewable Fuels Regulations this way by only permitting primary suppliers, the regulated parties under those regulations, to acquire compliance units from others.[190] This is also how the credit provisions in our gasoline sulfur and benzene programs are structured. In those EPA programs, the obligated parties are both the generators of the credits and the users of the credits and are the only parties that need to take any action. Conversely, in the RFS program, obligated parties are typically dependent on the action of other parties, such as renewable fuel producers and blenders, to actually introduce the renewable fuel and the RINs into the marketplace. Consequently, the RFS program was set up differently.

Supporters of this regulatory change argue that, since obligated parties are the only parties who need to purchase RINs for the purpose of compliance, obligated parties should be the only parties allowed to purchase separated RINs. The goal of this reform is to minimize the number of parties trading RINs so as to reduce the risk of hoarding or other actions by non-obligated parties that could improperly impact the prices of RINs and thus impact the cost of compliance for obligated parties. In developing this proposed reform, EPA is taking into consideration the concerns that limiting the parties that can trade in the RIN market could have negative unintended consequences, as discussed below.

Under this reform, we are proposing that only obligated parties, exporters and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed provision if they were a corporate affiliate or a contractual affiliate of an obligate party.

As explained in Section III.B of this action, RINs are generated with the generation of renewable fuel and move downstream of the producer attached to the renewable fuel. When a blender acquires the renewable fuel and blends it with conventional fuel, the blender is required to separate the RIN from the renewable fuel. The separated RIN becomes its own commodity separate from the renewable fuel that can be traded and used separately. By the very nature of the blender's role in the fuel distribution system and the requirements of the RFS program, blenders must become owners of separated RINs. Therefore, this reform is limited to only the purchase of separated RINs.

[190] See ''Questions & Answers on the Federal Renewable Fuels Regulations'' (2012), available at *https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/publications/revised-questions-answers-renewable-fuels.html.*

a. Implications and Discussion

As described above, this reform would limit the purchasing of separated D6 RINs to obligated parties and certain non-obligated parties. Some stakeholders have commented that this reform would be beneficial because it would specifically block market traders and brokers whose only intention is to make a profit in the RIN market and may have an incentive to engage in manipulative or anti-competitive behavior to boost their profits.[191] (We note, however, that simply making a profit on the RIN market is not manipulative or anti-competitive behavior.) Limiting non-obligated parties from purchasing separated D6 RINs could help deter or prevent that potential behavior from occurring in the future. Conversely, some have claimed that limiting the number of parties participating could harm the RIN market and have other unintended consequences. In fact, this specific reform was explicitly raised for consideration in the 2019 RVO proposal, and we received multiple comments in opposition, citing the harm this reform would likely cause. For example, many parties commented that the liquidity of the RIN market would decline if RIN market participation were curtailed. These comments stated that some parties without a compliance obligation alleviate the burden on the seller of finding a counterpart willing to buy the exact amount of RINs for sale at that exact time. They do so by aggregating small RIN bundles for large buyers, disaggregating large RIN parcels for sale to multiple buyers, and holding RINs until the parties are ready to buy. Some commenters also stated that, especially in a market as sensitive to policy announcements as the RIN market, higher participation can reduce volatility and help the market adjust to a policy or other shock more quickly than curtailed participation. As such, these comments warned that restricting participation in the RIN market would reduce liquidity, increase volatility, and ultimately increase RIN prices.[192]

Some commenters explained that a RIN price reflecting higher transaction costs would not be representative of the fundamentals of the market and thus would weaken the market signal function of RIN prices. For example, the RIN price is used by obligated parties to estimate the compliance cost they need to recover through their fuel pricing, by biofuel producers to gauge supply and demand of the biofuel market, and by downstream parties to decide whether to build out more blending infrastructure. Curtailed market liquidity could weaken everyone's ability to react to the market effectively.

Some stakeholders have also provided comment to EPA outside of the 2019 RVO rulemaking about how this reform would harm them and their business operations directly. Specifically, we heard from some non-obligated parties who play a large role in the existing fuel market by blending biofuel with petroleum-based fuel and moving the blended fuel downstream to retailers. These blenders enter into term contracts with obligated parties for delivery of a specific quantity of RINs at the end of the contract period. Blenders base their commitment on expected fuel blending volumes, which relate to expected fuel production and fuel demand. However, if fuel production or demand fell shorter than expected, RIN separation by the blender would also fall short. In order to meet its contractual obligation in this situation, the blender would have to buy separated RINs on the RIN market. A reform that prohibited blenders from buying separated RINs would require blenders and their obligated party counter-parties to restructure the RIN delivery guarantees in the current contracts. Therefore, some of these blenders have expressed concern with the harm to them and the operation of the RFS program that this reform could cause. They've also highlighted the asymmetry this would create in the fuels system between refineries and blenders; blenders who fall short of their RIN supply contracts with refineries would not be able to fill the gap while refineries who fall short of their petroleum-based fuel contracts with blenders would be able to fill the gap by purchasing gasoline, diesel, or blendstock on the market as needed. Therefore, they characterize a reform that prohibits them from purchasing separated RINs as creating an uneven playing field in the fuels industry.

For all of the reasons listed above, we are not proposing to prohibit all but obligated parties from purchasing separated D6 RINs because we recognize that doing so could cause harm to parties, the D6 RIN market, and to the RFS program. Thus, our proposal to limit this reform reflects a weighing of the beneficial aspects of deterring potential market manipulation against the potential negative consequences on the RFS program. We seek comment on these potential consequences as well as comments on alternative approaches to implement this reform.

b. Scope

We are proposing to limit the scope of this reform to D6 RINs only. D6 RINs are the D-code about which we have heard concerns related to hoarding and market manipulation. In order to limit any unintended consequences of this action, we believe it is sensible to limit this action to D6 RINs. For example, we believe that it would be very challenging to restrict the purchasing of separated D3 RINs because D3 RINs generated from biogas to fuel natural gas vehicles are generated at the same time as they are separated; it would not be possible to distinguish parties who own a D3 RIN from parties who separated it. We seek comment on our narrow application of this reform to D6 RINs only and on concerns of anti-competitive behavior related to the purchasing of other D-code RINs.

In this action, we are proposing that obligated parties as well as a limited set of non-obligated parties would be allowed to purchase separated D6 RINs freely. We considered a firm prohibition on all transactions of all parties other than obligated parties from purchasing D6 RINs, but we believe that certain limited situations involving non-obligated parties should continue to be allowed for the RFS to function properly. We outline those situations and allowances below.

First, we are proposing that a party that is a corporate affiliate or a contractual affiliate, as proposed at 40 CFR 80.1401, to an obligated party would be allowed to execute a separated D6 RIN purchase transaction. This would include a party that is owned more than 20 percent by an obligated party or that owns more than 20 percent of an obligated party. This would also include a party that has an agreement to deliver RINs to an obligated party. Based on discussions with some obligated parties, we believe that they routinely contract with third-parties, such as traders, to deliver separated D6 RINs. We have also learned, as described in Section III.E.3.a, that some non-obligated parties routinely commit under contract to deliver D6 RINs to obligated parties based on their anticipated future blending volumes and must purchase separated D6 RINs on the market to satisfy the contract if their blending volumes fall short. We believe all of these contractual transactions are helpful to obligated parties and that obligated parties, the

[191] See, *e.g.,* comments from HollyFrontier (Docket Item No. EPA–HQ–OAR–2018–0167–1198), Monroe Energy (Docket Item No. EPA–HQ–OAR–2018–0167–0622), and Valero (Docket Item No. EPA–HQ–OAR–2018–0167–1041).

[192] See, *e.g.,* comments from ACT Commodities (Docket Item No. EPA–HQ–OAR–2018–0167–0615), Phillips 66 (Docket Item No. EPA–HQ–OAR–2018–0167–1267), and Shell (Docket Item No. EPA–HQ–OAR–2018–0167–0513).

very parties this reform is attempting to protect, would be harmed if these types of contractual transactions were prohibited.

Second, we are proposing that non-obligated parties needing to replace invalid RINs would also be allowed to purchase separated RINs for that purpose. Parties that generate renewable fuel with RINs attached sometimes make errors in their renewable fuel and RIN calculations, and blenders that purchase RINs attached to renewable fuel sometimes learn too late that the RINs they've acquired are fraudulent or erroneous. We believe that the most straightforward and practical way to allow these parties to stay compliant with the RFS program is to continue to allow them to replace invalid RINs by purchasing new separated RINs from the market.

Third, we are proposing that exporters of renewable fuel that needed D6 RINs to satisfy their exporter RVOs according to 40 CFR 80.1430 would be allowed to purchase separated D6 RINs in these limited situations. Parties that export conventional fuel blended with renewable fuel must acquire and retire RINs to account for the portion of their exported product that is renewable fuel. These exporters do not necessarily receive, generate or separate RINs, so they need another way to acquire RINs in order to comply with the program.

Ultimately, we believe that our proposal would successfully exclude from the RIN market those parties that serve no function in the fuels market and that may enter the RIN market for speculative or manipulative reasons only. We seek comment on providing allowances in this reform, including whether doing so would create any gaming opportunities and, if so, how that could be avoided. For example, a non-obligated party could create a contract with an obligated party at a minimum level as a way to game this reform. We seek comment on how we could tighten this reform but still allow enough compliance flexibility for obligated parties with contractual relationships with non-obligated parties. We also seek comment on the appropriateness of these allowances and on any other limited situations, in which non-obligated parties should be allowed to purchase separated D6 RINs.

We recognize that a reform prohibiting non-obligated parties from certain activities could create strong incentives for non-obligated parties to become obligated parties. This can be done relatively easily by importing a small volume of fuel or blending small volumes of blendstock to produce fuel. This type of gaming could circumvent the entire purpose of this reform and create a sizable implementation burden on EPA to no avail. We seek comment on ways this gaming could be prevented should we finalize this reform, including limiting the number of separated D6 RINs that importers, blender refiners, and non-obligated parties exempted from this prohibition can purchase. This is similar to the limitation we placed on the ability of certain obligated parties to separate RINs under 40 CFR 80.1429(b)(9).

c. Reporting and Recordkeeping

As described in Section III.E.1.h, we are proposing to add a yes/no field on the D6 RIN holding threshold to the RIN Activity Report that all RIN holding parties already submit to EPA quarterly. Since all RIN holding parties already submit these reports quarterly, we believe the incremental reporting burden of filling out a new threshold field would be minimal. In order to maintain compliance oversight of this RIN purchasing restriction on non-obligated parties, we are proposing to also add a field to the quarterly RIN Activity Report on whether a non-obligated party purchased D6 RINs in the quarter. If the non-obligated party reported purchasing any amount of separated D6 RINs, it would then have to report whether a valid reason (*e.g.,* invalid RINs, exports, contract with obligated party) applied. As with the threshold field, we believe it would be important for parties to certify that they were in compliance with this proposed provision. We are also proposing that non-obligated parties would be required to keep all applicable records related to this restriction, such as actual contracts with obligated parties or evidence of invalid RINs and make those records available to their attest engagement auditor. The auditor would review the records and confirm that the party made the proper calculations and reported accurately to EPA on compliance with the proposed provision. We seek comment on this proposed approach to compliance oversight.

d. Alternative Approaches Considered

In addition to the specific reform we are proposing to restrict to certain parties the ability to purchase separated D6 RINs, we seek comment on alternatives that also meet the objective of this reform in the President's Directive but in a more simple and direct way. We recognize that prohibiting a class of parties from taking an action but then carving out a list of exceptions to that prohibition has the potential to be confusing and unwieldy. Instead of the reform that we are proposing, an alternative approach to accomplishing the intended goals of this reform objective could be to rely only on the first reform discussed in Section III.E.1. Rather than restricting who could purchase and who could sell to whom, we could address the concern that non-obligated parties might hoard RINs only by imposing a limit on their D6 RIN holding. The holding limit specifically on non-obligated parties could be lower than the three percent of the annual conventional biofuel volume requirement proposed. We seek comment on these alternatives and on any other alternatives commenters recommend.

4. Reform Four: Limiting Duration of RIN Holdings by Non-Obligated Parties

The fourth potential reform from the President's Directive that we address in this action is limiting the duration a non-obligated party can hold RINs. In Section III.E.3, we describe our proposal to restrict certain non-obligated parties from purchasing separated RINs but still allowing them to own separated RINs that they acquire by blending renewable fuel into petroleum-based fuel. This fourth reform would restrict non-obligated parties further by limiting how long they could hold the separated RINs acquired at blending. The concept behind this reform is to require non-obligated parties to inject their RINs into the market soon after acquiring them to maximize liquidity for obligated parties who need the RINs for compliance.

Under this reform, we are proposing a limit on the duration that a non-obligated party can hold separated D6 RINs. Specifically, we are proposing that a non-obligated party must sell or retire as many RINs as it obtained in a quarter by the quarter's end. For example, both a RIN separated on January 1 and a RIN separated on March 31 would each need to be offset by a RIN sale in the first quarter. The proposed provision would not apply to potentially invalid D6 RINs that are required to be held and prohibited from being sold. This proposed provision would not apply to obligated parties. Additional information on calculations and reporting are discussed in more detail in Section III.E.4.e.

The potential anti-competitive behavior related to non-obligated parties holding RINs that would be avoided with this action is the potential to accumulate enough RINs to gain market power and then use that market power to manipulate the price of RINs. We note that such market power is also addressed by the public disclosure reform outlined in Section III.E.1. However, we are additionally proposing

to limit the duration that non-obligated parties can hold separated RINs in this action as an alternative or additional method to address this concern. We seek comment on the value of limiting the duration that a non-obligated party can hold separated RINs, and specifically on whether it adds any safeguards against manipulative behavior beyond the public disclosure reform.

Some obligated parties have complained that blenders routinely withhold separated RINs from the market until the price is high enough to secure a large profit. We note that such actions are not necessarily price manipulation or evidence of anti-competitive behavior.

a. Implications and Discussion

As described above, this reform would limit the duration that a non-obligated party could hold a D6 RIN and would therefore interfere with attempts at increasing its market power. This reform could also increase the availability of D6 RINs on the market for obligated parties who want or need to acquire RINs for quarterly retirement. A final benefit of this reform is that it provides symmetry to the quarterly RIN retirement requirement for obligated parties as discussed in Section III.E.2; that reform would increase the frequency of D6 RIN demand and this reform would increase the frequency of D6 RIN supply.

This reform could also have harmful consequences for some parties in the market. At an even more basic level, a fuel blender with separated RINs to sell may not be able to find a party willing to buy those RINs at the time of blending. Therefore, a duration limit that is set too short could take too much flexibility away from non-obligated parties and make it difficult for them to participate in the RIN system. As such, we have proposed a duration limit of a quarter that we believe minimizes the risk of causing harm to parties in the RIN system.

Finally, we note that non-obligated parties who want to evade the duration limit for holding separated RINs could easily take the minimal action necessary to become an obligated party. For example, a blender could easily blend a small volume of blending stocks to produce gasoline or diesel or import a small volume of petroleum-based fuel in order to become an obligated party. As an obligated party, the blender would no longer be subject to a restriction on how long it could hold its RINs. While such gaming would not directly harm any party or the RIN market, it could harm the integrity of the program if done widely and could increase the implementation and oversight burden on EPA. We seek comment on the implications of such gaming and on any ideas to prevent it, including imposing the duration limit on RINs held by importers and blender refiners that are in excess of their RVO requirements. This is similar to the limitations we placed on the ability of these obligated parties to separate RINs under 40 CFR 80.1429(b)(9).

b. Scope

We are proposing to limit the scope of this reform to D6 RINs only. D6 RINs are the only D-code about which we have heard concerns related to hoarding and market manipulation. In order to limit any unintended consequences of this action, we believe it is sensible to limit the type of RIN it applies to while still meeting the objective of the reform. For example, since most D3 RINs are generated only once a month, we believe parties might need more flexibility on the time between RIN generation and RIN sale than other D-codes. Furthermore, D4 RINs attached to biodiesel produced by a small or unknown company may not be well received on the market, so a non-obligated party that blends such biodiesel into petroleum-based diesel and separates such D4 RINs might need time to find a willing buyer. A restriction on how long they can hold such D4 RINs before selling could upset the balance in purchase negotiations and force non-obligated parties to sell these D4 RINs at significantly discounted prices to stay in compliance with this proposed regulation. We seek comment on our narrow application of this reform to D6 RINs only and on concerns of anti-competitive behavior related to the purchasing of other D-code RINs.

We are also proposing that separated D6 RINs that are potentially invalid would not be accounted for by a non-obligated party in its count of D6 RINs separated in a quarter. A party would leave those D6 RINs out of the count of D6 RINs it would have to sell or retire. The non-obligated party would continue to be subject to the requirements at 40 CFR 80.1431.

c. Duration

Although we did not identify this reform concept in the list of reforms under EPA consideration in the 2019 RVO proposal, several parties proactively commented on this concept. Some commenters suggested a 30-day duration, others suggested 60 days, and still others suggested 90 days. We considered each of these potential durations and decided to propose in this action a 90-day cycle, whereby the number of separated D6 RINs that a non-obligated party would be required to sell or retire in a quarter would be number of separated D6 RINs that the party separated or purchased in that same quarter. Requiring non-obligated parties to sell RINs by the end of the quarter would have the significant benefit of matching the quarterly RIN retirement cycle that would be required of obligated parties under this Section III.E.2 of this action. Coordinating these two frequencies may help maintain equilibrium in the RIN market and create equity among all RIN system participants. We seek comment on the appropriateness of this duration and of any other potential durations. We note that the reform proposed under Section III.E.2 would require RIN retirement of only 80 percent of the renewable fuel standard, so we seek comment on whether the RIN holding duration should only apply to 80 percent of RINs separated or purchased in order to better align the two reforms.

d. Implementation

In this action, we are proposing that a non-obligated party would be required to count the total number of RINs it separated or purchased each quarter and sell or retire that many total RINs by the end of the same quarter. For example, a non-obligated party would count the total number of RINs it separated or purchased between January 1 and March 31 of a given year and then would sell or retire that many RINs between January 1 and March 31 of that year. This approach would meet the intention of this reform to prevent RIN hoarding and increase liquidity without getting stuck needlessly in the details of which specific RIN is being sold. It would also allow non-obligated parties the flexibility to hold onto some D6 RINs that may be more difficult to sell for a longer period of time, provided they are selling an equal number of D6 RINs by the established deadline. We are also proposing that, for a non-obligated party, any D6 RINs acquired in one quarter through a remedial action with an EPA-generated separation date in the previous quarter would add the D6 separated RINs to its separated total for the current quarter.

We also considered a slightly longer period between RIN separation and sale in which a non-obligated party would be required to count the number of RINs it separated each quarter and sell at least that many RINs in that quarter and the following quarter. For example, a non-obligated party that sold 100 RINs between January 1 and March 31 would

have to sell at least 100 RINs between January 1 and June 30. RINs separated on January 1 would need to be sold within 180 days and RINs separated on March 31 would need to be sold within 90 days. Such a scheme would create overlapping periods, however, in which the same RIN sale could be counted towards two different quarterly requirements. We ultimately decided to propose a quarterly requirement, but we seek comment on this alternative approach.

We also considered an approach that would initiate a 90-day expiration timer for each separated RIN batch on the day it is separated by a non-obligated party. Under this design, a blender would need to sell each RIN or batch of RINs within 90 days of separating it from the underlying renewable fuel. However, such an implementation scheme would place a large burden on non-obligated parties to keep track of multiple expiration timers, possibly dozens or hundreds at a time. It would also be very costly, if not infeasible, for EPA to update EMTS to track so many individual expiration deadlines, which across the entire system could total in the thousands or millions at any given time. A slightly more manageable version that we considered but are not proposing would be to require that an individual RIN separated in one quarter by a blender be sold by that blender by that quarter's compliance deadline for obligated parties. This approach would still tag each RIN or RIN batch with an expiration date, but the same expiration date would be applied to all RINs generated in the quarter. This approach would result in a total of four expiration dates a year across the whole RIN system for EPA to keep track of rather than thousands or millions. However, we believe that any approach that requires EMTS to tag individual RINs or RIN batches with a specific date would be technically infeasible. We seek comment on the proposed approach and on any other alternative approaches that commenters recommend.

The approach we are proposing, if finalized, as well as all of the other approaches considered, would allow a non-obligated party to maintain the RIN holdings it would have on the day before the effective date of this reform. This aspect of the reform could incentivize non-obligated parties to build up their RIN holdings in advance of the final rule effective date, which would be counter to the goal of this reform. We seek comment on an approach to addressing this concern.

We are proposing that all non-obligated parties would be subject to this D6 RIN holding duration limit, with no exception. For the third reform discussed in Section E.III.3, we are proposing situations that should be excluded from its restriction, namely situations in which exporters would need to satisfy export RVOs, non-obligated parties would need to replace invalid RINs, and non-obligated parties would need to satisfy contract terms with obligated parties. We believe those exceptions are warranted because they either allow parties to meet the RFS requirements or because they help the RFS program run smoothly for obligated parties. For the reform discussed in this section, however, we do not believe that any exceptions are necessary. For example, a non-obligated party that needs D6 RINs to satisfy a contract with an obligated party could still do so while meeting the holding duration limit. We seek comment on whether any exceptions to this reform would be warranted, and if so which exceptions and why.

e. Reporting and Recordkeeping

In order to maintain compliance oversight of this RIN holding duration reform on non-obligated parties, we propose in this action to add a field to the quarterly RIN Activity Report on whether the proposed D6 RIN holding duration limit was exceeded in the quarter. We are also proposing that the attest engagement auditor would review the D6 RIN separation and sales numbers and confirm that the parties made the proper calculations and reported accurately to EPA on compliance with the proposed provision. This proposed approach to reporting, recordkeeping, and compliance oversight is similar to our proposals for the first and third reforms discussed in this action. We seek comment on this proposed approach to compliance oversight.

5. Enhancing EPA's Market Monitoring Capabilities

In addition to the four reforms proposed in this action, we are considering taking additional steps to enhance our market monitoring capabilities in order to better detect potential market manipulation. The items listed below represent options we are currently considering, and we welcome public input on any aspects related to enhancing our data collections, enhancing our data systems, and/or seeking third-party RIN market surveillance assistance. We are also seeking comment on how these options could work in conjunction with the four reforms outlined in Sections III.E.1–4.

a. Enhance Data Collection

Monitoring a commodities market as large and complex as the RIN market requires a substantial amount of market data. We currently require parties to submit some data under the RFS related to RIN trades. These data include trade prices, RIN volumes traded, and the parties involved in the transaction. These current data collections can be used to assess the RIN market for manipulative activities, but we recognize that we have an opportunity in this action to diversify the data we collect to enhance our ability to monitor the market. We also recognize the importance of balancing the benefits of additional data with the burden imposed both on the regulated industry and EPA of reporting and handling the data. Considering these factors, we are requesting comment on additional data collections that would enhance our ability to monitor the RIN market for instances of manipulation.

As described in Section III.E.1, we are proposing that parties would be required to report to EPA when their aggregate RIN holdings, including holdings of corporate affiliates, exceed a specified threshold. In order to provide meaning to this proposed reform and to enhance our market monitoring capabilities, we are proposing in this section that auditors would include in their annual attest engagements submitted to EPA by June 1 following the compliance year the names of the party's corporate and contractual affiliates in the compliance year. Parties that meet both definitions would need to be identified in both categories.[193] Given the complexity of contracts and RIN transactions, it is very challenging for EPA to confirm whether parties have common ownership and whether any group of corporate affiliates reached a level of aggregated D6 RIN holdings in a compliance year that would trigger the thresholds established in Section III.E.1 of this action. Therefore, we believe we need to collect information on corporate affiliates to allow us to properly conduct oversight of the RIN market. We are also proposing that this list would contain the names of contractual affiliates so that we could maintain some insight into any additional market share parties could have control over. We note that this list would include parties that are not registered with EMTS to hold RINs. While only registered affiliates are included in the threshold equations in

[193] For diagrams and examples of different types of affiliates, see the memorandum, ''Affiliates and Groups Definitional Relationship and Requirements,'' available in the docket for this action.

Section III.E.1 for simplicity, we believe we need a wider picture of affiliations to, for example, monitor for a non-registered party that has established contracts with multiple parties to purchase and own a large number of aggregated RINs on its behalf. We would treat these lists as CBI and would not make them publicly available. We recognize that there may be challenges that we may not be aware of for parties to disclose this information to auditors and for auditors to pass it along to EPA, and therefore we are seeking comment on any potential concerns and how these concerns may outweigh the benefits of adding this data to market oversight.

We are also proposing amendments to 40 CFR 80.1452(c)(12) to specify how parties report prices of RIN transactions to EPA. Currently, some RIN prices reported are illogical numbers, so we are providing further instruction on how to report the true price correctly. Specifically, we are proposing that a per gallon RIN price would be required for a separated RIN transaction and that a price of $0.00 would only be allowed for intracompany and tolling agreement transactions. We are also seeking comment on any other legitimate reasons for reporting a $0.00 RIN price besides the reasons identified above.

We are also planning to update business rules in EMTS to require that both parties in a RIN transaction enter the same RIN price. EMTS already has a business rule that requires both parties in a RIN transaction to enter the same RIN volume, and this business rule has been very helpful in maintaining high quality volume data that we can reliably publish and use for compliance oversight. These and other business rules prevent data entry errors and prompt parties that haven't properly followed the instructions in the regulations to correct their numbers. By adding a similar business rule to EMTS on prices, we believe we can prevent reporting errors and improve the quality and reliability of our price data.

Finally, we are proposing to update the transaction type options at 40 CFR 80.1452(c)(6) to capture whether a RIN transaction is the result of a spot trade or of delivery from a term contract. We believe that collecting this additional information will improve our understanding of the RIN price reported because we will know whether the price was established on the transaction date or sometime prior. With this information in hand, we could filter term contract prices out of the RIN price dataset that we publish and analyze internally for compliance oversight. Thus, the published price would be a better reflection of market prices on a given day. We seek comment on this updated reporting requirement.

b. Third-Party Market Monitoring

We are considering whether we should employ third-party monitoring of the RIN market. We are aware of other environmental commodity markets that employ third-party market monitoring services to conduct analysis of the market, including screening for potential anti-competitive behavior or market manipulation. For example, the Western Climate Initiative, Inc. provides administrative services to the linked cap and trade programs in Quebec and California, including managing a contract with a company that provides independent marketing monitoring for the jurisdictions.[194] Quebec and California each maintain market monitoring capabilities to oversee the joint market. In addition, RGGI contracts with a third-party to monitor its CO_2 allowance trading market and produce and publish quarterly and annual reports summarizing their findings.[195] We believe additional RIN market oversight and monitoring from an independent third-party could serve as a deterrent to manipulative behavior and increase market transparency, enabling the market to more easily function as designed. However, we also recognize this added feature would come at a cost that may or may not outweigh the benefits. For example, there would be additional financial and staff time costs to manage the contracts and system with the third party, including ensuring proper data security, transfer, and training that would divert EPA's already limited resources away from the many high priority areas under the RFS program. Therefore, we are seeking comment on whether we should consider employing third-party monitoring of the RIN market, including production of market analysis reports and how to share findings in these reports and still protect confidential business information.

F. RIN Market Reform Economic Impacts

1. Benefits of RIN Market Reform

The goal of the proposed reforms is to discourage or help prevent anti-competitive market practices that may introduce uncertainty or volatility into the RIN market. If these anti-competitive behaviors were to occur in the RIN market, then it comes at a cost to both obligated parties and biofuel producers if the prices are artificially inflated or deflated. Therefore, if the proposed reforms deliver on their intended goal, we believe the net benefit of this should help reduce undue costs and lower the risks for both obligated parties and renewable fuel producers. These proposed reforms also provide the added benefit of increasing transparency into the RIN market. In general, true commodities markets function optimally when all participants have access to as much information possible, without infringing on confidential business information, and this information is disseminated or shared with all parties at the same time. This helps create a level playing field and minimize any potential advantage one party may have over the another. The net benefit of greater transparency helps market participants, such as obligated parties, plan short- and long-term strategies to manage their compliance costs.

2. Costs of RIN Market Reform

As detailed in Sections III.E.1–4, we are proposing to require additional reporting and recordkeeping for obligated parties under the RFS program and non-obligated parties that participate in the RIN market. As a result, we expect modest costs associated with these new requirements.[196] Specifically, we anticipate new costs associated with reporting and recordkeeping requirements related to RIN holdings, affiliated parties, increased compliance frequency, and any other data elements EPA collects as informed by Section III.E.5.a. We also anticipate some costs associated with prohibiting certain non-obligated parties from purchasing separated D6 RINs. Many of these parties have developed business models and enter into contracts that may require them to leverage the ability to purchase separated D6 RINs on spot markets. Prohibiting this practice would require that these parties adjust their business models.

G. Conclusion

On October 11, 2018, President Trump issued a White House statement explaining that EPA was being directed to initiate a rulemaking. Consequently, in this action, we are proposing

[194] See ''Annual Report 2017 Activities and Accomplishments'' (May 1, 2018), available at *http://www.wci-inc.org/docs/Attachment%206a.%20WCI_Inc_2017_Annual_Report_Final.pdf.*

[195] See ''Annual Report on the Market for RGGI CO_2 Allowances: 2017'' (May 2018), available at *https://www.rggi.org/auctions/market-monitor-reports.*

[196] For a quantitative breakdown of new recordkeeping and reporting burden imposed by this action, see ''ICR _Detailed Burden Tables'' and ''E15 RVP RIN Market Reform Rule ICR _Supporting Statement'' materials in the docket for this action.

regulatory changes in line with the President's Directive that could serve to prevent anti-competitive behavior from potentially taking root in the future.

In Section III.E.1, we are proposing to set two thresholds that would work in tandem to identify parties with separated D6 RIN holdings significantly larger than needed for normal business functions and which may indicate an attempt to assert inappropriate market power. Although we are not proposing that exceeding the threshold would be a prohibited act, we are proposing that we would publish on our website the names of any parties that reported exceeding the thresholds. We are also proposing that the RIN holdings of corporate affiliates be included in a party's threshold calculations. In Section III.E.2, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year. Obligated parties could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance. In Section III.E.3, we are proposing that only obligated parties, exporter, and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed restriction if they were a corporate or contractual affiliate to an obligated party. In Section III.E.4, we are proposing a limit on the duration that a non-obligated party could hold separated D6 RINs. Specifically, we are proposing that a non-obligated party would be required to sell or retire as many RINs as it obtained in a quarter by the end of that quarter. In Section III.E.5, we outline our consideration of taking additional steps to enhance our market monitoring capabilities. We discuss the possibility of employing a third-party market monitor to conduct analysis of the RIN market, including screening for potential anti-competitive behavior.

Overall, we are proposing to amend existing reports to collect quarterly RIN retirement information and information on whether the proposed D6 RIN holding thresholds were exceeded and whether the proposed requirements on purchasing and holding separated D6 RINs were met. We are proposing that parties would keep all records related to these reporting requirements and would submit them to auditors for the attest engagement process. In particular, we are proposing that each party would submit a complete list of its corporate and contractual affiliates to the auditor for review and that the auditor would submit that list to EPA with its attest engagement report. Finally, we are proposing enhancements to existing reporting fields in EMTS to improve our RIN price data for analysis.

We are seeking comment on all of the reform details proposed in this action, including the proposed reporting and recordkeeping requirements. We also seek comment on means to reduce the burden of implementation of these reforms, including on small entities. We are not seeking comment on the many elements of the RFS program that are not proposed for amendment in this action, and those program elements and regulatory provisions are outside the scope of this action.

IV. Statutory and Executive Order Reviews

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

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

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

This action is not expected to be an Executive Order 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

With respect to the E15 1-psi waiver portion of this action, no new information collection burden is imposed under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0675. The proposed changes to the regulations would remove a small segment of language on PTDs required to be generated and kept as records by parties that make and distribute gasoline under the regulations at 40 CFR part 80, subpart N. These proposed changes would not require any additional information from regulated parties nor do we believe that these proposed changes would substantively alter practices used by regulated parties to satisfy the PTD regulatory requirements.

The information collection activities related to the RIN market reform portion of this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 2592.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

This ICR includes all additional RFS related information collection activities resulting from the Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations proposed rulemaking. These information collection activities include new recordkeeping and reporting requirements proposed under 40 CFR part 80, subpart M.

Respondents/affected entities: The respondents to this information collection fall into the following general industry categories: Petroleum refineries, ethyl alcohol manufacturers, other basic organic chemical manufacturing, chemical and allied products merchant wholesalers, petroleum bulk stations and terminals, petroleum and petroleum products merchant wholesalers, gasoline service stations, and marine service stations.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 22,119.

Frequency of response: Quarterly, annually.

Total estimated burden: 216,891 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $20,445,451 (per year).

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

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than April 22, 2019. EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is

any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule.

With respect to the E15 1-psi waiver portion of this action, the proposed regulatory changes do not substantively alter the regulatory requirements on parties that make and distribute gasoline. Additionally, the proposed interpretation to allow E15 to receive the 1-psi waiver would allow parties that make and distribute E15, including small entities, more flexibility in the summer to satisfy market demands.

With respect to the proposed RIN market reform provisions of this action, we have conducted a screening analysis to assess whether we should make a finding that this action will not have a significant economic impact on a substantial number of small entities.[197] As detailed in that analysis, we believe that the existing flexibilities for small entities provide sufficient compliance flexibility and no additional flexibilities are necessary.

We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action implements mandates specifically and explicitly set forth in CAA sec. 211 and we believe that this action represents the least costly, most cost-effective approach to achieve the statutory requirements.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The flexibility provided to E15 blends by this action will enable additional supply of energy but are not expected to have an immediate significant effect on supply, distribution, or use of energy. The modifications to the RFS compliance system are not expected to have a significant effect on supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This proposed rule does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not substantially relax the control measures on sources regulated by EPA fuels programs and therefore will not cause emissions increases from these sources.

V. Statutory Authority

Statutory authority for this action comes from section 211 of the Clean Air Act, 42 U.S.C. 7545. Additional support for the procedural and compliance related aspects of this proposed rule comes from sections 114, 208, and 301(a) of the Clean Air Act, 42 U.S.C. 7414, 7542, and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 12, 2019.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 80 as follows:

PART 80—REGULATION OF FUEL AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

Subpart B—Controls and Prohibitions

■ 2. Section 80.27 is amended by revising paragraph (d)(2) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(d) * * *

(2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 15% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in § 80.47. The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.

* * * * *

■ 3. Section 80.28 is amended by revising paragraphs (g)(6)(iii), (g)(8) introductory text, and (g)(8)(ii) as follows:

§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.

* * * * *

(g) * * *

(6) * * *

(iii) That the gasoline determined to be in violation contained no more than 15% ethanol (by volume) when it was

[197] See ''Screening Analysis for the Proposed Modifications to RFS RIN Market Regulations,'' available in the docket for this action.

delivered to the next party in the distribution system.

* * * * *

(8) In addition to the defenses provided in paragraphs (g)(1) through (g)(6) of this section, in any case in which an ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer would be in violation under paragraphs (b), (c), (d), (e) or (f), of this section, as a result of gasoline which contains between 9 and 15 percent ethanol (by volume) but exceeds the applicable standard by more than one pound per square inch (1.0 psi), the ethanol blender, distributor, reseller, carrier, retailer or wholesale purchaser-consumer shall not be deemed in violation if such person can demonstrate, by showing receipt of a certification from the facility from which the gasoline was received or other evidence acceptable to the Administrator, that:

* * * * *

(ii) The ethanol portion of the blend does not exceed 15 percent (by volume); and

* * * * *

Subpart M—Renewable Fuel Standard

■ 4. Section 80.1401 is amended by adding in alphabetical order definitions for ''Contractual affiliate,'' ''Corporate affiliate,'' ''Corporate affiliate group,'' ''DX RIN,'' and ''End of Day'' to read as follows:

§ 80.1401 Definitions.

* * * * *

Contractual affiliate means one of the following:

(1) Two parties are contractual affiliates if they have an explicit or implicit agreement in place for one to purchase or hold RINs on behalf of the other or to deliver RINs to the other. This other party may or may not be registered under the RFS program.

(2) Two parties are contractual affiliates if one RIN-owning party purchases or holds RINs on behalf of the other. This other party may or may not be registered under the RFS program.

* * * * *

Corporate affiliate means one of the following:

(1) Two parties are corporate affiliates if one owns or controls ownership of more than 20 percent of the other.

(2) Two parties are corporate affiliates if one parent company owns or controls ownership of more than 20 percent of both.

Corporate affiliate group means a group of parties in which each party is a corporate affiliate to at least one other party in the group.

* * * * *

DX RIN means a RIN with a D code of X, where X is the D code of the renewable fuel as identified under § 80.1425, generated under § 80.1426, and submitted to EMTS under § 80.1452. For example, a D6 RIN is a RIN with a D code of 6.

* * * * *

End of day means 7:00 a.m. Coordinated Universal Time (UTC).

* * * * *

■ 5. Section 80.1427 is amended by:

■ a. Revising paragraph (b)(1) introductory text;

■ b. Redesignating paragraphs (b)(1)(ii) through (iv) as paragraphs (b)(1)(iii) through (v);

■ c. Adding new paragraph (b)(1)(ii);

■ d. Revising newly redesignated paragraph b(1)(iii); and

■ e. Adding paragraph (d).

The revisions and additions read as follows:

§ 80.1427 How are RINs used to demonstrate compliance?

* * * * *

(b) * * *

(1) An obligated party that fails to meet the requirements of paragraph (a)(1) or (a)(7) of this section for calendar year i or fails to meet the requirements of paragraph (d)(1) of this section for any quarter in calendar year i is permitted to carry a deficit into year i + 1 under the following conditions:

* * * * *

(ii) The party met the requirements of paragraph (d)(1) of this section in each quarter in calendar year i − 1 for the same RVO.

(iii) The party subsequently meets the requirements of paragraphs (a)(1) and (d)(1) of this section for calendar year i + 1 and carries no deficit into year i + 2 for the same RVO.

* * * * *

(d) *Installment requirement.* (1) In addition to the annual demonstration pursuant to § 80.1451(a)(1) that an obligated party has met its Renewable Volume Obligations under §§ 80.1407 and 80.1430, each obligated party must meet an installment requirement by retiring a sufficient number of RINs for the first three quarters of the compliance year by the reporting deadlines specified in Table 1 to § 80.1451, except as specified in paragraph (d)(3) of this section.

(2) Obligated parties must determine their installment requirements as follows:

$$IR_{i,q} = [RFStd_{RF,i} * (GV_{i,q} + DV_{i,q}) * 0.80] + SHORT_{i,q} - OVER_{i,q}$$

Where:

$IR_{i,q}$ = The installment requirement is the number of RINs an obligated party needs to retire for quarter q in compliance period i, in RINs.

$RFStd_{RF,i}$ = The Renewable Volume Obligation for renewable fuel for compliance period i, determined by EPA pursuant to § 80.1405, in percent.

$GV_{i,q}$ = The cumulative non-renewable gasoline volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party in compliance period i through quarter q, in gallons.

$DV_{i,q}$ = The cumulative non-renewable diesel volume, determined in accordance with § 80.1407(d), (e), and (f), produced in or imported into the 48 contiguous states or Hawaii by an obligated party in compliance period i through quarter q, in gallons.

i = The compliance period, typically expressed as a calendar year.

q = The quarter, as defined in Table 1 to § 80.1451, in compliance period i.

$SHORT_{i,q}$ = Cumulative shortfall from prior quarters in compliance period i through quarter q, which includes the amount of additional RINs an obligated party needed to retire to meet the installment requirement in the prior quarter(s), in RINs. For quarter one, this term is zero.

$OVER_{i,q}$ = Cumulative overage from the prior quarter(s) in compliance period i through quarter q, which includes the amount of excess RINs retired more than the installment requirement in the prior quarter(s), in RINs. For quarter one, this term is zero.

(3) An obligated party must satisfy the installment in compliance period i as required by paragraph (d)(2) of this section unless the obligated party satisfies all installments in compliance period i + 1 or has no RVO in compliance period i.

■ 6. Section 80.1428 is amended by revising paragraph (b)(2) to read as follows:

§ 80.1428 General Requirements for RIN distribution.

* * * * *

(b) * * *

(2) *Separated RIN ownership.* (i) Any person that has registered pursuant to § 80.1450 can own a separated RIN, except as specified in paragraph (b)(2)(ii) of this section.

(ii) Only a person that has registered as an obligated party or exporter of renewable fuel pursuant to § 80.1450, and who must satisfy an RVO, may purchase a separated D6 RIN, unless the person meets one of the following conditions:

(A) The person meets the definition of contractual affiliate or corporate affiliate in § 80.1401.

(B) The person is replacing an invalid D6 RIN under this subpart.

(iii) Any person who owns a separated D6 RIN under paragraph (b)(2)(i) of this section and is not an obligated party must either sell or retire at least the total number of D6 RINs separated or purchased in a quarter by the quarterly report deadline specified in Table 1 in § 80.1451.

(iv) Any person who owns a separated D6 RIN to replace an invalid D6 RIN, as allowed under paragraph (b)(2)(ii)(B) of this section, may not sell the separated or purchased D6 RIN and must retire the separated or purchased D6 RIN within 60 days of the date of separating or purchasing the RIN pursuant to the applicable provisions of §§ 80.1431 and 80.1474.

* * * * *

■ 7. Section 80.1435 is added to read as follows:

§ 80.1435 How are RIN holdings and RIN holding thresholds calculated?

(a) *RIN holdings calculation.* (1) Each party must calculate daily end-of-day separated D6 RIN holdings by aggregating its end-of-day separated D6 RIN holdings with the end-of-day separated D6 RIN holdings of all corporate affiliates in a corporate affiliate group and use the end-of-day separated D6 RIN holdings as specified in paragraph (b) of this section.

(2) Each party must calculate, as applicable, the holdings-to-market percentage under paragraph (b)(1) of the section and the holdings-to-obligation percentage under paragraph (b)(2) of this section quarterly in accordance with the schedule specified in Table 1 to § 80.1451.

(3) Each obligated party that is part of a corporate affiliate group that has a holdings-to-market percentage, as calculated under paragraph (b)(1) of this section, greater than 3.00 percent for any calendar day in a compliance period must calculate their holdings-to-obligation percentage as specified in paragraph (b)(2) of this section.

(4) Each party must individually keep copies of all calculations and supporting information for separated D6 RIN holding threshold calculations required under this section as specified in § 80.1454(u).

(b) *RIN holding thresholds calculations.*—(1) *Primary test calculations.* For each day in a compliance period, each party that owns RINs must calculate the holdings-to-market percentage for their corporate affiliate group using the method specified in paragraph (b)(1)(i) or (b)(1)(ii) of this section, as applicable.

(i) For each day beginning January 1 through March 31, calculate the holdings-to-market percentage for a corporate affiliate group as follows:

$$HTMP_d = [(\Sigma D6RIN_d)_a/(CNV\_VOL_{TOT,i} * 1.25)] * 100$$

Where:

$HTMP_d$ = The holdings-to-market percentage is the percentage of separated D6 RINs a corporate affiliate group holds on calendar day d relative to the total expected number of separated D6 RINs in the market in compliance period i, in percent.
d = A given calendar day.
i = The compliance period, typically expressed as a calendar year.
a = Individual corporate affiliate in a corporate affiliate group.
$(\Sigma D6RIN_d)_a$ = Sum of the number of separated D6 RINs each individual corporate affiliate a holds at the end of calendar day d, in RIN-gallons.
$CNV\_VOL_{TOT,i}$ = The total expected annual volume of conventional renewable fuels for the compliance period i, in gallons. Unless otherwise specified, this number is 15 billion gallons.

(ii) For each day beginning April 1 through December 31, calculate the holdings-to-market percentage for a corporate affiliate group as follows:

$$HTMP_d = [(\Sigma D6RIN_d)_a/(CNV\_VOL_{TOT,i})] * 100$$

Where:

$HTMP_d$ = The holdings-to-market percentage is the percentage of separated D6 RINs a corporate affiliate group holds on calendar day d relative to the total expected number of separated D6 RINs in the market in compliance period i, in percent.
d = A given calendar day.
i = The compliance period, typically expressed as a calendar year.
a = Individual corporate affiliate in a corporate affiliate group.
$(\Sigma D6RIN_d)_a$ = Sum of the number of separated D6 RINs each individual corporate affiliate a holds at the end of calendar day d, in RIN-gallons.
$CNV\_VOL_{TOT,i}$ = The total expected annual volume of conventional renewable fuels for compliance period i, in gallons. Unless otherwise specified, this number is 15 billion gallons.

(2) *Secondary threshold calculations.* For each day in a compliance period where a corporate affiliate group is required to calculate with the secondary threshold requirement under § 80.1435(a)(4), each obligated party must calculate the holdings-to-obligation percentage for their corporate affiliate group using the methods at paragraph (b)(2)(i) or (b)(2)(ii) of this section, as applicable.

(i) For each day beginning January 1 through March 31, calculate the holdings-to-obligation percentage as follows:

$$HTOP_d = [(\Sigma D6RIN_d)_a/\{[(\Sigma CNV\_RVO_{i-1})_a + (\Sigma CNV\_DEF_{i-1})_a + (\Sigma CNV\_DEF_{i-2})_a] * 1.25\}] * 100$$

Where:

$HTOP_d$ = The holdings-to-obligation percentage is the percentage of separated D6 RINs a corporate affiliate group holds on calendar day d relative to their expected separated D6 RIN holdings based on the corporate affiliate group's conventional RVO for compliance period i-1, in percent.
d = A given calendar day.
i = The compliance period, typically expressed as a calendar year.
a = Individual corporate affiliate in a corporate affiliate group.
$(\Sigma D6RIN_d)_a$ = Sum of the number of separated D6 RINs each individual corporate affiliate a holds on calendar day d, in RIN-gallons.
$(\Sigma CNV\_RVO_{i-1})_a$ = Sum of the conventional RVOs for each individual corporate affiliate a for compliance period i-1 as calculated in paragraph (b)(2)(iii) of this section, in RIN-gallons.
$(\Sigma CNV\_DEF_{i-1})_a$ = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-1, in RIN-gallons.
$(\Sigma CNV\_DEF_{i-2})_a$ = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-2, in RIN-gallons.

(ii) For each day beginning April 1 through December 31, calculate the holdings-to-obligation percentage as follows:

$$HTOP_d = \{(\Sigma D6RIN_d)_a/[(\Sigma CNV\_RVO_{i-1})_a + (\Sigma CNV\_DEF_{i-1})_a]\} * 100$$

Where:

$HTOP_d$ = The holdings-to-obligation percentage is the percentage of separated D6 RINs a corporate affiliate group holds on calendar day d relative to their expected separated D6 RIN holdings based on the corporate affiliate group's conventional RVO for compliance period i-1, in percent.
d = A given calendar day.
i = The compliance period, typically expressed as a calendar year.
a = Individual corporate affiliate in a corporate affiliate group.
$(\Sigma D6RIN_d)_a$ = Sum of the number of separated D6 RINs each individual corporate affiliate a holds on calendar day d, in RIN gallons.
$(\Sigma CNV\_RVO_{i-1})_a$ = Sum of the conventional RVOs for each individual corporate affiliate a for compliance period i-1 as calculated in paragraph (b)(2)(iii) of this section, in RIN-gallons.
$(\Sigma CNV\_DEF_{i-1})_a$ = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-1, in RIN-gallons.

(iii) As needed to calculate the holdings-to-obligation percentage in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, calculate the conventional RVO for an individual corporate affiliate as follows:

$CNV\_RVO_i = \{[RFStd_{RF,i} * (GV_i + DV_i)] - [RFStd_{AB,i} * (GV_i + DV_i)]\} + ERVO_{RF,i}$

Where:

CNV_RVO_i = The conventional RVO for an individual corporate affiliate for compliance period i without deficits, in RIN-gallons.

i = The compliance period, typically expressed as a calendar year.

$RFStd_{RF,i}$ = The standard for renewable fuel for compliance period i determined by EPA pursuant to § 80.1405, in percent.

$RFStd_{AB,i}$ = The standard for advanced biofuel for compliance period i determined by EPA pursuant to § 80.1405, in percent.

GV_i = The non-renewable gasoline volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party for compliance period i, in gallons.

DV_i = The non-renewable diesel volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party for compliance period i, in gallons.

$ERVO_{RF,i}$ = The sum of all renewable volume obligations from exporting renewable fuels, as calculated under § 80.1430, by an obligated party for compliance period i, in RIN-gallons.

(iv) As needed to calculate the holdings-to-obligation percentage in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, calculate the conventional deficit for an individual corporate affiliate as follows:

$CNV\_DEF_i = D_{RF,i} - D_{AB,i}$

Where:

CNV_DEF_i = The conventional deficit for an individual corporate affiliate for compliance period i, in RIN-gallons. If a conventional deficit is less than zero, use zero for conventional deficits in paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

i = The compliance period, typically expressed as a calendar year.

$D_{RF,i}$ = Deficit carryover from compliance period i for renewable fuel, in RIN-gallons.

$D_{AB,i}$ = Deficit carryover from compliance period i for advanced biofuel, in RIN-gallons.

(c) *Exceeding the D6 RIN holding thresholds.* (1) *Primary threshold test.* If a party or corporate affiliate group has a holdings-to-market percentage greater than three percent for any calendar day in a compliance period, as determined under paragraph (b)(1) of this section, and the corporate affiliate group does not contain an obligated party, each party in the corporate affiliate group must separately submit a report to EPA as specified in § 80.1451(c).

(2) *Secondary threshold test.* If an obligated party or a corporate affiliate group required to calculate a holdings-to-obligation percentage under paragraph (a)(3) of this section has a holdings-to-obligation percentage greater than 130.00 percent for any calendar day in a compliance period, as determined under paragraph (b)(2) of this section, each party in the corporate affiliate group must separately report to EPA as specified in § 80.1451(c).

(3) *Reporting deadline.* Parties required to report to EPA under this section as specified under § 80.1451(c), must report to EPA by the deadlines specified in Table 1 to § 80.1451.

■ 8. Section 80.1451 is amended by revising paragraphs (a)(3) and (c)(2) to read as follows:

§ 80.1451 What are the reporting requirements under the RFS program?

(a) * * *

(3) The quarterly RIN activity reports required under paragraph (c)(2) of this section to also include:

(i) For obligated parties, all of the following information:

(A) The installment requirement calculated using the procedures in § 80.1427(d) for the applicable quarterly reporting period.

(B) The cumulative shortfall from prior quarters as calculated in § 80.1427(d).

(C) The cumulative overage from the prior quarters as calculated in § 80.1427(d).

(D) The resulting balance after applying total RINs retired for compliance as calculated in § 80.1427(d).

(ii) Any additional information that the Administrator may require.

* * * * *

(c) * * *

(2) Reports related to a person's RIN activity must be submitted to EPA according to the schedule specified in paragraph (f)(2) of this section. Each report must summarize RIN activities for the reporting period and must include all of the following information:

(i) The submitting party's name.

(ii) The submitting party's EPA-issued company identification number.

(iii) Primary registration designation or compliance level for compliance year (*e.g.,* ''Aggregated Refiner,'' ''Exporter,'' ''Renewable Fuel Producer,'' ''RIN Owner Only,'' etc.).

(iv) Number of prior-year and current-year separated D3, D4, D5, D6, and D7 RINs owned at the end of the quarter.

(v) Indicate if the submitting party exceeded the separated D6 RIN holding threshold in the quarter, as determined by the applicable calculation specified in § 80.1435. If the answer is yes, then EPA may publish the name and EPA-issued company identification number of the party.

(vi) For non-obligated parties who purchased separated D6 RINs during the reporting period, the reason(s) for the purchase consistent with § 80.1428(b)(2)(ii).

(vii) Total number of assigned D6 RINs separated during the reporting period.

(viii) Total number of separated D6 RINs purchased during the reporting period.

(ix) Total number of separated D6 RINs sold during the reporting period.

(x) Total number of separated D6 RINs retired during the reporting period.

(xi) For non-obligated parties, total number of separated D6 RINs subject to the requirement in § 80.1428(b)(2)(iii) held past the stated RIN distribution deadline.

(xii) The volume of renewable fuel (in gallons) owned at the end of the quarter.

(xiii) The total number of assigned RINs owned at the end of the quarter.

(xiv) Any additional information that the Administrator may require.

* * * * *

■ 9. Section 80.1452 is amended by:

■ a. Revising paragraph (c)(12); and

■ b. Adding paragraph (c)(15).

The revision and addition read as follows:

§ 80.1452 What are the requirements related to the EPA Moderated Transaction System (EMTS)?

* * * * *

(c) * * *

(12)(i) For RIN buy or sell transaction types including assigned RINs, the per-gallon RIN price or the per-gallon price of renewable fuel with RINs included.

(ii) For RIN buy or sell transaction types including separated RINs, the per-gallon RIN price.

* * * * *

(15) For buy or sell transactions of separated RINs, the mechanism used to purchase the RINs (*e.g.,* spot market or fulfilling a term contract).

* * * * *

■ 10. Section 80.1454 is amended by adding paragraphs (i)(1) and (2) and paragraphs (u) through (y) to read as follows:

§ 80.1454 What are the recordkeeping requirements under the RFS program?

* * * * *

(i) * * *

(1) For buy or sell transactions of separated RINs, parties must retain records substantiating the price reported to EPA under § 80.1452.

(2) For buy or sell transactions of separated RINs, parties must retain

records demonstrating the transaction mechanism (*e.g.,* spot market or fulfilling a term contract).

* * * * *

(u) *Requirements for recordkeeping of RIN holdings for all parties transacting or owning RINs.* (1) Parties must retain records related to end-of-day separated D6 RIN holdings, conventional RVO calculations, and any associated calculations recorded in order to meet the RIN holdings requirements described in § 80.1435. Such records must include information related to any corporate affiliates and their RIN holdings and calculations.

(2) Parties must retain records related to their reports to EPA regarding threshold compliance under §§ 80.1435 and 80.1451.

(v) *Requirements for recordkeeping for installment requirement.* (1) Obligated parties must retain records related to gasoline and diesel production levels used for RVO calculation in §§ 80.1427 and 80.1451.

(2) Obligated parties must retain records related to the RVO calculation inputs as listed in §§ 80.1427 and 80.1451.

(3) Obligated parties must retain records related to any remedial actions submitted after the quarterly compliance deadline.

(w) *Recordkeeping requirements for parties prohibited from purchasing separated D6 RINs.* (1) Non-obligated parties must retain all records pertaining to why they purchased separated D6 RINs. This may include, but is not limited to, legal contracts with obligated parties or documents indicating the need to replace invalid D6 RINs.

(2) [Reserved]

(x) *Requirements for recordkeeping of D6 RIN holdings by non-obligated parties.* (1) Non-obligated parties must retain all records related to the number of D6 RINs separated in a given quarter, purchased in a given quarter, and sold in a given quarter to demonstrate compliance with the requirements in § 80.1428.

(2) [Reserved]

(y) *Requirements for recordkeeping of contractual and corporate affiliates.* (1) Parties must retain records including, but not limited to, the name, address, business location, contact information, and description of relationship, for each corporate affiliate. For the corporate affiliate group, a relational diagram.

(2) Parties must retain records including, but not limited to, the name, address, business location, contact information, and contract or other agreement for each contractual affiliate.

■ 11. Section 80.1460 is amended by revising paragraphs (c)(1) and (d) to read as follows:

§ 80.1460 What acts are prohibited under the RFS program?

* * * * *

(c) * * *

(1) Fail to acquire sufficient RINs, fail to retire sufficient RINs, or use invalid RINs to meet the person's RVOs or quarterly compliance requirements under § 80.1427.

* * * * *

(d) *RIN retention violation.* No person may do any of the following:

(1) Retain RINs in violation of the requirements in § 80.1428(a)(5).

(2) Purchase separated RINs in violation of the requirements in § 80.1428(b)(2).

* * * * *

■ 12. Section 80.1464 is amended by:

■ a. Revising paragraph (a)(3)(ii);

■ b. Adding paragraphs (a)(4) through (5);

■ c. Revising paragraph (b)(3)(ii);

■ d. Adding paragraph (b)(5);

■ e. Revising paragraph (c)(2)(ii); and

■ f. Adding paragraph (c)(3).

The revisions and additions read as follows:

§ 80.1464 What are the attest engagement requirements under the RFS program?

(a) * * *

(3) * * *

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (a)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume and type of renewable fuel (as defined in § 80.1401) owned at the end of each quarter; as represented in these documents; obtain a list of all corporate affiliates and a list of all contractual affiliates and review the information regarding their documented relationship to the submitter (*e.g.,* contracts, or other legal documents); and identify any contractual affiliates that had a contract with the party that did not result in transfer of RINs to the party during the calendar year; report a separate list for all corporate affiliates and all contractual affiliates including identification information for each corporate or contractual affiliate (*e.g.,* company ID, company name, corporate address, etc) and any findings to EPA.

(4) *Quarterly installment requirement for obligated parties.* (i) Compare the volumes of products listed in § 80.1407(c) and (e) reported to EPA in the report required under § 80.1451(a)(3) with the volumes, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under § 80.133 and the volume of non-renewable diesel produced or imported. Verify that the volumes reported to EPA agree with the volumes in the inventory reconciliation analysis and the volumes of non-renewable diesel produced or imported, and report as a finding any exception.

(ii) Compare the calculated installment requirement for each quarter using the required steps found in 80.1427(d) with any RINs retired for compliance. Verify that any cumulative shortfall or cumulative overage is carried through as applicable into any subsequent quarter.

(5) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations kept under § 80.1454(u) for the obligated party and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435. State whether this information agrees with the party's reports (notification of threshold exceedance) to EPA.

(b) * * *

(3) * * *

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (b)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; report the total number of each RIN generated during each quarter and compute and report the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; review the information regarding contractual affiliates and corporate affiliates (as defined in § 80.1401) and their documented relationship to the submitter; identify any contractual affiliates that had a contract with the party that did not result in transfer of RINs to the party during the calendar year; report a separate list for all corporate affiliates and all contractual

affiliates including identification information for each corporate or contractual affiliate (*e.g.,* company ID, company name, corporate address, etc) and any findings to EPA.

* * * * *

(5) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations for the renewable fuel producers and RIN-generating importers and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435.

(c) * * *

(2) * * *

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (c)(1) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, sold, retired, separated, and reinstated and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; review the information regarding corporate affiliates and contractual affiliates (as defined in § 80.1401) and their documented relationship to the submitter (*e.g.,* contract); identify any contractual affiliates that had a contract with the party that did not result in transfer of RINs to the party during the calendar year; report a separate list for all corporate affiliates and all contractual affiliates including identification information for each corporate or contractual affiliate (*e.g.,* company ID, company name, corporate address, etc) and any findings to EPA.

(3) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations for the renewable fuel producers and RIN-generating importers and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold specified in § 80.1435. State whether this information agrees with the party's reports (notification of threshold exceedance) to EPA.

* * * * *

Subpart N—Additional Requirements for Gasoline-Ethanol Blends

■ 13. Section 80.1503 is amended by:

■ a. Revising paragraph (a)(1)(vi)(B);

■ b. Removing and reserving paragraph (a)(1)(vi)(C);

■ c. Revising paragraph (b)(1)(vi)(B); and

■ d. Removing and reserving paragraphs (b)(1)(vi)(C) through (E).

The revisions read as follows:

§ 80.1503 What are the product transfer document requirements for gasoline-ethanol blends, gasolines, and conventional blendstocks for oxygenate blending subject to this subpart?

(a) * * *

(1) * * *

(vi) * * *

(B) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3).

* * * * *

(b) * * *

(1) * * *

(vi) * * *

(B)(*1*) For gasoline containing less than 9 volume percent ethanol, the following statement: ''EX—Contains up to X% ethanol. The RVP does not exceed [fill in appropriate value] psi.'' The term X refers to the maximum volume percent ethanol present in the gasoline.

(*2*) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3) may be used in lieu of the statement required under paragraph (b)(1)(vi)(B)(*1*) of this section.

* * * * *

■ 14. Section 80.1504 is amended by removing and reserving paragraphs (f) and (g).

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Part III

Department of Homeland Security

Federal Emergency Management Agency

44 CFR Part 206

Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID FEMA–2014–0005]

RIN 1660–AA83

Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: FEMA is issuing a final rule to revise its regulations to comply with Section 1109 of the Sandy Recovery Improvement Act of 2013. The Act requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the Individual Assistance factors FEMA uses to measure the severity, magnitude, and impact of a disaster.

DATES: This final rule is effective on June 1, 2019.

FOR FURTHER INFORMATION CONTACT: Mark Millican, FEMA, Individual Assistance Division, 500 C Street SW, Washington, DC 20472–3100, (phone) 202–212–3221 or (email) *FEMA–IA-Regulations@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Regulatory Action

1. The Need for the Regulatory Action and How the Action Will Meet the Need

On January 29, 2013, the Sandy Recovery Improvement Act of 2013 (SRIA) was enacted into law (Pub. L. 113–2). Section 1109 of SRIA requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48 that FEMA uses to determine whether to recommend provision of Individual Assistance (IA) during a major disaster. These factors help FEMA measure the severity, magnitude, and impact of a disaster, as well as the capabilities of the affected jurisdictions.

FEMA is issuing this final rule to comply with SRIA and to provide clarity on the IA declaration factors that FEMA currently considers in support of its recommendation to the President on whether a major disaster declaration authorizing IA is warranted. The additional clarity may reduce delays in the declaration process by decreasing the back and forth between States and FEMA during the declaration process. FEMA is also finalizing a factor on Fiscal Capacity to provide additional relevant information and context regarding potential disaster situations.

2. Legal Authority

FEMA has authority for this final rule pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). 42 U.S.C. 5121 *et seq.* Section 401 of the Stafford Act lays out the procedures for a declaration for FEMA's major disaster assistance programs when a catastrophe occurs in a State. The specific changes in this final rule comply with Section 1109 of the Sandy Recovery Improvement Act of 2013, Public Law 113–2.

B. Summary of Major Provisions

FEMA is revising the factors found at 44 CFR 206.48 that FEMA uses to determine whether to recommend provision of Individual Assistance during a major disaster. The current factors found at 44 CFR 206.48 for Individual Assistance include the following factors: (1) Concentration of Damages, (2) Trauma, (3) Special Populations, (4) Voluntary Agency Assistance, (5) Insurance, and (6) Average Amount of Individual Assistance by State.

FEMA is revising the current factors to provide additional clarity regarding the considerations that FEMA has evaluated in recent years when making a recommendation on whether Individual Assistance is warranted for a major disaster declaration. This final rule also adds new factors that will help FEMA more accurately and consistently determine whether the impact of an event is beyond State and local government capabilities. FEMA is revising 44 CFR 206.48(b) to identify the following factors: (1) State Fiscal Capacity and Resource Availability, (2) Uninsured Home and Personal Property Losses, (3) Disaster Impacted Population Profile, (4) Impact to Community Infrastructure, (5) Casualties, and (6) Disaster Related Unemployment. As is currently the practice, FEMA will continue to use a myriad of factors and data to formulate its recommendations to the President on major disaster

declarations that authorize IA. No single data point or factor will be determinative of FEMA's recommendation nor will any single factor necessarily affect the President's ultimate determination of whether a major disaster declaration authorizing IA is warranted. FEMA purposely declined to be more restrictive in areas of the final rule because disaster events can vary greatly from incident to incident, and FEMA must retain the flexibility and discretion to properly advise the President regarding situations or circumstances that FEMA may not be able to fully predict or define in a rulemaking. Moreover, as a result of climatological and demographic changes, disaster trends are likely to continue to change in ways that may require policy shifts at the agency or Administration level. FEMA wants to ensure that we retain as much flexibility as possible. The final factors do not limit the President's discretion regarding major disaster declarations.

II. Background and Proposed Rule

When a catastrophe occurs in a State, the State's Governor may request a Presidential declaration of a major disaster [1] pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). 42 U.S.C. 5170; 44 CFR 206.36(a). Such a request must be based on a finding that the disaster is of such severity and magnitude that an effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. 42 U.S.C. 5170.

The capability to respond to a catastrophe varies from State to State. The initial decision on whether to seek supplemental Federal assistance to help a State respond to and recover from a natural disaster lies with each State. The basis for any State request for a major disaster declaration must be a finding that (1) the situation is of such severity and magnitude that an effective response is beyond the capabilities of the State and affected local governments, and (2) Federal assistance under the Stafford Act is necessary to supplement the efforts and available resources of the State, local governments, disaster relief organizations, and compensation by insurance for disaster-related losses. 44 CFR 206.36(b)(1)–(2).

A major disaster declaration will identify the types of assistance that are authorized under the declaration, 44 CFR 206.40(a), although other types may be authorized later, 44 CFR 206.40(c). The types of assistance authorized under the declaration are based upon whether the damage involved and its effects are of such severity and magnitude as to be beyond the response capabilities of the State, the affected local governments, and other potential recipients of supplemental Federal assistance. 44 CFR 206.40(a). A major disaster declaration may authorize all, or only particular types of, supplemental Federal assistance requested by the Governor. 44 CFR 206.40(a). As noted above, when evaluating requests for Individual Assistance, FEMA considers the factors under 44 CFR 206.48(b) to determine whether supplemental Federal Individual Assistance is warranted.

A major disaster declaration authorizing Individual Assistance may include any or all of the following programs:

Individuals and Households Program: The Individuals and Households Program (IHP) provides grants, direct assistance, or both to eligible disaster survivors who have necessary expenses and serious needs that they are unable to meet through other means, such as insurance. 44 CFR 206.110–120. This help may be in the form of housing assistance (including Temporary Housing, Repair, Replacement, and Semi-Permanent or Permanent Housing Construction) as well as assistance to meet ''other needs'' such as medical, dental, child care, funeral, personal property, and transportation costs.

Crisis Counseling Program: The Crisis Counseling Program (CCP) assists individuals and communities recovering from the effects of a natural or human caused disaster through the provision of community based outreach and psycho-educational services. 44 CFR 206.171. Supplemental Federal funding for crisis counseling is available to the State through two grant mechanism: (1) Immediate Services Program, which provides funds for up to 60 days of services immediately following a disaster declaration; and (2) the Regular Services Program, which provides funds for up to nine months following a disaster declaration.

Disaster Case Management Program: The Disaster Case Management Program (DCMP) is a program that involves a partnership between a disaster case manager and a survivor to develop and carry out a Disaster Recovery Plan. 42 U.S.C. 5189d. The process involves an assessment of the survivor's verified disaster caused unmet needs, development of a goal oriented plan that outlines the steps necessary to achieve recovery, organization and coordination of information on available resources that match the disaster caused unmet needs, monitoring of progress towards the recovery plan goals and, when necessary, client advocacy.

Disaster Legal Services: Disaster Legal Services provides legal assistance to low income individuals who, prior to or as a result of the disaster, are unable to secure legal services adequate to meet their disaster related needs. 44 CFR 206.164. FEMA, through an agreement with the Young Lawyers Division of the American Bar Association, provides free legal help for disaster survivors.

Disaster Unemployment Assistance: Disaster Unemployment Assistance (DUA) provides unemployment benefits and re-employment services to individuals who have become unemployed as a result of a major disaster and who are not eligible for regular State unemployment insurance. 44 CFR 206.141.

On January 29, 2013, SRIA was enacted into law. Public Law 113–2. Section 1109 of SRIA requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48 that FEMA uses to determine whether to recommend provision of Individual Assistance during a major disaster. These factors help FEMA measure the severity, magnitude, and impact of a disaster.

Congress directed FEMA to review, update, and revise these factors, including 44 CFR 206.48(b)(2) related to trauma and the specific conditions or losses that contribute to trauma, to provide more objective criteria for evaluating the need for assistance to individuals, to clarify the threshold for eligibility, and to speed a declaration of a major disaster or emergency [2] under

[1] A major disaster is any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. 42 U.S.C. 5122; 44 CFR 206.2(17).

[2] The factors that FEMA considers to evaluate the need for assistance to individuals under the Stafford Act are at 44 CFR 206.48. FEMA uses these factors to evaluate a governor's request for a declaration of a major disaster, not an emergency. SRIA Section 1109 states that FEMA must review, update, and revise the factors in 44 CFR 206.48(b). The factors that FEMA uses to evaluate a governor's request for emergency assistance, however, are not provided in 44 CFR 206.48(b) or in FEMA's regulations. Therefore, the scope of this rulemaking will apply only to Individual Assistance factors that

Continued

the Stafford Act. SRIA required the completion of this rulemaking by January 29, 2014.

On November 12, 2015, FEMA published a notice of proposed rulemaking pursuant to Section 1109 of SRIA. 80 FR 70116. FEMA proposed to revise 44 CFR 206.48(b) to include the following factors: (1) State Fiscal Capacity and Resource Availability, (2) Uninsured Home and Personal Property Losses, (3) Disaster Impacted Population Profile, (4) Impact to Community Infrastructure, (5) Casualties, and (6) Disaster Related Unemployment. A complete description of each factor can be found in the proposed rule. *See* 80 FR 70116. This final rule incorporates the reasoning of the proposed rule except as reflected elsewhere in this preamble. The final rule adopts proposed rule with two changes: removal of the sub-factors related to *State Services* and *Planning After Prior Disasters.* These changes are discussed below in *III. Discussion of Public Comments on the Proposed Rule.*

FEMA's Outreach Efforts Following Publication of the Notice of Proposed Rulemaking

Section 1109 of SRIA requires FEMA to cooperate with State, local, and Tribal emergency management agencies during the process of reviewing, updating, and revising the factors found at 44 CFR 206.48(b). FEMA conducted outreach prior to publication of the NPRM. *See* 80 FR 70119. In addition, following publication of the NPRM, on December 8 and 9, 2015, FEMA held two webinars for State governors' offices, State emergency managers, and national level State associations to explain the provisions of the proposed rule. At the end of both webinars, FEMA accepted comments from the listeners. FEMA considered these comments in the formulation of this final rule and summarizes and responds to these comments below. The webinar presentation itself can be found in the rulemaking docket at *www.regulations.gov.*

III. Discussion of Public Comments on the Proposed Rule

FEMA received written comments from 35 commenters in response to the proposed rule. The majority of commenters were from State emergency management agencies, but commenters also included members of Congress, an emergency management association, charitable organizations, and private citizens. The commenters raised a variety of issues that are discussed below.

A. 44 CFR 206.48, Paragraph (b)(1)—State Fiscal Capacity and Resource Availability

Fiscal Capacity

The proposed Fiscal Capacity factor defined fiscal capacity as a State's potential ability to raise revenue from its own sources to respond to and recover from a disaster. The proposed rule identified the following data points as sub-factors:

- Total Taxable Resources (TTR) of the State. TTR is the U.S. Department of Treasury's annual estimate of the relative fiscal capacity of a State. A low TTR may indicate a greater need for supplemental Federal assistance than a high TTR.
- Gross Domestic Product (GDP) by State. GDP by State is calculated by the Bureau of Economic Analysis. GDP by State may be used as an alternative or supplemental evaluation method to TTR.
- Per capita personal income by local area. Per capita personal income by local area is calculated by the Bureau of Economic Analysis. A low per capita personal income by local area may indicate a greater need for supplemental Federal assistance than a high per capita personal income by local area.

FEMA received comments from 22 commenters regarding this proposed factor; a summary of these comments, and FEMA's responses, follows.

Several commenters expressed concern that the use of fiscal capacity data would effectively penalize States with relatively greater fiscal capacity. Some comments expressed concern that because a high TTR is frequently correlated with a large state population (and correspondingly high operational expenses), the use of TTR could adversely impact States with larger populations. Along similar lines, one commenter suggested that the use of TTR with respect to California ''would make it significantly more difficult for Californians to access individual disaster assistance'' than residents of other states, because California's TTR is significantly higher than the TTR of other states. The commenter suggested that as a result of this significant disparity between States in TTR, as well as the diverse geography, disaster vulnerability, and demographics of California, TTR ''is too broad of a factor to provide a useful assessment of [the] statutory requirement for a state's capacity—let alone a local government's capacity—to manage a disaster.'' [3] The commenter encouraged FEMA to ''find a factor other than [TTR] that is better representative of both state and local resources available to each specific disaster.''

FEMA notes that assistance provided by FEMA is intended to be supplemental in nature and FEMA must evaluate the fiscal capacity of the State to determine whether the State is overwhelmed or if the State has sufficient resources available to provide the needed disaster assistance without Federal assistance. FEMA's current approach, which largely relies on comparing level of damage to the population size of the affected State, essentially equates population with capacity. FEMA believes that a more direct way to evaluate a State's fiscal capacity is to use objective data such as U.S. Department of Treasury's TTR data or the Bureau of Economic Analysis' (BEA) GDP by State data. These are statistical measures of a State's economic activity, which can provide insight into changes in the general economic well-being of the State and its relative fiscal capacity. Although these measures are frequently strongly correlated with population size, they are more direct measures of fiscal capacity, and are therefore more appropriate for this purpose.

FEMA notes that any factor could be framed as a ''penalty.'' The appropriate question is not whether any given factor operates as a penalty, but how such a factor relates to statutory requirements. Just as a State with ample fiscal capacity and resource availability could characterize as a ''penalty'' FEMA's determination that the State is able to use such capacity and resources to respond effectively to a disaster, a State that is struck by a relatively minor event could characterize as a ''penalty''

FEMA considers when evaluating a Governor's request for a major disaster declaration. Section 502 of the Stafford Act authorizes FEMA to provide IHP assistance as part of an emergency declaration. FEMA has previously considered some of the factors found at 206.48(b) when considering an emergency declaration request that includes IHP assistance. FEMA will continue to consider some of the factors, when applicable, at 44 CFR 206.48(b) when evaluating an emergency declaration request that includes IHP assistance.

[3] Another commenter raised similar concerns with respect to the application of TTR to disaster declaration requests from Texas. The commenter wrote that ''In a state as large and diverse as Texas, [TTR and GDP by State] don't truly represent the state's or an affected individual's ability to recover from a disaster without federal assistance.'' FEMA agrees that TTR and GDP by State do not represent affected individuals' ability to recover from a disaster without Federal assistance. Instead, FEMA uses other information to determine individuals' needs. What TTR and GDP by State represent is the affected State's capacity to assist those individuals with recovering from a disaster. TTR and GDP by State also provide a starting point for evaluating when the affected State is indeed overwhelmed and in need of supplemental Federal assistance to aid in providing assistance to individuals.

FEMA's consideration of the lack of damage. In either case, the denial would simply flow from the President's determination, consistent with statutory requirements, that the State and affected local governments should be able to respond to the disaster effectively without supplemental Federal assistance. In other words, all of the factors in this final rule are intended to allow FEMA and the President to make informed decisions regarding whether or not an event was of the severity and magnitude to be beyond State and local capability.

Commenters expressed concern that TTR data may not accurately capture the true fiscal capacity of a State because it calculates all of the things that a State could potentially tax, not what is actually taxed, and therefore may artificially inflate the perceived level of fiscal capability. Several commenters stated that FEMA should not consider a State's ability to pay based on potential revenues alone, without considering a State's expenses as well because it is a one-sided assessment of a State's capacity to respond and does not necessarily fully consider a State's ability to provide adequate disaster assistance. Another commenter observed that a State that has a high TTR because of a high population is likely to have correspondingly high expenses as well.

As discussed above, TTR is a value-neutral measure of a State's economic activity, which can provide insight into a State's relative fiscal capacity and changes in its economic wellbeing, regardless of the taxing choices and other constraints that may be imposed on it by State law, State constitution, or policy choices. TTR is also indicative of the overall economic and fiscal health of the people and the businesses within the State, which is relevant to the disaster impacted population's ability to recover (recognizing that there are poor communities in rich States and vice versa, FEMA will also consider per capita personal income at the local level).[4] FEMA believes that States with a large TTR have a greater capability to respond to and recover from disaster events compared to States with a lower TTR. FEMA does not expect or require a State to exhaust its resources before supplemental Federal assistance would be appropriate. FEMA welcomes States to provide additional clarity on their fiscal capacity, and the fiscal capacity of local governments, by highlighting fiscal restrictions and expenditures that, though not captured in TTR, are relevant to the State and local government's capability to respond effectively to the disaster. In addition, FEMA fully recognizes that some disasters are so large and have such a serious impact that supplemental Federal assistance will be necessary no matter the State's available resources.

Several commenters expressed concern that the fiscal capacity indicators capture the fiscal capacity of a State before the event without considering that a State's economy may have been impacted by the disaster event. As part of FEMA's evaluation of a State's request, FEMA will evaluate the impact of the disaster on the State. If a State believes that the disaster has negatively and significantly impacted its fiscal capacity to respond or the overall State economy, the State may discuss such impacts in its declaration request.

Commenters expressed concern that the two-year lag in TTR data may result in the use of inaccurate data. Pursuant to Public Law 102–321, the U.S. Department of the Treasury produces annual estimates of total taxable resources (TTR) for all States. The TTR estimates are published by September 30th each year and have a two-year lag. For example, TTR for 2016 was published on September 28, 2018. The formula for calculating TTR uses Gross State Product (GSP) [5] as its base, subtracts non-taxable components, then accounts for cross-border income flows. This calculation provides a ''comprehensive measure of all the income flows a state can potentially tax.'' [6] The two-year lag in TTR data is a direct result of when income data becomes available. Raw income data is always one year behind. Tax filings for any given year are generally due by April 15 of the following year.[7] This accounts for the first lag year. The second lag year is attributable to putting the vast amount of data into a usable format.[8]

FEMA reviewed a ten-year data set of TTR for each State in response to comments on the two-year lag.[9] Based on that review, FEMA found that TTR is sufficiently reliable to serve as the principal indicator for each State from which the discussion about fiscal capacity can begin. For the 10 years FEMA reviewed, TTR generally increased from year to year in every State. The exceptions, when TTR dropped, were generally due to circumstances that would have been readily apparent at the time. For example, nearly every State saw year-to-year drops from 2007–2008 and/or 2008–2009, coinciding with the financial crisis. While 2008 TTR data would not have been available to analyze for requests made during that time, FEMA and the States would have been well aware that capability and fiscal capacity among all of the States was decreasing, and FEMA would have been able to take that decreased capacity into consideration. In addition, events such as significant falls in certain commodity prices, which may impact one or two States as opposed to the entire nation, will also generally be apparent and supported by other readily available data at the time of the request. FEMA recognizes that there is a two-year lag and encourages each State to provide additional information about its fiscal capacity, especially if there have been noteworthy economic impacts during the two-year lag which impact the State's ability to respond to and recover from the disaster.

A commenter raised concerns that TTR is considered experimental and thus should not be used to evaluate a State's fiscal capacity. The U.S. Department of the Treasury's website includes three papers explaining the methodology it uses to estimate TTR.[10]

[4] FEMA anticipates using per capita personal income when the disaster effects are concentrated to a specific area. An example would be a tornado that hits a town in a rural area. FEMA would evaluate the State's overall TTR to gain insight into the State's ability to respond. FEMA also would evaluate the locality's per capita income to gain insight into that specific population's ability to respond, *i.e.* is the per capita personal income for that area sufficient to support an independent response? How will that affect the survivors' resiliency?

[5] The term Gross State Product (GSP) is used interchangeably herein with the term Gross Domestic Product for States (GDP by State). The U.S. Department of the Treasury uses the former, while the U.S. Department of Commerce, Bureau of Economic Analysis uses the latter. Published documents relating to TTR use GSP; thus, it is also used here.

[6] ''Treasury Methodology for Estimating Total Taxable Resources (TTR),'' revised November 2002, page 2. *https://www.treasury.gov/resource-center/economic-policy/Documents/nmpubsum.pdf.*

[7] IRS Publication 509—Main Content, General Tax Calendar, Topic: Individuals, Form 1040, *https://www.irs.gov/publications/p509/ar02.html.*

[8] ''TTR estimates for a given year will only be made when both GSP and SPI data are available for that year.'' ''Treasury Methodology for Estimating Total Taxable Resources (TTR),'' revised November 2002, page 5. *https://www.treasury.gov/resource-center/economic-policy/Documents/nmpubsum.pdf.*

[9] The data set was comprised of the data contained in the TTR reports published between 09/26/2006 and 09/30/2015 (10 years of data). Although the reports are published and have titles ranging from 2006 through 2015, the data lags two years. For example, the report entitled ''2006 Total Taxable Resources Estimates'' was published on 09/26/2006 and contains TTR estimates for 2004.

[10] The three papers explaining the methodology for calculating TTR are ''Summary of Current Methodology for Estimating TTR,'' ''Working Paper Review of Methodology for Estimating TTR,'' and ''Summary of Previous Methodology for Estimating TTR.'' U.S. Dep't of the Treasury, Resource Center,

Continued

Each of these papers refers to an ''experimental'' methodology developed in 1986.[11] This ''experimental'' methodology was refined and finalized for use beginning in 1992.[12] In 1997, the methodology was substantially improved and in 1998 that improved methodology was implemented. The methodology has remained unchanged since 1998. Based on approximately 20 years of use, FEMA does not consider TTR ''experimental'' and believes TTR provides valuable insight into the fiscal capacity of States. Congress has recognized the utility of TTR by requiring its use in the formula used to allocate Federal funds for the Department of Health and Human Services' Community Mental Health Service and Substance Abuse Prevention and Treatment block grant.[13]

A commenter asked that FEMA clarify the process it will use to determine when a State can rely on GDP data instead of TTR. The commenter also asked FEMA to explain more thoroughly how per capita personal income by local area would be analyzed with TTR and GDP to determine a State's Fiscal Capacity. TTR is available for every State and FEMA will consider the relevant TTR for every State. If a State wants to use either GDP by State or Per Capita Personal Income data to supplement or highlight a differing fiscal health of the State then the State can submit the information to FEMA. However, FEMA will still consider TTR data for that request.

Several commenters expressed concerns about FEMA focusing too much on the fiscal capacity of States as compared to the fiscal capacity of local governments. One commenter raised the concern that taxable revenue and wealth in many States is not evenly distributed throughout and impoverished areas would be hurt if the State's request for an IA declaration was judged by the overall state's fiscal capacity. FEMA notes that the State is the one who makes the determination to apply for a major disaster declaration that the State needs supplemental Federal assistance. FEMA must evaluate at the State level because a request for a disaster declaration must be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary.[14]

Several commenters asked whether the ''Fiscal Capacity'' data will be shared with the States and expressed concern that they would be burdened by having to pre-identify their own Fiscal Capacity data. FEMA is planning on providing links on FEMA's website to the data sources for States to easily access their own fiscal capacity data if they wish to review it prior to a major disaster request being made. In addition, the fiscal capacity data is easily found using a web search. The States will simply list their current fiscal capacity data in their request. As discussed above, States may also gather and provide additional information to supplement or provide further context to the specified data points.

A commenter asked how local area is defined for the ''Per Capita Personal Income by Local Area'' sub-factor of the ''Fiscal Capacity'' factor. The per capita personal income by local area data is produced by the Bureau of Economic Analysis for ''counties, micropolitan statistical areas, metropolitan statistical areas (MSAs), metropolitan divisions (parts of MSAs), combined statistical areas, states, and the metropolitan and nonmetropolitan portions of states. Counties consist of counties and county equivalents, such as the parishes of Louisiana, the boroughs, municipalities and Census areas of Alaska, the District of Columbia, and the independent cities of Maryland, Missouri, Nevada, and Virginia. The estimates ofr Kalawoa County, Hawaii and the small independent cities of Virginia–generally those with fewer than 100,000 residents–are combined with estimates for adjacent counties.'' [15]

Resource Availability.

The proposed Resource Availability factor called for FEMA to consider the availability of resources from State, Tribal, and local governments as well as non-governmental organizations and the private sector. The proposed rule identified the following sub-factors:

- State, Tribal, and local government; Non-Governmental Organizations (NGO); and private sector activity. State, Tribal, and local government, Non-Governmental Organizations, and private sector resources may offset the need for or reveal an increased need for supplemental Federal assistance. The State may provide information regarding the resources that have been and will be committed to meet the needs of disaster survivors such as housing programs, resources provided through financial and in-kind donations, and the availability of affordable (as determined by the U.S. Department of Housing and Urban Development's fair market rent standards) rental housing within a reasonable commuting distance of the impacted area.
- Cumulative effect of recent disasters. The cumulative effect of recent disasters may affect the availability of State, Tribal, local government, NGO, and private sector disaster recovery resources. The State should provide information regarding the disaster history within the last 24-month period, particularly those occurring within the current fiscal cycle, including both Presidential (public and individual assistance) and gubernatorial disaster declarations.
- State services. The State may provide information regarding the circumstances causing the State to lack the resources to provide sufficient services to its citizens.
- Planning after prior disasters. States are encouraged to develop and continuously improve their own disaster assistance programs. States should identify new and existing individual assistance programs as well as improvements to existing individuals assistance programs made as a result of previous disasters. A State's failure to address limitations and shortfalls identified by FEMA or the State after previous events will also be considered.

FEMA received comments from 25 commenters regarding this proposed factor. The commenters stated that the proposed factor assumed the availability of volunteer and private sector resources that may not exist because voluntary and private sector resources vary from year to year based on donor funding; that FEMA should clarify the manner in which it will quantify potential resources of voluntary and faith-based organizations and limit the degree to which such resources will off-set Federal assistance; that FEMA should not limit the ''Cumulative Effect of Recent Disasters'' sub-factor to Presidential and gubernatorial disaster declarations, because such a limitation would result in States being unable to provide information on other types of Federal declarations that can show the level of recent hardship such as SBA, USDA, and Public Health Emergency declarations; that FEMA should better

Total Taxable Resources, *https://home.treasury.gov/policy-issues/economic-policy/total-taxable-resources.*

[11] Carnevale, John, ''Experimental Estimates of Total Taxable Resources, 1981–84,'' in the Federal State-Local Fiscal Relations: Technical Papers, Vol., 2, Office of State and Local Finance, Department of Treasury, September 1986.

[12] ''Summary of Current Methodology for Estimating TTR,'' U.S. Dep't of the Treasury, Resource Center, Total Taxable Resources, page 1, paragraph 2, *https://www.treasury.gov/resource-center/economic-policy/Documents/nmpubsum.pdf.*

[13] 42 U.S.C. 300x–7.

[14] 42 U.S.C. 5170.

[15] Local Area Personal Income and Employment Methodology, November 2017, ''Geographic Detail,'' page I–7. *https://www.bea.gov/sites/default/files/methodologies/lapi2016.pdf.*

define the ''State Services'' factor; and that the Resource Availability factor in general would force the States to develop a State-funded and administered IA program or be penalized in a State's request for a major disaster declaration.

A number of commenters expressed concern that by considering the availability of volunteer and private sector resources, FEMA would assume the availability of resources that may not in fact exist, because voluntary and private sector resources vary from year to year based on donor funding and a State has no authority to direct NGOs or private organizations to provide funding or supplies post-disaster. In addition, commenters stated that it is difficult for States and communities to quickly assemble and report information about these resources in the immediate aftermath of a disaster, when impacted communities are in response mode. Commenters also asked FEMA to clarify how FEMA would request this data.

The current regulations at 44 CFR 206.48(b)(4) state that FEMA will consider the extent to which voluntary agencies and State or local programs can meet the needs of the disaster victims and this information is already provided as part of the narrative aspects of a State's major disaster request for IA. The only new aspect of this factor, as compared to the current regulations, is a reference to private sector resources. While private sector resources were not previously specifically listed in the regulation, items such as significant private donations have always been relevant, and States have generally provided information on such donations when that information has been available at the time of the request. Assistance provided by State, Tribal, and local government, NGOs, and the private sector can include but is not limited to Emergency Management Assistance Compact (EMAC) resources, sheltering, housing programs, feeding, mental health services, child care, elder care, reunification services, clean up kits, blankets and cots, financial assistance, and other donations. To the extent that such resources are limited, unavailable, or otherwise unable to meet significant needs after a disaster, then the State should identify these limitations in its request, as that may indicate additional need for Federal assistance. FEMA understands that information will be imperfect after a disaster and all relevant data may not be immediately available. As is currently the practice, FEMA only asks that the State submit the best information reasonably available to it at the time of the request.

In addition, section 401 of the Stafford Act, conditions that a request for a major disaster declaration must be based on a finding that the disaster is of such severity and magnitude that an effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. 42 U.S.C. 5170; 44 CFR 206.36(a). In order for FEMA to evaluate whether a disaster is beyond the capabilities of a State and affected local governments, FEMA must evaluate what resources are available to the State and affected local governments.

This factor is also in keeping with the ''Whole Community'' approach to emergency management that reinforces the fact that FEMA is only one part of our nation's emergency management team. Under the ''Whole Community'' approach, emergency managers must account for all available resources, including non-governmental resources, in preparing for, protecting against, responding to, recovering from and mitigating against all hazards. This approach recognizes that a government-centric approach to emergency management is not enough to meet the challenges posed by a catastrophic incident. When the community is engaged in emergency management, it becomes empowered to identify its needs and the existing resources that may be used to address them. The ''Whole Community'' approach is an ongoing component of the nation's larger, coordinated effort to enhance emergency planning and strengthen the nation's overall level of preparedness.

Commenters were concerned about FEMA limiting the Resource Availability factor related to past disaster declarations to only Presidential (both Public Assistance and Individual Assistance) and gubernatorial disaster declarations. The commenters stated that not all assistance provided by a State or its partners requires a gubernatorial declaration and there are other types of Federal declarations that can show the level of recent hardship endured by the State, such as a Small Business Administration Disaster declaration, United States Department of Agriculture disaster designation, and Department of Health and Human Services Public Health Emergency declaration. FEMA believes that taking information on past disaster activity and declarations is valuable, because multiple disasters in a 24-month period may significantly strain a State budget and reduce the State's capability to adequately respond to and recover from a disaster without supplemental Federal assistance; this final rule therefore includes such a factor. Consideration of recent disaster activity was previously only a consideration for a major disaster declaration that authorized Public Assistance. A State is always welcome to provide additional information beyond what FEMA is asking for in 44 CFR 206.48(b). If a State feels that recent disaster activity, as reflected in declarations through SBA, USDA, or HHS, have impacted their ability to respond to and recover from the event, then the State should include information on those declarations in their major disaster request for IA.

Several commenters expressed significant concerns with the ''State Services'' and ''Planning After Prior Disasters'' factors. The commenters felt that FEMA appeared to be forcing the States to develop a State-funded and State-administered IA program or else risk being penalized for the lack of such a program. The commenters stated that a State IA program is not required by the Stafford Act in order to receive supplemental Federal assistance. Several commenters asked whether FEMA is currently evaluating States' limitations or shortfalls and communicating these with States. Also, States requested that FEMA clarify how it will determine that a State is or isn't addressing limitations or shortfalls. Overall these commenters felt that the proposed rule did not adequately explain how FEMA would apply these two factors. Another commenter supported these factors, and urged FEMA ''to also consider state effort to guard and mitigate against avoidable disaster damages, for example, with programs to regulate new development in flood hazard areas, adopt and enforce up to date state building codes, or incorporate resilience considerations into the location and construction of public infrastructure.'' A comment expressed concern that the proposed rule ''may unfairly penalize States that do not have robust IA programs.''

Based on the overwhelmingly negative response and after further review FEMA decided to remove the ''State Services'' and ''Planning After Prior Disasters'' sub-factors from the final rule. FEMA strongly believes States are ultimately responsible for the well-being of their citizens and that States have a responsibility to plan for disasters, pre-identify funding and resources, and to provide assistance to their citizens after a disaster. This should include the establishment, funding, and improvement of State-level individual assistance programs. However, FEMA has not been able to develop a methodology which would effectively and consistently evaluate the

State Services and Planning After Prior Disasters sub-factors to incentivize States to establish individual assistance programs or to plan and implement lessons learned from previous disasters. As a result, at this time, FEMA is unable to effectively incentivize these activities through the declarations process, and specifically in the evaluation of disaster requests. FEMA will continue to explore opportunities to encourage States to develop their own individual assistance programs.

B. 44 CFR 206.48, Paragraph (b)(2)—Uninsured Home and Personal Property Losses

The proposed Uninsured Home and Personal Property Losses factor included consideration of uninsured home and personal property losses, and identified the following sub-factors:

- The cause of damage.
- The jurisdictions impacted and concentration of damage.
- The number of homes impacted and degree of damage.
- The estimated cost of assistance.
- The homeownership rate of impacted homes.
- The percentage of affected households with sufficient insurance coverage appropriate to the peril.
- Other relevant preliminary damage assessment data.

FEMA received comments from 16 commenters regarding this proposed factor. The comments received were related mainly to concerns regarding the sub-factors related to the jurisdictions impacted and concentration of damages, the estimated cost of assistance, the homeownership rate of impacted homes, and the percentage of affected households with sufficient insurance coverage appropriate to the peril.

Several commenters were concerned that FEMA is not taking into consideration the effects of a disaster with widespread minimal damage spread across a large geographic area or the effects of a disaster on contiguous counties in different States. FEMA recognizes that as a practical matter, widespread minimal damage spread across a larger geographic area, can spread resources thin and overwhelm a State's capability to adequately respond to a disaster. This final rule continues to emphasize consideration of the estimated cost of assistance for a State; as a result, the true cumulative impact of the widespread minimal damage across a large geographic area within a State will continue to be considered by FEMA. Regarding the contiguous counties comments, the President will not declare a major disaster in an area that was not requested by a Governor and a Governor cannot request areas that are not within his or her State's jurisdiction. FEMA will not designate areas of the State or types of assistance beyond those that the governor requests.[16] In addition, each State and local government has different capabilities to respond to, recover from, and mitigate the effects of a disaster and a disaster that crosses State lines may have differing impacts in the affected States. As such, not every event that impacts multiple States will necessarily be beyond each affected State's respective capabilities. Therefore, FEMA must continue to base its major disaster declaration recommendation on the capability of the affected State and local governments to respond to the event, in accordance with the requirements for a major disaster declaration in Section 401 of the Stafford Act and 44 CFR 206.37.

Several commenters expressed concern that neither FEMA nor the States are able to utilize an accurate estimated cost of assistance at this time. One commenter stated that most metrics used by FEMA or the States are based on taking the number of individuals and households impacted and the extent of those impacts and damages, and multiplying those totals by the maximum assistance that is available through FEMA's IA programs. Commenters stated that the IA program has statutory limits on the amount of relief available and that maximum IA grant award is not indicative of the overall potential cost to make a family whole after a disaster and does not truly articulate the ''whole community'' resources that are needed to bring the community back to pre-disaster condition.

While FEMA recognizes that there are difficulties in accurately estimating the cost of assistance in the aftermath of an event, the estimated cost of assistance has to be part of the evaluation of whether a major disaster declaration authorizing IA is warranted because the cost of an event is an essential component in determining whether or not the disaster event is beyond the capabilities of a State. FEMA calculates the estimated cost of assistance at the conclusion of the Joint PDA and the estimated cost of the disaster is based on the data on uninsured damage to homes collected during the PDA. The calculation currently includes the following:

- Historical program costs for repair or replacement assistance for uninsured owner-occupied primary residences for each of the four dwellings assessment levels—affected, minor, major, destroyed.
- Cost of providing temporary housing assistance based on the U.S. Department of Housing and Urban Development (HUD) fair market rent for the area of impacted owners and renters for each of the four dwelling assessment levels—affected, minor, major, destroyed—as well as for those dwellings that are now inaccessible because of the disaster.
- Historical program costs for ONA awards.[17]

When developing the estimated cost of assistance, because IHP repair and replacement assistance can only be awarded to homeowners, FEMA uses the homeownership rate to estimate the number of homeowners in the disaster affected area. Additionally, since IHP is only able to provide awards to uninsured individuals, FEMA also considers the number of insured versus the number of uninsured individuals when developing the estimated cost of IHP for the disaster.

In this final rule, FEMA is not prescribing the methods to be used to estimate cost of assistance. FEMA believes attempting to do so would be overly restrictive in a manner that would prevent FEMA from using new technology, such as geographic information systems (GIS), or otherwise updating the process, such as by updating the joint FEMA-State preliminary damage assessment instrument. FEMA is always working to improve the PDA process and methods of cost estimation. The estimated cost of assistance is necessarily limited by the maximum amount of IA grant award because the monetary amount of assistance that can be provided to individuals and households is limited by Section 408(h) of the Stafford Act.[18] 42 U.S.C. 5174. FEMA recognizes that because of the statutory cap on the maximum IA assistance, in many situations FEMA assistance will not bring the survivor back to their pre-disaster position. States are always welcome to provide additional estimates of the total impact of the disaster on individuals and households,

[16] 44 CFR 206.40(b).

[17] Damage Assessment Operations Manual: A Guide to Assessing Damage and Impact, Page 59, Issued April 5, 2016 *https://www.fema.gov/media-library-data/1459972926996-a31eb90a2741e86699ef34ce2069663a/PDAManualFinal6.pdf.*

[18] For disasters occurring in Fiscal Year 2019, the maximum amount of financial assistance provided to an individual or household under section 408 of the Stafford Act (IHP) with respect to any single emergency or major disaster is $34,900. *See* 83 FR 53281, Oct. 22, 2018. This amount is adjusted annually based on the Consumer Price Index for All Urban Consumers as calculated by the Department of Labor, Bureau of Labor Statistics.

irrespective of the statutory caps, but in general, the estimated cost of assistance measure is useful to FEMA both for purposes of internal planning and for purposes of obtaining a preliminary (though sometimes incomplete) picture of total disaster impacts. To assist States, FEMA will share estimated cost of assistance data with the State throughout the PDA process, including final amounts.

One commenter expressed concern that U.S. Census data on the homeownership rate of impacted homes does not take into account that a renter may be occupying the owner-occupied home at the time of the disaster. In addition, some commenters stated that the homeownership rate is not readily available during preliminary damage assessments and the amount of time required to make a reliable estimate would cause delays in States' submitting their major disaster declaration requests. FEMA notes that this data point is used during the current process and estimates are available via Census.[19] Estimates of homeownership rates are important because the level of needed assistance varies between rentals and owner-occupied residences. Renters typically do not require repair assistance because repairs are generally the responsibility of the landlord and the property must be owner occupied to be eligible to receive IHP assistance for repair or replacement. In addition, as part of the PDA process, FEMA, along with State and local partners, canvasses the disaster-impacted areas to validate the Census data on renters. As with all data points, States should submit, and FEMA will base its recommendation on, the best information available at the time.

A commenter suggested adding a data point that compares the known homeowner insurance population with the actual population of a particular county or parish. The commenter stated that many rural residents who sustain damages from a disaster may not have homeowners insurance if they do not have a mortgage. FEMA notes that we do not prescribe the specific method of how to calculate the insurance penetration rate in this final rule but we will use the best method available. At this time, PDA teams may consider any relevant factors in estimating the insurance rate for the affected households, which may include, among other considerations, whether the affected area was rural, suburban, or urban.

A commenter suggested comparing the average amount of homeowner insurance deductible in a given county or parish against the income for such county or parish, because often insurance deductibles are too high for residents to pay out of pocket after a disaster. In addition, a homeowner who cannot afford to pay the deductible will be unable to fully recover after the disaster. FEMA notes that the issue of high insurance deductibles has arisen in the past, often in earthquake events. FEMA considers a homeowner with a high deductible to be underinsured. States may provide information on deductible rates for the peril in the affected area and FEMA will utilize that information when evaluating the sufficiency of the insurance coverage in place and determining the number of underinsured homeowners who may require Federal assistance. FEMA did not make any changes based on this comment.

A commenter stated that FEMA seems to believe that every Insurance Commissioner's Office keeps a record of every single policy issued in the State, along with limits, exclusions, and types of coverage. The commenter stated that they have never heard of a State Insurance Commissioner's Office that has access to such a database. FEMA fully recognizes that the availability and quality of insurance data varies widely from State to State. Some State Insurance Commissioner's Office have information that can be utilized to provide or contribute to estimates of insurance coverage. For certain States, the best option may be the State Insurance Commissioner's Office, but for other States it may be a different source. FEMA notes that it is important to develop an insurance coverage estimate because, under Section 320 of the Stafford Act (42 U.S.C. 5155), FEMA is statutorily prohibited from duplicating insurance coverage. If the vast majority of damage will be covered by insurance, a Presidential declaration may be unnecessary. As stated previously, States should make their requests based on the best information available to them at the time. In the final rule, FEMA has not prescribed a specific source for this data, because currently available sources have variable coverage, and more complete sources may become available in the future.

One commenter recommended adding a data point to capture the number of uninsured or underinsured losses from individuals who were required to carry flood insurance as a result from previously accepting disaster assistance. FEMA does access this information during a disaster by looking at National Flood Insurance Program data. FEMA already considers this information when looking at the insurance component and we view it as a consideration that exists implicitly within the insurance coverage data point of the final rule.

A commenter raised concerns that the amount of time it would take to determine damages, insurance, and specific insurance riders regarding whether specific disaster damages are covered would make the 30 day window to request a major disaster declaration for IA unattainable. FEMA does not expect the States to provide an unreasonable level of detail or specificity for the insurance data point. FEMA expects a State to provide the best estimate of data within the time frame available. A State should make their major disaster declaration request in the timeframe appropriate to the size and impact of the event and should not delay in order to gather additional information, even if such information would be more precise or useful.

A commenter stated that although they are encouraged that FEMA plans to pursue better data to inform its insurance penetration rate determinations, they raised concerns that FEMA previously promised to identify alternative insurance data sources in the past but has made little progress. FEMA continues to work to find the best information regarding insurance coverage and is committed to finding the most thorough and accurate sources for insurance data. However, at this point, such thorough and accurate sources either do not currently exist or are not currently available to FEMA. As such, FEMA cannot prescribe the method or source for obtaining insurance data in this final rule because we anticipate that there will be better methods in the future. FEMA has not made any changes based on this comment.

C. 44 CFR 206.48, Paragraph (b)(3)—Disaster Impacted Population Profile

The proposed Disaster Impacted Population Profile factor related to the demographics of impacted communities, and identified the following data points as sub-factors:

- The percentage of the population for whom poverty status is determined.
- The percentage of the population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Assistance Program benefits.

[19] The Census Housing Vacancies and Homeownership website provides current information on homeownership rates and are available for the U.S., regions, states, and for the 75 largest Metropolitan Statistical Areas (MSAs). Data for all geographies are available both quarterly and annually. *https://www.census.gov/housing/hvs/index.html.*

- The pre-disaster unemployment rate.
- The percentage of the population that is 65 years old and older.
- The percentage of the population 18 years old and younger.
- The percentage of the population with a disability.
- The percentage of the population who speak a language other than English and speak English less than ''very well.''
- Any unique considerations regarding American Indian and Alaskan Native Tribal populations raised in the State's request for a major disaster declaration that may not be reflected in the data points referenced in paragraphs (b)(3)(i)–(vii) of this section.

FEMA received comments from 8 commenters regarding this factor. The commenters stated that consideration should be given to non-citizen populations that are affected by a disaster; that although special populations were already a factor of consideration, the expansion of this into 8 data points would be burdensome on States during response activities; that the proposed disaster impacted population data points would provide a better overall understanding of the community impacted and the resources needed; and that the proposed disaster impacted population profile data points are to be commended because the factor would better highlight the severity of impact to the community.

Two commenters stated that in the Commonwealth of the Northern Mariana Islands, they face extenuating and unique situations because they have a relatively large population of aliens as compared to U.S. citizens and nationals. The commenters asked that FEMA consider allowing direct financial support for that specific population. FEMA is statutorily prohibited from providing certain types of Federal assistance to aliens who are not qualified aliens.[20] Specifically, recipients of IHP and DUA must certify that they are U.S. citizens, non-citizen nationals of the United States, or qualified aliens. That prohibition is statutory and it cannot be altered through this final rule.

A commenter raised concerns that the proposed rule did not include any requests for information on indigent populations. FEMA notes that the proposed rule included a number of such requests, including specific sub-factors seeking information on the percentage of the population for whom poverty status is determined and the percentage of the population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Assistance Program benefits. If a State believes, based on the circumstances of a disaster event, that there is additional population-related information that needs to be considered, the State should include such information in its request for a major disaster declaration authorizing IA.

A commenter stated that, although special populations were already a factor of consideration, the expansion of this into 8 data points would be burdensome on States during response activities. FEMA notes that the State is not required to provide any of these data points. If the State wishes to provide such data points, they are publicly available.[21] States commonly provide these data points to FEMA as part of a declaration request; FEMA is merely clarifying a common source for these data points going forward. The disaster impacted population profile data points can be found by the State prior to a disaster even occurring and will only need to be pulled once a year.

Two commenters noted that the proposed rule changes added several very beneficial factors, including the additional components to the Disaster Impacted Populations profile, the Impact to Community Infrastructure, and the separate consideration for Disaster Related Unemployment. The commenters stated that these proposed factors would better highlight the severity of a disaster's impact to the community and would provide a better overall understanding of the community impacted and the resources needed. The commenters also stated that the proposed factors would facilitate a more nuanced understanding and approach to the unique recovery needs of communities in the aftermath of a disaster.

D. 44 CFR 206.48, Paragraph (b)(4)—Impact to Community Infrastructure

The proposed Impact to Community Infrastructure factor related to certain impacts to a community's infrastructure that may adversely affect a population's ability to safely and securely reside within the community. The proposed rule identified the following sub-factors:

- Lifesaving and life-sustaining services. The effects of a disaster may cause disruptions to or increase the demand for lifesaving and life-sustaining services, necessitate a more robust response, and may delay a community's ability to recover from a disaster. The State may provide information regarding the impact on life saving and life sustaining services for a period of greater than 72 hours. Such services include but are not limited to police, fire/EMS, hospital/medical, sewage, and water treatment services.
- Essential community services. The effects of a disaster may cause disruptions to or increase the demand for essential community services and delay a community's ability to recover from a disaster. The State may provide information regarding the impact on essential community services for a period greater than 72 hours. Such services include but are not limited to schools, social services programs and providers, child care, and eldercare.

[20] The Personal Responsibility and Work Opportunity Reconciliation Act Of 1996, Title IV, Public Law 104–193, 110 Stat. 2105 (Aug. 22, 1996). *See* 8 U.S.C., Chapter 14—Restricting Welfare and Public Benefits for Aliens, 8 U.S.C. 1611–1646.

[21] Poverty data comes from the U.S. Census Small Area Estimate Branch, ''Poverty and Median Income Estimates for Counties.'' Supplemental Nutrition Assistance Program data is from the U.S. Census's American Community Survey (ACS) using the American FactFinder (*https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml*), Advanced Search, Geographies: ''All Counties within the United States,'' Topics: S2201, 5-year estimates. Supplemental Security Income data comes from ACS using the American FactFinder, Advanced Search, Geographies: ''All Counties within the United States,'' Topics: B19056, 5-year estimates. The unemployment data at the State and county level are available at *https://www.bls.gov/lau/*. Data on county populations of ''65 or Older'' and ''18 or Younger'' data comes from the ACS using the American FactFinder (*https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml*), Advanced Search, Geographies: ''All Counties within the United States,'' Topics: DP05, 5-year estimates. Data on populations with a disability comes from the ACS, American FactFinder (*https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml*), Advanced Search, Geographies: ''All Counties within the United States,'' Topics: S1810, 3-year estimates. Data on ''percent of population who speaks English less than very well'' comes from the ACS, American FactFinder (*https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml*), Advanced Search, Geographies: ''All Counties in the United States,'' Topics: B06007, 5-year estimates. Data on American Indian and Alaska Native populations comes from the ACS, American FactFinder (*https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml*), Advanced Search, Geographies: ''All Counties within the United States,'' Topics: DP05, 5-year estimates. FEMA may update these sources to account for future improvement and changes in the U.S. Census, BLS, BEA, and Treasury data reporting, and the sources are provided here for example.

For definitions related to demographic data points, please refer to the associated organizations websites. For example, refer to U.S. Census Small Area Income and Poverty Estimates definitions at *https://www.census.gov/topics/income-poverty/poverty/about/glossary.html* for percentage of the population for whom poverty status is determined. For a definition of the pre-disaster unemployment rate, refer to Bureau of Labor Statics at *http://www.bls.gov/bls/glossary.htm* and search for the term ''unemployment rate''. The U.S. Census glossary at *http://www.census.gov/glossary* and American Community Survey also provide definitions related to demographic data points including the following terms: Assistance and Subsidies, Age, Disability, Language Spoken at Home, and Ability to Speak English.

• Transportation infrastructure and utilities. Transportation infrastructure or utility disruptions may render housing uninhabitable or inaccessible. Such conditions may also affect the delivery of life sustaining commodities, provision of emergency services, ability to shelter in place, and efforts to rebuild. The State may provide information regarding the impact on transportation infrastructure and utilities for a period of greater than 72 hours.

FEMA received comments from 9 commenters regarding this proposed factor. The commenters asked for more information regarding how FEMA expects States to provide this information; suggested that the additional requested data would be burdensome to collect; and requested that FEMA elaborate on the scope of the ''Impact to Community Infrastructure'' factor to include the effects of a cyber-event or other evolving threat.

The information included in the ''Impact to Community Infrastructure'' factor is already typically provided, where relevant, in States' major disaster declaration requests for IA. States typically identify any critical infrastructure disruptions in their major disaster declaration requests for IA because it illustrates the impact of the disaster on the community as whole. FEMA recognizes that communication may be difficult after a disaster, and FEMA expects that State and local officials will provide the best information they have. None of this information is required, if the State does not wish to provide it. The information for major disaster declaration requests for IA is often based on initial assessments that allow both the State and FEMA to evaluate the situation. FEMA currently encourages States to do the IA PDA before the PA PDA, and encourages States to submit their requests even if they are still awaiting the completion of the PA PDA.

A commenter raised concerns that the proposed ''Impact to Community Infrastructure'' factor could potentially lead to a disaster declaration that traditionally would be a PA-only major disaster declaration to now be an IA major disaster declaration as well. In addition, a commenter expressed concern about how the States would collect and deliver this information because many disaster events only receive a joint FEMA-State PDA for either PA or IA. As noted in the proposed rule, the ''Impact to Community Infrastructure'' factor is intended to help FEMA evaluate the disaster impacts on infrastructure and how it may affect the individuals in that community. PA PDA teams conduct assessments to estimate the costs to repair and replace infrastructure, but a major disaster declaration request for IA would not require that level of detail. For IA, FEMA is not evaluating how much it will cost to fix a bridge that was washed out during a flood; however, FEMA believes it is important to know how many people are impacted because that bridge is now unavailable. A bridge that is washed out could severely impact an individual's ability to remain in their home or to travel to and from work, which would necessitate IA.

A commenter raised that FEMA should expand the scope of the ''Impact to Community Infrastructure'' factor to ensure that application of the Stafford Act evolves at the pace of real-world threats, to include the effects of evolving threats, such as cyber-attacks. FEMA encourages planning and preparing for potential cyber-attacks. FEMA believes that the final rule is flexible enough to allow FEMA to evaluate whether IA programs would be appropriate and necessary following a cyber-event that affected individuals and households. It is important to note that some FEMA programs may not be well suited to address damage caused by cyber events and other evolving threats, and not all such events or threats will result in eligibility for a Stafford Act declaration.

E. 44 CFR 206.48, Paragraph (b)(5)—Casualties

The proposed Casualties factor related to the number of individuals who are missing, injured, or deceased due to a disaster. FEMA received comments from 4 commenters regarding this proposed factor. The commenters noted that the change for this factor was an increase in specificity in the regulation because the proposed factor included a request for information on missing individuals in addition to injured and deceased individuals. In addition, commenters felt that a lack of casualties should not be used by FEMA to deny a major disaster declaration request for IA. FEMA has made no changes to the ''Casualties'' factor in the final rule from what was proposed in the proposed rule. Data on the number of missing, injured, and deceased are currently provided by the State to FEMA and FEMA is clarifying in regulation the continued need for these data points. Casualties, or a lack thereof, will never be the only factor considered in a major disaster declaration authorizing IA determination. However, there may be events with borderline levels of damage to residences, but with a high number of casualties that point to a level of trauma warranting Federal assistance.

F. 44 CFR 206.48, Paragraph (b)(6)—Disaster Related Unemployment

The proposed Disaster Related Unemployment factor called for consideration of the number of disaster survivors who lost work or became unemployed due to a disaster and who do not qualify for standard unemployment insurance. The proposed factor welcomed States to provide an estimate of the number of such unemployed disaster survivors as well as information regarding major employers affected.

FEMA received comments from 8 commenters regarding this proposed factor. Some commenters applauded the proposal to continue to collect this information. Others expressed concerns that a State may not be able to gather the requested unemployment data within the 30 day declaration request period. Some commenters stated that a State typically uses potential disaster unemployment claims for a USDA agriculture related disaster request but adding this information to a major disaster request for IA may be worth the time and resources when many businesses are impacted. Others stated that FEMA should not use potential low level of unemployment claims due to a major disaster as a negative factor against a State in determining whether a declaration is warranted.

FEMA understands that there are certain disaster situations where gathering certain types of information may be difficult. This information may not be necessary or relevant for the typical major disaster declaration request that is seeking IA. Generally, when a disaster event warrants IA, Disaster Unemployment Assistance is appropriate as well. This information is already provided by States when they request Disaster Unemployment Assistance as part of their major disaster declaration request. If needed, States may submit extension requests. This factor will primarily be relevant in instances where the effect of the disaster event is mainly economic and Disaster Unemployment Assistance is the only program that a State requests. FEMA will not use a low level of unemployment claims due to a major disaster as a negative factor in determining whether a request for other forms of disaster assistance is warranted. However, a low level of unemployment claims due to a major disaster may be indicative that Disaster Related Unemployment is unnecessary even though other IA programs are necessary to assist a community recover post-disaster event.

G. Principal Factors for Evaluating the Need for the Individuals and Households Program

FEMA proposed that the principal factors it will consider in evaluation of any major disaster declaration request for IHP will be the fiscal capacity of the requesting State (44 CFR 206.48(b)(1)(i)) and the uninsured home and personal property losses (44 CFR 206.48(b)(2)). FEMA found that the ratio of IA Cost to Capacity (ICC), which is the estimated cost of IA divided by a State's TTR in millions, was particularly indicative of the likelihood of a declaration. FEMA received comments from 4 commenters regarding this proposal. The commenters expressed general opposition to FEMA using the ICC calculation as an evaluation tool for whether IHP is warranted and suggested that the ICC calculation is a mathematical formula or ''threshold'' that is prohibited by the Stafford Act.

A commenter stated that the ICC calculation proposed by FEMA for determining whether IHP is warranted is a mathematical formula that is specifically prohibited by the Stafford Act. The commenter stated that the formulaic evaluation of a major disaster request does not meet the spirit and intent of the Stafford Act. Section 320 of the Stafford Act prohibits the denial of assistance to a geographic area based solely on the use of an arithmetic formula or a sliding scale based on income or population. 42 U.S.C. 5163. The ICC ratio compares the estimated of cost of assistance and the State's TTR. Although the ICC ratio is an arithmetic formula based in part on income flows, FEMA does not plan to deny assistance to any geographic area based solely on the results of this formula. Rather, the results are only one factor (albeit an important one) that FEMA will consider, in the totality of the circumstances, when making its recommendation to the President. The comparison of the principal factors will be considered in conjunction with the other factors that are provided in the final rule. FEMA has revised the regulatory text at 44 CFR 206.48(b) to make clear that FEMA will always consider all relevant information submitted as part of a declaration request.

FEMA believes that it is appropriate to use ICC as a measure of the need for IHP because at its core, the determination of whether to recommend a major disaster declaration authorizing IHP depends on the impact of the event being beyond a State or local government's capability. Such a determination necessarily entails an assessment of the impact of the event in the context of a State's fiscal capacity and resources. FEMA recognizes that every disaster is different and circumstances vary among States. Ultimately, however, the ICC compares two factors that are undeniably relevant to FEMA's recommendation to the President. These factors will not be used to the exclusion of all others; FEMA will continue to evaluate each request on its own merits, including by reference to the other factors identified in this rule.

A commenter opined that although FEMA states that the ICC is not a hard threshold, the practical result is that of a threshold. FEMA does not agree that the ICC will act as a threshold. The ICC statistics provided in the NPRM were based on historical declaration requests and they show levels of ICC for events that were approved at a high frequency, denied at a high frequency, and for events that fell in the middle. FEMA believes the ICC evaluation provides a more systematic way to look at the information and creates a more useful decision framework to evaluate a major disaster declaration request for IA than the current evaluation process. FEMA provided this historical data to help guide States for planning in future disaster situations, and FEMA will continue to update this data based on major disaster declaration request determinations in the future. FEMA is not planning to use the ICC calculation as a hard ''threshold.''

H. Lack of Thresholds

FEMA received comments that expressed disappointment at a lack of clear thresholds or other guidance regarding what amount of damage would definitively warrant a major disaster declaration authorizing IA. FEMA will not be using a threshold because it would unnecessarily limit FEMA's ability to advise the President and would not allow FEMA to fully consider all factors that may be relevant for the unique circumstances of a disaster and its impact on the State. FEMA understands that some States prefer additional clarity for planning purposes, *i.e.,* to help States decide whether they should or should not submit a major disaster declaration request for a given disaster event. While FEMA will not be establishing a threshold, FEMA issued an additional proposed guidance document for comment on September 22, 2016 at *81 FR 65369* that further fleshed out the details of how FEMA will evaluate the factors. Following consideration of the comments received, FEMA is issuing the final guidance today; a notice of availability regarding that guidance document is published elsewhere in today's **Federal Register** along with this final rule. In addition, FEMA will periodically publish aggregate PDA data on FEMA's website which States can use to evaluate the likelihood of receiving a major disaster declaration for a specific event and to plan for future events.

I. IA Declarations Factors Guidance

Several commenters raised concerns regarding the *IA Declarations Factors Guidance* which FEMA indicated would support the proposed rule. The commenters asked for information on when the guidance would be published, wanted clarity on how the factors will be weighted, and suggested that FEMA should develop appropriate guidance materials to train State and local partners, FEMA regional office staff, and the disaster workforce. FEMA published an additional proposed guidance document for comment on September 22, 2016 that further fleshed out the details of how FEMA would evaluate the factors. 81 FR 65369. The majority of comments received on the proposed guidance document were duplicative of what was already received on the proposed rule. The comments that were unique and specific to the guidance are addressed in the final *IA Declarations Factors Guidance,* notice of which is published elsewhere in today's **Federal Register** along with this final rule.

Commenters asked for clarity on how the factors would be evaluated by FEMA. As stated above, FEMA intends to provide additional clarity regarding evaluation of the factors through guidance documents. These guidance documents will aid States and Territories in drafting requests for emergency and major disaster declarations including Individual Assistance. These documents will also provide additional clarity regarding the circumstances, in particular the severity and magnitude relative to State capacity, under which a major disaster declaration authorizing IA is likely to be approved or denied. This additional clarity should allow for improved planning by the States because they will have a better understanding of what type and size of event may exceed their capacity to support residents without Stafford Act assistance.

A commenter stated that FEMA should develop appropriate guidance materials to train State and local partners, FEMA regional office staff, and the disaster workforce. FEMA has hosted and will continue to host internal and external trainings and webinars for the FEMA Regional Offices, States, Territories, and local

partners to help them become familiar with and understand the new IA major disaster declaration factors.

J. Preliminary Damage Assessments

Several commenters raised concerns regarding the preliminary damage assessment process. The concerns raised include that nongovernmental organizations (NGOs) should be invited to participate in sharing information during the PDA process and initial response and recovery; that FEMA should simplify the PDA process for IA and coordinate with the Red Cross and Small Business Administration (SBA); that the timeframe for making a major disaster declaration for IA is unclear; and that a PDA conducted too early in certain events, such as a flooding disaster, will not result in accurate PDAs.

A commenter raised a concern that non-governmental organizations need to be invited to participate in sharing information during the PDA process and initial response and recovery. FEMA notes that non-governmental organizations are often involved in the disaster response in a community and provide information to the States. A State may coordinate with their local non-governmental organizations and to involve them in the PDA process, at the State's discretion.

Two commenters suggested that FEMA, SBA and the American Red Cross should develop a single standardized PDA that would collect one set of data that all three entities can use. In general, FEMA believes that a wholesale revision of the PDA process is outside the scope of this rulemaking. Aside from revising a limited number of data points, this final rule does not affect the PDA process at all. In addition, FEMA and SBA currently do coordinate and complete PDA together when feasible.

A commenter requested clarity about the deadline by which a State must request a major disaster declaration authorizing IA. States must submit their major disaster request (or request an extension) within 30 days of the incident. 44 CFR 206.36(a). FEMA encourages States to identify the potential need for a joint FEMA-State PDA as quickly as possible if the State believes that a major disaster declaration is necessary. FEMA encourages States to collect and submit information as quickly as possible because it is important to provide assistance to disaster survivors as soon as possible after a disaster event.

A commenter stated that FEMA must recognize that a PDA performed too early, particularly after a flood event, will not provide an accurate measure of the number of homes damaged. FEMA notes that a State is the entity that triggers the joint FEMA-State PDA, and that a State may request an extension of the 30 day deadline if additional time is needed to provide accurate results. For any major disaster declaration request including IA, FEMA will work with the State to complete the PDAs and process the declaration request as quickly as possible. FEMA will make a major disaster declaration recommendation to the President based on the best information available and we recognize that early after an event not all of the information is available or completely certain. FEMA also recognizes that the magnitude of some events may require the State and FEMA to move ahead based only on limited or uncertain information.

K. Amount of Data Requested

Several commenters raised concerns that the proposed rule would create a significant increase in the amount of data required for a State's request for a major disaster declaration authorizing IA. The commenters shared that, although it is appreciated that States are being forewarned of these requirements in advance, they felt that many of the new data points would require significant effort to assemble which may impact expediency in submitting a major disaster request which is in direct contradiction to section 1109 of SRIA's requirement to ''speed a declaration of a major disaster.'' In addition, others raised concern that under the proposed rule, FEMA would require the States to compile a significant amount of information, regardless of whether such information had any bearing on whether a declaration will be declared.

FEMA notes that most of the data points identified in the proposed rule are already provided by States as part of the current disaster declaration process because they are items that FEMA informally identified as relevant data points in the past. By clearly identifying these data points up front, the final rule will reduce the potential that FEMA will need to reach back to the State for additional information. In this way, FEMA believes that the rule will help speed the process. In addition, FEMA is not compelling the States to provide all of the data points included in this rulemaking. A State should submit enough information that they believe justifies the need for supplemental Federal assistance. However, it is in the State's interest to discuss the data points highlighted in this rule along with any other relevant information because it will illustrate to FEMA and the President why supplemental Federal disaster assistance is necessary for their State.

IV. Final Rule

FEMA is finalizing the proposed rule with the two changes that are discussed in section III of this preamble. First, FEMA is removing the proposed ''State Services'' sub-factor. Second, FEMA is removing the proposed ''Planning After Prior Disasters'' sub-factor. FEMA has also revised introductory text at 44 CFR 206.48(b) to make clear that regardless of the ratio of estimated cost of assistance to TTR for any given event, FEMA will always consider all relevant information submitted as part of a declaration request.

V. Regulatory Analysis

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

1. Executive Summary & A–4 Accounting Statement

Executive Orders 13563 (''Improving Regulation and Regulatory Review'') and 12866 (''Regulatory Planning and Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') 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.''

The Office of Management and Budget (OMB) has designated this rule a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by OMB. This rule is exempt from the requirements of Executive Order 13771 because it has de minimis costs spread across all states and territories. *See* OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017).

FEMA estimates the final rule will impose a cost burden of $28,040 in the first year of implementation and $2,939 for each subsequent year. FEMA estimates the ten-year present value total cost to be $44,102 discounted at seven percent and $49,441 discounted at three percent. FEMA estimates the annualized cost of the final rule to be $6,279 at seven percent and $5,796 at three percent.[22] The costs are for training (FEMA providing and States participating in), States becoming familiar with the regulation, both FEMA and States downloading and saving annual data, and States changing their existing files to account for the new factor. Benefits of the rule include clarifying FEMA's existing practices and reducing process time and effort (back and forth) between FEMA and States requesting a declaration.

FEMA does not expect the rule to affect the amount of assistance to individuals and households for two primary reasons. First, codifying factors that are currently captured under the ''other relevant information'' prong of 44 CFR 206.48 provides clarity without necessarily changing current practice. Since 1999,[23] FEMA has evaluated and improved its IA declarations practices continuously so that FEMA can incorporate consideration of new information sources as they have become available. This rule reflects the evolution of those efforts by codifying currently used factors, as well as adding one new factor to evaluate the fiscal capacity of States' abilities to respond to and recover from a declared disaster. Second, the new fiscal capacity factor is highly correlated to previously captured data on State population[24] and is expected to result in comparable declaration recommendations. FEMA believes including the new fiscal capacity factor provides a more comprehensive picture of a State's ability to respond to and recover from a declared disaster.

TABLE 1—A–4 ACCOUNTING TABLE

Category	Estimates			Units		
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (%)	Period covered
Benefits:						
Annualized Monetized	n/a	n/a	n/a	n/a	7	n/a.
	n/a	n/a	n/a	n/a	3	n/a.
Annualized Quantified	n/a	n/a	n/a	n/a	7	n/a.
	n/a	n/a	n/a	n/a	3	n/a.
Qualitative	The final rule more clearly identifies declaration factors FEMA considers when making its recommendation to the President on a major disaster declaration that authorizes IA than current regulations. The rule codifies factors FEMA currently considers, but are not specified in 44 CFR 206.48(b) and adds one new factor that will provide additional information on fiscal capacity. FEMA anticipates that this final rule will result in regulatory efficiencies due to reduced back and forth between FEMA and the State that is requesting the declaration. Currently, the amount of back and forth between FEMA and the State is not tracked.					
Costs:						
Annualized Monetized	$6,279	n/a	n/a	2015	7	10 years.
	$5,796	n/a	n/a	2015	3	10 years.
Annualized Quantified	n/a	n/a	n/a	.....	7	10 years.
	n/a	n/a	n/a	.....	3	10 years.
Qualitative	None.					
Transfers:						
Federal Annualized Monetized	n/a	n/a	n/a	n/a	7	n/a.
	n/a	n/a	n/a	n/a	3	n/a.
From/To	From:	n/a		To:	n/a.	
Other Annualized Monetized	n/a	n/a	n/a	n/a	7	n/a.
	n/a	n/a	n/a	n/a	3	n/a.
From/To	From:	n/a		To:	n/a.	
Effects:						

[22] FEMA includes estimates of discounted present value costs and annualized costs according to guidance from OMB Circular A–4. Office of Management and Budget, Published September 17, 2003. Available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[23] On September 1, 1999, 44 CFR 206.48 was finalized in regulation. *See* 64 FR 47698.

[24] The correlation is based on the new fiscal capacity sub-factors. The primary sub-factor that will be used is Total Taxable Resources (TTR), which measures the unduplicated sum of the income flows produced within a State and income flows received *by its residents* that a State can potentially tax. *See* United States Department of the Treasury, ''Treasury Methodology for Estimating Total Taxable Resources (TTR),'' Revised November 2002, page 2, *https://www.treasury.gov/resource-center/economic-policy/Documents/nmpubsum.pdf.* Accessed and downloaded November 9, 2015. Because TTR is available at the State level only, Gross Domestic Product (GDP) by State will be used as the fiscal capacity indicator for territories and other areas when TTR is not available. In general, GDP by State is estimated using two procedures. The first one uses State-level Census Bureau value-added data for goods-producing industries to estimate GDP by State for those industries. The second procedure uses Census Bureau receipts and payroll data, or company financial data to estimate gross operating surplus for the services-producing industries. Both procedures use income received by a State's residents as a primary component. *See United States Department of Commerce, Bureau of Economic Analysis, ''GDP by State Estimation Methodology,'' page 2, https://www.bea.gov/sites/default/files/methodologies/0417_GDP_by_State_Methodology.pdf.* Accessed and downloaded February 15, 2017.

TABLE 1—A–4 ACCOUNTING TABLE—Continued

Category	Estimates			Units		
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (%)	Period covered
State, Local, and/or Indian Tribal Governments	State governments are the only entities directly affected by this rule. Benefits include expected regulatory efficiencies due to reduced back and forth between FEMA and the State requesting the major disaster declaration that includes IA.					
	Increased costs resulting from the rule are from training, becoming familiar with the new rule, downloading the fiscal capacity factor data, and changing existing templates and files to account for the new factor. These costs are expected to occur in year 1. Costs in subsequent years from updating the data are expected to be small.					
Small Business	No Impact.					
Wages	Not Measured.					
Growth	Not Measured.					

2. Need for Regulatory Action

This final rule provides clarity on the declaration factors that FEMA currently considers in support of its recommendation to the President on whether a major disaster declaration authorizing IA is warranted. FEMA expects the additional clarity will reduce delays in the declaration process by decreasing back and forth between States and FEMA. FEMA also is adding one new factor—Fiscal Capacity—to provide additional context on States' capacity to respond to and recover from disaster situations. Finally, the rule will satisfy the requirements outlined in Section 1109 of SRIA.

3. Affected Population

A request for a Federal major disaster declaration authorizing IA must come from a State's Governor or designated equivalent. 44 CFR 206.36(a). Therefore, the rule directly affects all States that are eligible to request a Federal major disaster declaration authorizing IA. States are defined in 44 CFR 206.2(a)(22) and include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.[25]

Although Section 1110 of SRIA amended the Stafford Act to allow federally recognized Indian Tribal governments to submit requests for emergency or major disaster declarations, SRIA charged FEMA to implement that authority separately by rulemaking. Declarations requested by Tribal governments will be covered by a separate process and are not included in this rule. For this reason, Tribal governments are not directly affected by this rule. Local governments also are not directly affected by the rule because the disaster-related information local governments provide to the State is part of their current disaster response process, which is to provide situational awareness and ascertain the need for further emergency assistance.[26]

4. Current Baseline and Impacts of Final Rule

The rule largely codifies many considerations that FEMA has used for several years under the ''other relevant information'' prong of 44 CFR 206.48, but were not specifically identified in FEMA regulations. FEMA conducted a retrospective review of State major disaster declaration letters that requested IA and found that States typically included more information and data than what is specifically identified in the current regulations and listed at 44 CFR 206.48(b).[27]

FEMA's review examined the 85 major disaster declaration requests for IA that States submitted between January 1, 2012 and December 31, 2016. All were examined, whether the declaration was granted or denied. FEMA found that the four new Fiscal Capacity sub-factors had not been provided previously by States; however, when States provided qualitative information on the State's economic health, they may also have provided median household income. FEMA found that out of the remaining 23 sub-factors, 19 were provided in at least 80 percent of the requests and only 4 were provided in less than 20 percent of the request letters. All 4 are sub-factors of the Disaster Impacted Population Profile factor. Specifically, the percentage of population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Program benefits appeared in only 5 percent of the requests (4 occurrences in 85 total requests); the percentage of the population who speak a language other than English and speak English less than ''very well' in only 7 percent of the requests (6 occurrences in 85 total requests); the percentage of population 18 years old and younger in only 18 percent (15 occurrences in 85 total

[25] There are 56 States, as defined by 44 CFR 44 CFR 206.2(a)(22). Throughout this analysis, ''States'' means the total number of governmental jurisdictions that include the 50 U.S. States, District of Columbia, and the 5 territories listed.

[26] The National Response Framework defines the roles and responsibilities of key partners at the local, tribal, State, and Federal levels. Local governments/jurisdictions are responsible for ensuring the public safety and welfare of their residents. Local police, fire, emergency medical services, public health and medical providers, emergency management, public works, environmental response professionals, and other in the community are often the first to detect a threat or hazard, or respond to an incident. As first responders, local governments provide situational awareness on the incident and request immediate emergency relief to ensure public safety and welfare, *i.e.* debris removal and/or emergency protective measures. *See* National Response Framework, Third Edition, pages 11–12, *https://www.fema.gov/media-library-data/1466014682982-9bcf8245ba4c60c120aa915abe74e15d/National_Response_Framework3rd.pdf.* Accessed and downloaded February 15, 2017.

[27] FEMA reviewed all 85 State major disaster declaration request letters submitted between January 1, 2012 and December 31, 2016, and found that each letter was unique and provided many of the data points and information that will be explicitly included under the regulation. The information submitted varied depending on the disaster, the scope of damages, and the need for assistance. FEMA does not require every data point to be submitted when a State makes a declaration request. FEMA found that some requests had more data and/or information, while other requests had less. For instance, in more severe events in less resilient areas, the States did not need to provide a large amount of information to be recommended for a declaration. In these instances, the individual assistance needs were clearly outside the capacity of the requesting State.

requests); and any unique considerations regarding American Indian and Alaskan Native Tribal populations that may not be reflected in the U.S. Census Bureau data in only 18 percent of the requests (15 occurrences in 85 requests). FEMA found that these specific sub-factors of population were specifically included by States when they believed the disaster adversely affected and heighted the vulnerability of these particular segments of the population. This is consistent with FEMA's long-standing practice of considering how any given disaster affects populations that are 65 years and greater or have a disability. The detailed findings are presented in Table 5, and in the marginal analysis table posted in the docket at *www.regulations.gov.* These findings established the baseline from which the costs of this rule were estimated.

Because FEMA and States already are gathering and providing much of this information, FEMA anticipates minimal impact to States. FEMA does not expect or require States to include every factor in every declaration request. FEMA expects that States will continue to provide a comparable level of information in their request letters, based on their respective circumstances and disaster effects.

Indian Tribal governments (requesting assistance through the State) and local governments currently provide the State with specified factor information for their local area and affected residents. Therefore, FEMA anticipates Indian Tribal governments (requesting assistance through the State) and local governments will not directly incur additional costs from the rule.

As previously discussed, the new factor FEMA is adding is Fiscal Capacity. Both FEMA and States will be affected by the addition of this factor. For FEMA, the increase in burden will result from annually collecting the information and providing it to the States. This increase in burden is expected to begin in year 1 and remain the same for each subsequent year. FEMA also will incur a cost for providing IA declaration factors training. For States, an increase in burden will be realized in the first year when States download the fiscal capacity data, adjust their templates and files to accommodate the new Fiscal Capacity factor, and attend IA declaration factor training. In each subsequent year, the burden for States is expected to decrease from year 1 because it will be for downloading and storing the fiscal capacity data only. FEMA will provide a link on its website to the data in addition to downloading and storing the information for its own reference. FEMA assumes that States will download and store the data in subsequent years prior to any major disaster so that the information is readily available if they need to request IA. In addition, once a State has downloaded and stored this data for one disaster, the State is likely to keep the data on hand for future reference and to meet administrative records retention policies.

FEMA does not expect the new Fiscal Capacity factor to affect the number of IA declaration requests made by States or change the amount of IA assistance provided. The new factor is highly correlated to data previously used; thus, would have likely resulted in comparable declaration recommendations had it been used. For this reason, the final rule is expected to result in comparable recommendations in the future and the rule is not expected to affect transfer payments.

Fiscal Capacity. FEMA recognizes that each State's capacity to respond and recover varies based on the circumstances of the disaster and the State's resources. FEMA includes fiscal capacity data to better evaluate a State's ability to adequately respond to a disaster with or without supplemental Federal assistance. The GAO suggested in multiple reports that FEMA should incorporate States' fiscal capacity into its considerations when recommending disaster declarations to the President. All of the GAO reports focused on including fiscal capacity in FEMA's PA declaration factor criteria. FEMA believes there also is a need to assess a State's capacity to respond and recover on its own when determining whether a major disaster declaration that authorizes IA is warranted.

To evaluate a State's fiscal capacity for response to a major disaster, FEMA will review data on a State's TTR.[28] The U.S. Department of Treasury (Treasury) calculates the TTR of each State, which is used as a measure of a State's fiscal capacity.[29] TTR is based on Gross Domestic Product (GDP) by State, measuring the unduplicated sum of the income flows produced within a State, but makes adjustments for additional, potentially taxable income flows earned by residents from out-of-state sources such as capital gains and commuter income.[30] FEMA acknowledges that TTR does not capture a State's actual tax revenue or expenditures and cannot be viewed as a financial accounting of a State's budget. The GAO supports the use of TTR as a measure of a State's fiscal capacity because it provides a more comprehensive measure of a State's fiscal capacity when compared to other options, which do not include the additional, potentially taxable income flows earned by residents from out-of-state sources such as capital gains and commuter income.[31]

Further, FEMA is removing the ''Average Amount of Assistance per Disaster'' table that is found at the current 44 CFR 206.48(b)(6) which was based on outdated (1990 Census Data) population numbers and simplistic size categories that grouped States into only three categories: Small, medium, and large. Removing this table and instead using TTR will allow a State and FEMA to include a State-specific assessment of that State's fiscal capability when responding to a major disaster.

FEMA conducted a retrospective analysis of its recommendations and major disaster declarations by the President and confirmed they are correlated to the fiscal capacity of the requesting State, as represented by State TTR data. Historically, FEMA captured an aspect of fiscal capacity when evaluating the damage caused by each disaster in relation to the population of the affected State. States with the highest State TTRs tended to have the highest population. Based on this analysis, FEMA found that major disaster declarations authorizing IA have a correlation to the fiscal capacity

[28] Pursuant to Public Law 102–321, the U.S. Department of the Treasury produces annual estimates of total taxable resources (TTR) for all States. The TTR estimates are published by September 30th each year and have a two-year lag. For example, TTR for 2016 was published on September 28, 2018. The formula for calculating TTR uses gross state product as its base, subtracts non-taxable components, then accounts for cross-border income flows. This calculation provides a ''. . . comprehensive measure of all the income flows a state can potentially tax.''

[29] GAO Report 12–838 stated that other Federal departments and agencies have used TTR data to determine a jurisdiction's fiscal capacity and the extent to which a jurisdiction should be eligible for Federal assistance; specifically the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's block grant program and Community Mental Health Service use TTR. Federal Disaster Assistance, Improved Criteria Needed to Assess a Jurisdiction's Capability to Respond and Recover on Its Own, GAO–12–838, September 2012, pages 31–32. *http://www.gao.gov/products/GAO-12-838.* Accessed and downloaded November 9, 2015.

[30] United States Department of the Treasury, ''Treasury Methodology for Estimating Total Taxable Resources (TTR),'' Revised November 2002, page 2, *https://www.treasury.gov/resource-center/economic-policy/Documents/nmpubsum.pdf. Accessed and downloaded November 9, 2015.*

[31] United States Government Accountability Office, FEDERAL DISASTER ASSISTANCE: Improved Criteria Needed to Assess a Jurisdiction's Capability to Respond and Recover on Its Own, GAO–12–838, September 2012, page 31. *http://www.gao.gov/products/GAO-12-838.* Accessed and downloaded November 9, 2015.

of the requesting State, as represented by the State TTR data.

FEMA reviewed 220 major disaster declaration requests that included IA and were submitted between January 2008 and December 2016.[32] The purpose of the review was to determine if there would have been any impact on a disaster determination from using State TTR to assess a State's need for a major disaster declaration authorizing IA. Each State request included an estimate of the costs from the damages attributed to the disaster event. FEMA retrieved the TTR data that was available for that State at the time of the request. For each request, FEMA used estimated IA costs and the State's TTR to calculate a ratio of IA Cost to (fiscal) Capacity (ICC). For example, assume a State estimated $2,000,000 in IA costs and the State's TTR was $30,000,000,000. FEMA then divided $30,000,000,000 by $1,000,000 to get the State's TTR in millions, which is $30,000. ($30,000,000,000 ÷ $1,000,000 = $30,000) FEMA divided the estimated cost of IA, which was $2,000,000, by $30,000 to get the ICC ratio 66.7. ($2,000,000 ÷ $30,000 = 66.66)

Based on the ICC calculation for all 220 State requests, FEMA's analysis shows the greater the ICC ratio for a major disaster declaration request that included IA, especially those with ICCs above 25, the more likely the request for IA was granted. Conversely, the lower the ICC ratio for a major disaster declaration request that included IA, especially those with ICCs below 10, the more likely the request for IA was denied. The following table displays the total number of major disaster declaration requests and the total of the IA requests that were granted by ICC ratio size. The table also shows the percentage of granted major disaster declaration requests within each respective ICC group.

TABLE 2—NUMBER OF IA REQUESTS AND GRANTED IA REQUESTS BY ICC RATIO

ICC ratio (estimated cost of IHP/(TTR/$1 million))	Number of requests received (2008–2016)	Number of requests approved (2008–2016)	Percentage of requests approved (2008–2016)
>25	65	55	85
10–25	71	32	45
<10	84	8	10
Total	220	95	43

Based on the above data, there were 71 major disaster declaration requests that included IA with ICC ratios between 10 and 25; and 32 of these requests were declared major disasters that included IA. Hence, 45 percent of major disaster declaration requests with ICC ratios between 10 and 25 that included IA were granted. FEMA believes this approval rate helps illustrate that a number of factors are taken into consideration when determining FEMA's recommendation, especially in borderline events.

In addition, FEMA's above analysis shows that the higher the estimated cost of IA damages and the lower the State TTR, the more likely a major disaster declaration request authorizing IA was granted in the past. In the past, States generally provided qualitative discussions on the effects of previous disasters, State median household income data, and population data as indicators of their economic health. In response to recommendations in GAO Report 12–838, FEMA examined the effect of using TTR, rather than median household income and population data as indicators of a State's economic ability to support itself in the event of a major disaster and whether using TTR would have changed FEMA's past recommendations.[33] FEMA is including TTR to introduce a more direct measure of State fiscal capacity than the qualitative information already being provided by the States.[34] FEMA will continue to consider, when provided, information from States on the effects of previous disasters and State median household income and population data.

FEMA found that TTR and population are highly correlated (0.984). Although these measures are highly correlated, FEMA chose State TTR as its preferred data point as a more direct measure of fiscal capacity for several reasons. TTR more accurately reflects a State's ability to respond to a disaster because TTR is a measure of fiscal capacity which takes into consideration the population of the State and the income flows, not just an estimate of the number of people in the State. In addition, TTR includes much of the business income that does not become part of the income flow to jurisdiction residents, undistributed corporate profits, and rents and interest payments made by businesses to out-of-jurisdiction real estate owners and lenders. FEMA concludes that its consideration of State TTR would not have affected past recommendations based on the above analysis that shows that TTR and population are highlight correlated.[35] Accordingly, FEMA anticipates that using State TTR when making future major disaster declaration recommendations will not reduce the number of IA declaration requests made by States or change the amount of IA assistance provided.

FEMA recognizes that some disasters cause enough damage to overwhelm even the most fiscally capable States and that disasters may result in special circumstances. For example, a special

[32] For the analysis on TTR, FEMA excluded disaster declaration requests that did not include a request for IA. FEMA also excluded duplicate requests, U.S. territories' requests (because there is no TTR data available), requests without summaries of the PDA data or with insufficient data, and requests that involved an expedited decision. However, expedited disaster declarations that included PDA data and a request for IA were included. For example, the disaster declaration request from New York for Hurricane Irene (2008, DR 4020) was included in the data set even though the declaration was expedited because the request included an estimate for PDA. *See* ''New York—Hurricane Irene, FEMA–4020–DR,'' Summary of Damage Assessment Information Used in Determining Whether to Declare a Major Disaster, Accessed and downloaded April 11, 2017. *https://www.fema.gov/pdf/news/pda/4020.pdf.* FEMA will use data related to personal income and GDP for territories. The estimated cost to States and to FEMA for downloading and providing fiscal capacity data are included in the analysis. *See* section, ''5. Impacts to Costs, Benefits, and Transfers.''

[33] Although GAO Report 12–838 largely related to the Public Assistance disaster declaration process, FEMA decided to evaluate whether TTR could also improve the IA major disaster declaration process.

[34] FEMA recognizes that TTR does not perfectly capture a State's fiscal capacity and encourages States to provide any information they believe support their IA declaration request.

[35] FEMA also reviewed using per capita TTR and found per capita TTR and population are not highly correlated (0.099) and that as a result, the use of per capita TTR may have affected past recommendations.

circumstance would be if a State has experienced several major disasters in a very short time or if a particular disaster included widespread and extensive damage. Another special circumstance would be if the disaster affected a small geographic area. If a disaster request is for a small area, FEMA will review per capita personal income by local area data to ascertain a local government's fiscal capacity. FEMA previously evaluated data on median household income per county. FEMA expects that the shift from median household income per county to per capita personal income by local area will have minimal impact and no new costs because one is replacing the other.

FEMA's intent in this final rule is to continue to take multiple factors into consideration, including the fiscal capacity factor whether it be State TTR, GDP by State, or per capita personal income. The addition of the fiscal capacity factor will provide State-specific information that will assist FEMA in determining whether the State is, in fact, overwhelmed and in need of supplemental Federal assistance.

FEMA will continue to use multiple factors and relevant data to formulate its recommendations to the President on major disaster declarations that authorize IA.[36] No single data point or factor will singularly affect FEMA's recommendation or the President's ultimate determination of whether to issue a major disaster declaration authorizing IA.

5. Impacts to Costs, Benefits, and Transfer Payments

In the following section, FEMA will discuss the rule's quantified costs, qualitative benefits, and why there are no expected effects to transfer payments.

a. State Costs

FEMA received multiple comments questioning whether the full costs to States had been captured in the NPRM. In general, commenters questioned whether the additional burden resulting from the new Fiscal Capacity Factor was accurate; pointed out that the cost of State personnel attending training was omitted; and voiced concern that the final rule would slow the declaration process because key decision makers might not be familiar with the final rule. FEMA considered each of the comments and adjusted its estimated costs accordingly by incorporating new training costs, familiarization costs, updated data retrieval costs, and new costs associated with States incorporating the new Fiscal Capacity data into existing files and processes. FEMA also more descriptively presented the baseline data on which its cost estimates are based.[37] A more detailed summary of these comments, and FEMA's responses, follows.

Additional Burden from Fiscal Capacity Factor. Four commenters questioned whether the estimate of the additional burden resulting from the new Fiscal Capacity Factor was accurate. Specifically, three States (Indiana, Florida, New York) and one emergency management association (NEMA) pointed out that incorporating new data points into the IA declaration request will increase staff time.

FEMA concurs with these comments and adjusted its cost estimates associated with States downloading the new Fiscal Capacity factor data and incorporating the data into existing files and processes. FEMA did not include an additional burden for reviewing the data because review and analysis of this data occurs when the declaration request is being formulated by the State. The costs of reviewing any data included in the request is already embedded in the process. As shown by FEMA's baseline analysis, many of the factors and sub-factors listed in the rule have previously been submitted or requested subsequent to a State request for a major disaster declaration that includes IA, and codifying them will not increase costs. FEMA does not expect or require States to include every factor in every disaster declaration request. FEMA anticipates that States will continue to provide a comparable level of information in their request letters, based upon their respective circumstances and disaster effects. However, fiscal capacity in the form of TTR (States), GDP by State (Territories), or Per Capita Personal Income (PCPI) (small areas) typically has not been provided by States or considered by FEMA and it will impose a new cost. Data related to fiscal capacity is available from publicly accessible databases and websites. For this reason, States can access and download the data without incurring any costs for the data itself.

However, FEMA recognizes that there will be an additional burden to States resulting from downloading the relevant Fiscal Capacity data annually and adjusting their templates and files in year 1. The estimated cost for all States is $8,935 in year 1 and $1,787 in each subsequent year. FEMA has included these costs in the final rule as a result of public comments received on the NPRM.

FEMA estimates that in year 1 each State will spend approximately four hours on downloading the new fiscal capacity data and adjusting files and templates to incorporate the new Fiscal Capacity factor.[38] To estimate the additional activity time, FEMA performed a ''dry run'' retrieval and storage of the fiscal capacity data for 13 randomly chosen States.[39] FEMA estimates it will take 10 to 15 minutes to retrieve and store Treasury's TTR data (including all State data in a single retrieval). The average of this range, 12.5 minutes, is used in this analysis. FEMA estimated it would take the equivalent amount of time for the BEA's GDP by State data, and uses 12.5 minutes for that retrieval and storage. FEMA estimated it would take 15 to 30 minutes to retrieve BEA's per capita personal income data and used the average of 22.5 minutes for that retrieval and storage. FEMA summed these three time burdens to calculate a total burden of 47.5 minutes (12.5 + 12.5 + 22.5 = 47.5). The total burden of 47.5 minutes was divided by 60 minutes, for an estimated increased burden of approximately 0.8 hours ((12.5 + 12.5 + 22.5) ÷ 60 = 0.7917).

FEMA's ''dry run'' example analysis took approximately 3.2 hours and included formatting the tables into a useable format for analysis (1.6 hours) and creating tables and graphs (1.6 hours). FEMA estimates it will take a similar amount of time for States to update their current templates to incorporate the new fiscal capacity data. Based on this experience, FEMA estimates that downloading the data and adjusting files and templates will take each State approximately 4.0 hours in year 1 (0.8 hours + 1.6 hours + 1.6 hours = 4.0 hours). The total time for all 56

[36] An in-depth discussion of the factors and relevant data considered is presented herein. *See* ''III. Discussion of Public Comments on Proposed Rule.'' With the exception of TTR, the proposed factors have been taken into consideration by FEMA in the past when making past recommendations for major disaster declarations including IA. The factors were covered, but not specified, previously under the ''other relevant information'' prong of 44 CFR 206.48. FEMA continues to emphasize that no single factor would be used to determine if a recommendation is warranted.

[37] Baseline data estimates were presented qualitatively in the NPRM, but have been included quantitatively in the Final Rule.

[38] FEMA will provide links to the relevant data on its website, *www.FEMA.gov.* In addition, to maintain records and support FEMA's work, the data likely will be stored by FEMA's IA Program. FEMA assumes that States will use the links to the data sources provided by FEMA.

[39] The times listed for data retrieval represent the time it took FEMA to pull the information directly from the Treasury and BEA sources. FEMA will provide links to the data sources on its website, *www.FEMA.gov* to facilitate access to the data sources for States.

States [40] is 224 hours (4.0 hours × 56 States = 224 hours).

FEMA anticipates a State Government First-Line Supervisor of Office and Administrative Support Workers (1st Line Supervisor), or equivalent, will download the data and adjust the templates and files. The fully-loaded wage rate for the 1st Line Supervisor is $39.89 [41] per hour.[42] To estimate the total costs for States, FEMA multiplied the fully-loaded hourly rate for a 1st Line Supervisor by the total hours for all States resulting in total costs to download the data and update templates and files in year 1 of $8,935 ($39.89 per hour × 224 hours = $8,935.36). In subsequent years, only downloading and data entry into files and templates is expected. As stated previously, FEMA estimates this will take 0.8 hours. Using the same methodology, FEMA multiplied 0.8 hours by 56 States and then multiplied by the fully-loaded hourly rate of $39.89 for a total of $1,787 per year beginning in year 2 (0.8 hour × 56 States × $39.89 per hour = $1,787.07).

Training Costs. FEMA received two comments that noted there would be time and expense involved for States in training employees. FEMA has added a cost for States to attend FEMA-provided training on the final rule.[43] Training attendance is voluntary, but FEMA has estimated costs based on the assumption that all States will attend training.

Given that the intent of the rule is to provide clarity, FEMA will offer training for all States on the changes included in the rule. FEMA included the costs associated with States attending training on the rule in year 1. Outreach webinars were offered by FEMA following the publication of the NPRM. To estimate the cost of the training to States and capture the costs associated with the outreach webinars, FEMA used the participation data from the NPRM outreach webinars. They were presented via webinar, lasted one hour, and generally were attended by two [44] individuals per State, no matter the size of the State or if the State was prone to experience disasters.

FEMA calculated the cost of the training to the States by adding the fully-loaded hourly wage rate for both State staff and multiplying by the number of States. The estimated total cost of States attending the training is $13,340.[45]

Familiarization Costs. Three comments were received that noted States, local emergency management divisions, or impacted jurisdictions would have to become familiar with the final rule. In response, FEMA added familiarization costs for States, but not for local emergency management divisions or jurisdictions. FEMA chose not to include new costs for locals because the final rule applies to States, which is the level from which a major disaster declaration request is made. Further, FEMA assumes States regularly update their emergency response networks and local emergency management divisions on changes in the field. FEMA believes that States will continue to disseminate the new information through each State's respective process.

To estimate the time for States to understand changes made to the regulations, FEMA included time for State employees to familiarize themselves with the regulations. FEMA estimates States will spend 0.5 hours to familiarize themselves and understand the new factor data requirements.[46]

FEMA assumes a State Government Chief Executive, a senior level government official, or equivalent, familiar with State emergency assistance programs, will read the existing and new regulations to understand the changes. The fully-loaded wage rate for a State Government Chief Executive is $79.22 [47] per hour.[48] The hourly rate of $79.22 is multiplied by 0.5 hour and 56 States to calculate a State cost in year 1 of $2,218 to familiarize themselves with the new rule ($79.22 × 0.5 × 56 = $2,218.16). FEMA also assumes that each State will review the supplemental guidance materials at least once in year 1 and once each subsequent year. The estimated cost for each subsequent year uses the same method as above, but reduces the time needed from 0.5 hours to 0.25 hours, for the Chief Executive to refresh his or her understanding. The resulting cost for each subsequent year is estimated at $1,109. ($79.22 × 0.25 × 56 = $1,109.08)

Potential Delay in Submitting the Declaration Request. Seven commenters were concerned that this final rule requires so much additional information and will result in increased workload while a disaster is unfolding that future major disaster requests would be delayed. FEMA contends that this final rule will not delay the major disaster request process, based on its review of the 85 major disaster declaration

[40] There are 56 States, as defined by 44 CFR 44 CFR 206.2(a)(22). Throughout this analysis, ''States'' includes the 50 U.S. States, District of Columbia, and the 5 territories listed (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

[41] Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 1. Employer Costs Per Hour Worked for Employee Compensation and Costs as a Percent of Total Compensation: Civilian Workers, by Major Occupational and Industry Group, June 2016.'' Calculated by dividing total compensation for all workers of $34.05 by wages and salaries for all workers of $23.35 per hour (yields a benefits multiplier of approximately 1.46 × wages). *https://www.bls.gov/web/ecec/ececqrtn.pdf.* Accessed and downloaded, October 12, 2016.

[42] Base hourly wage rate of $27.32 multiplied by a 1.46 benefits factor. ($27.32 × 1.46 = $39.89). U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics, May 2016, All Data (XLS), National Industry-Specific Occupational Employment and Wage Estimates, NAICS code 999200, State Government excluding schools and hospitals, and Standard Occupational Classification (SOC) code 43–1011 for First-Line Supervisors of Office and Administrative Support Workers. *https://www.bls.gov/oes/tables.htm.* Accessed and downloaded, October 12, 2016.

[43] FEMA provided two outreach webinars for the NPRM and plans to have four training webinars for the final rule. The total training costs included herein represent the aggregate training costs for the NPRM and the final rule. States' costs are for attending the FEMA-provided training; FEMA costs are for developing and presenting the training.

[44] FEMA anticipates that one of the positions would be a State Government Chief Executive, or equivalent, and the other would be a State Government 1st Line Supervisor, or equivalent.

[45] The calculation uses a base of 56 States, which includes the 50 U.S. States, the District of Columbia, and 5 territories. The result is multiplied by 2, once for outreach webinars that have already been completed and once for the final rule training. {[2 webinars x ($79.22 + $38.89) × 1 hour × 56 States = $6,670.16]}=$13,340.32

[46] To estimate the time for States to familiarize themselves and understand the new factor data requirements, FEMA surveyed its own employees who formerly worked for State governments. Thirteen employees were identified who worked for various States, representing multiple regions, State sizes, and a range in years of service in State government and FEMA. These employees were asked to read the proposed and existing regulations and answer questions to test their understanding of the changes. The employees also were provided a copy of excerpts of this regulatory preamble if they needed further information to answer the test. Approximately 40 percent of the employees referred back to the preamble to answer the questions. It took an average of 17 minutes to read the existing and proposed regulatory text and 11 minutes to answer the questions, including referring back to the preamble. FEMA rounded 28 minutes (11 minutes +17 minutes) to 30 minutes and used 0.5 hours to calculate the costs.

[47] Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 1. Employer Costs Per Hour Worked for Employee Compensation and Costs as a Percent of Total Compensation: Civilian Workers, by Major Occupational and Industry Group, June 2016.'' Calculated by dividing total compensation for all workers of $34.05 by wages and salaries for all workers of $23.35 per hour (yields a benefits multiplier of approximately 1.46 × wages). *https://www.bls.gov/web/ecec/ececqrtn.pdf.* Accessed and downloaded, October 12, 2016.

[48] Base hourly wage rate of $54.26 multiplied by a 1.46 benefits factor. ($54.26 × 1.46 = $79.22)

U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics, May 2016, All Data (XLS), National Industry-Specific Occupational Employment and Wage Estimates, NAICS code 999200, State Government excluding schools and hospitals, and Standard Occupational Classification (SOC) code 11–1011 for Chief Executives. *https://www.bls.gov/oes/tables.htm.* Accessed and downloaded, October 12, 2016.

requests for IA that States submitted between January 1, 2012 and December 31, 2016. All were examined, whether the declaration was granted or denied.

FEMA found that the four new Fiscal Capacity sub-factors had not been provided previously by States. FEMA found that out of the remaining 23 sub-factors, 19 were provided in at least 80 percent of the requests and only 4 were provided in less than 20 percent of the request letters. All four are sub-factors of the Disaster Impacted Population Profile factor. Specifically, the four sub-factors are the percentage of population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Program benefits appeared in only 5 percent of the requests (4 occurrences in 85 total requests); the percentage of the population who speak a language other than English and speak English less than ''very well' in only 7 percent of the requests (6 occurrences in 85 total requests); the percentage of population 18 years old and younger in only 18 percent (15 occurrences in 85 total requests); and any unique considerations regarding American Indian and Alaskan Native Tribal populations that may not be reflected in the U.S. Census Bureau data in only 18 percent of the requests (15 occurrences in 85 requests). FEMA found that these specific sub-factors were included by States when they believed the disaster adversely affected and heighted the vulnerability of these particular segments of the population. This is consistent with to FEMA's long-standing consideration of how any given disaster affects the population that is 65 years and greater, as well as the percentage of the population with a disability. The detailed findings are presented in Table 5, and in the marginal analysis table posted in the docket at *www.regulations.gov.*

The 23 sub-factors being codified were previously captured under the ''other relevant information'' prong of 44 CFR 206.48. FEMA does not expect or require States to include every factor in every disaster declaration request. FEMA expects that States will continue to provide a comparable level of information in their request letters based on their respective circumstances and disaster effects; thus, FEMA does not include a cost for codifying this information and does not expect any delays to the major disaster declaration request process.

FEMA notes that if a State is unable to provide information for a particular factor, or factors, FEMA will evaluate and provide a recommendation on the State's need for Federal assistance based on the information submitted and data available from other sources, as appropriate. The only required elements of a State's major disaster declaration request appear at 44 CFR 206.36. FEMA's intent, through this rule, is to clearly identify the considered data points that previously have been captured under the ''other relevant information'' prong of 44 CFR 206.48. In some instances, certain pieces of information identified in the rule may not be applicable, may be unavailable, or the circumstances of the disaster may not allow a State to collect some information identified within the rule. In these instances, pursuant to 44 CFR 206.36, States must provide some information that supports their request for a major disaster declaration authorizing IA, but will not have to address every data point in 44 CFR 206.48 to be granted the request. For example, for certain catastrophic events, preliminary damage assessments are not necessary to determine the requirement for Federal assistance. In these instances, States may submit an abbreviated request pursuant to 44 CFR 206.36(d). These requests need only contain limited information as specified by that provision.

Large scale disasters may not need as much detail or data to support a major disaster declaration request. However, under other circumstances, such as when the disaster affects a smaller geographic area, it may be more difficult to determine if a need for Federal disaster assistance exists without the State providing sufficient information. This rule identifies the factors that FEMA will consider in its review of a major disaster declaration request that includes IA, and allows States to supplement their submissions with additional information. It is important to note that ultimately, the amount and type of data provided by the State is voluntary. In addition, FEMA confirmed that the Fiscal Capacity factor and its sub-factors are updated at least annually and are publicly available on Treasury's and BEA's websites at no cost to States.[49] [50] Given that these data are updated at least annually, States are encouraged to download the data when they are updated.

FEMA estimates total State costs in the first year to be $24,494 and costs in subsequent years to be $2,896. The following table presents the ten-year costs for States (undiscounted, discounted at 7 percent and discounted at 3 percent).

TABLE 3—TOTAL COSTS TO THE STATES

Year	Downloading and updating files	Cost to familiarize with rule	Training	Total
1	$8,935	$2,218	$13,340	$24,494
2	1,787	1,109	0	2,896
3	1,787	1,109	0	2,896
4	1,787	1,109	0	2,896
5	1,787	1,109	0	2,896
6	1,787	1,109	0	2,896
7	1,787	1,109	0	2,896
8	1,787	1,109	0	2,896
9	1,787	1,109	0	2,896

[49] Treasury's website provides current and past TTR information for all States. Data has been provided annually in mid- to late September since 1999. The only exception was in 2010, when the data was provided on September 30, 2010, and again on December 13, 2010, which was a research series. *See* Treasury, Resource Center, Total Taxable Resources, *https://home.treasury.gov/policy-issues/economic-policy/total-taxable-resources.*

[50] BEA's website provides current and past GDP by State and Local Area Personal Income. Annual GDP by State data are updated quarterly with the final published in May, following the calendar year the data represents. For example, the final GDP by State in 2015 was published in May 2016. This data has been published annually since May 1988. For Local Area Personal income, BEA updates the data quarterly a final for each year provided in November, following the calendar year the data represents. For example, the final data Local Are Personal Income in 2015 was published in November 2016. BEA first published personal income for States, counties, and metropolitan areas in 1975. *See* BEA, Local Area Personal Income Methodology at I–2 (Nov. 2016), available at *https://www.bea.gov/sites/default/files/methodologies/0417_GDP_by_State_Methodology.pdf.*

TABLE 3—TOTAL COSTS TO THE STATES—Continued

Year	Downloading and updating files	Cost to familiarize with rule	Training	Total
10	1,787	1,109	0	2,896
Total	25,019	12,199	13,340	50,558
Discounted at 7%	19,232	8,826	12,468	40,525
Annualized at 7%	2,738	1,257	1,775	5,770
Discounted at 3%	22,184	10,537	12,952	45,673
Annualized at 3%	2,601	1,235	1,518	5,354

b. Federal Costs

FEMA anticipates the Federal government will incur small additional costs resulting from the final rule. As noted above, FEMA already considers most of these factors under the ''other relevant information'' prong of the regulation when reviewing major disaster declaration requests. FEMA already had begun changing the way it collects information internally for major disaster declaration recommendations, which did not require regulatory action. Therefore, these increased costs already had been internalized without this regulation. For this reason, the only expected increased costs are due to the new Fiscal Capacity factor. FEMA believes this additional activity will be accomplished with existing personnel; thus, the costs are considered the opportunity cost of the activities that would have otherwise been performed. No increase in Federal expenditures is expected to result from this final rule.

In the past, FEMA would review pre-disaster data about a disaster location. This pre-disaster data provided FEMA with information that helped to illustrate the population and geographic area that was affected by a disaster. The pre-disaster data came from Federal sources, such as the United States Census Bureau and Bureau of Economic Analysis (BEA). Independent of the regulation, FEMA began to streamline how pre-disaster data is collected and disseminated, as well as collect and transmit information for the PDA process more quickly.

One of the areas where FEMA will incur costs is for the retrieval of fiscal capacity data from the United States Department of the Treasury (Treasury) and BEA. FEMA used the same information on estimated additional activity time that was presented previously: Time to retrieve, store, and update the data from Treasury (12.5 minutes); BEA's GDP by State (12.5 minutes); and BEA's per capita personal income by local area (22.5 minutes). FEMA summed these three time burdens to calculate a total burden of 47.5 minutes (12.5 + 12.5 + 22.5 = 47.5). The total burden of 47.5 minutes was divided by 60 minutes, for an estimated increased burden of 0.8 hours ([12.5 + 12.5 + 22.5] ÷ 60 = 0.7917).

FEMA expects the data retrieval will take place once annually. The retrieval will be completed by a Federal employee in the DC area at the General Schedule 12, step 1 level, earning an hourly wage rate of $36.60.[51] These positions have a fully-loaded wage rate of $53.44.[52] FEMA multiplied the time per year, 0.8 hours, by the fully-loaded wage rate of $53.44, to get an annual Federal cost increase of $43 (0.8 × $53.44 = $42.75).

FEMA also included costs in year 1 associated with providing training on the rule. FEMA received a public comment requesting FEMA to provide adequate training on the rule once finalized. As a result of this comment, and because the intent of the rule is to provide clarity, FEMA provided outreach seminar to States after the NPRM and will offer training for all States on the changes included in the final rule. Thus, FEMA has added the cost for these events to the analysis of this final rule. To estimate the costs of the rule and capture the cost of developing both the NPRM outreach and the final rule training to States, FEMA used the time data from developing and presenting the NPRM training.

The NPRM outreach materials will be modified to reflect the content of the final rule. FEMA anticipates this activity will be accomplished by a Federal employee in the DC area at the General Schedule 15, step 5 level, earning an hourly wage rate of $68.56.[53] These positions have a fully-loaded wage rate of $100.10.[54] FEMA estimates it will spend a total of 5 hours preparing training materials, including the time spent developing the original training materials and updating the existing materials,[55] which results in a one-time cost of $500 ($100.10 × 5 hours = $500.50).[56] In addition, the training materials are reviewed by two Federal employees in the DC area at the General Schedule 13, step 5, earning an hourly wage rate of $49.32. FEMA multiplied this wage rate by 1.46 to account for benefits, resulting in a fully-loaded wage rate of $72.01. FEMA estimates spending approximately 0.5 hours for each employee to review each set of training materials.[57] The resulting

[51] The General Schedule (GS) 12 (Step 1) hourly wage of $37.13 is taken from the Office of Personnel Management; 2015 General Schedule (GS) salaries & wages tables; locality pay tables (Washington-Baltimore- Northern Virginia, DC–MD–VA–WV–PA). Retrieved April 4, 2016, from *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/salhrl.pdf.*

[52] Base hourly wage rate of $36.60 multiplied by a 1.46 benefits factor. ($36.60 × 1.46 = $53.44)

Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 1. Employer Costs Per Hour Worked for Employee Compensation and Costs as a Percent of Total Compensation: Civilian Workers, by Major Occupational and Industry Group, June 2016.'' Calculated by dividing total compensation for all workers of $34.05 by wages and salaries for all workers of $23.35 per hour (yields a benefits multiplier of approximately 1.46 × wages). *https://www.bls.gov/oes/tables.htm.* Accessed and downloaded, October 12, 2016.

[53] The General Schedule (GS) 15 (Step 5) hourly wage of $37.13 is taken from the Office of Personnel Management; 2015 General Schedule (GS) salaries & wages tables; locality pay tables (Washington-Baltimore- Northern Virginia, DC–MD–VA–WV–PA). Retrieved April 4, 2016 from *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/salhrl.pdf.*

[54] Base hourly wage rate of $68.56 multiplied by a 1.46 benefits factor. ($68.56 × 1.46 = $100.10)

Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 1. Employer Costs Per Hour Worked for Employee Compensation and Costs as a Percent of Total Compensation: Civilian Workers, by Major Occupational and Industry Group, June 2016.'' Calculated by dividing total compensation for all workers of $34.05 by wages and salaries for all workers of $23.35 per hour (yields a benefits multiplier of approximately 1.46 × wages). *https://www.bls.gov/oes/tables.htm.* Accessed and downloaded, October 12, 2016.

[55] FEMA took 3 hours to develop the NPRM outreach webinar and expects to take 2 hours to update that same material for training on the final rule.

[56] Although commonly held rounding methods hold that $500.50 is rounded up to $501, FEMA did not round up at this step. The calculation method used in this analysis rounds up to the nearest dollar at the final calculation.

[57] The FEMA employees who review the materials will do so two times—once for the NPRM

Continued

review time is estimated at $144 ($72.01 × 2 staff × 0.5 hours × 2 reviews = $144.02).

FEMA presented one-hour outreach sessions two times for the NPRM via webinar and anticipates the same format for the final rule training, but will increase the number of times the training will be offered to four for the final rule. The set-up and technical monitoring of the webinars is expected to be accomplished by two General Schedule 12, step 1 level, with a fully-loaded wage rate of $53.44. Based on its previous experience, FEMA estimates it will take 0.5 hours to set up and take down the webinar plus an additional 1 hour to monitor. FEMA estimates the one-time cost to set up and monitor the webinars is $962 ($53.44 × 1.5 hours × 2 staff × 6 webinars [58] = $961.92).

The training is presented by four FEMA staff located in the DC area, one GS 15, step 5 level and three GS 13, step 5 level with fully-loaded hours wage rates of $100.10 and $72.01, respectively. To present six, one-hour webinars, the estimated total costs for presenters is $1,897 [($100.10 × 1 GS–15 staff × 6 hours) + ($72.01 × 3 GS–13 staff × 6 hours) = $1,896.78].

FEMA estimates the Federal Government's total costs in the first year to be $3,546, which includes $43 to retrieve fiscal capacity data; $500 to develop and update the training; $144 to review the updates; $962 to set-up and monitor the webinars; and $1,897 to present the training ($42.75 + $500.50 + $144.02 + $961.92 + $1,896.78 = $3,545.97). Costs in subsequent years are estimated to be $43 for retrieving the fiscal capacity data. The following table presents the total ten-year costs for both FEMA and States (undiscounted, discounted at 7 percent and discounted at 3 percent).

TABLE 4—TOTAL COSTS OF THE RULE

Year	States			FEMA		Total
	Downloading data and updating files	Familiarize with rule	Training	Downloading data	Training	
1	$8,935	$2,218	$13,340	$43	$3,503	$28,040
2	1,787	1,109	0	43	0	2,939
3	1,787	1,109	0	43	0	2,939
4	1,787	1,109	0	43	0	2,939
5	1,787	1,109	0	43	0	2,939
6	1,787	1,109	0	43	0	2,939
7	1,787	1,109	0	43	0	2,939
8	1,787	1,109	0	43	0	2,939
9	1,787	1,109	0	43	0	2,939
10	1,787	1,109	0	43	0	2,939
Total	25,019	12,199	13,340	430	3,503	54,494
Discounted at 7%	19,232	8,826	12,468	302	3,274	44,102
Annualized at 7%	2,738	1,257	1,775	43	466	6,279
Discounted at 3%	22,184	10,537	12,952	367	3,401	49,441
Annualized at 3%	2,601	1,235	1,518	43	399	5,796

c. Benefits

Benefits of the final rule include clarifying FEMA's existing practices and reducing processing time for requests, while maintaining the States' ability to assess and determine what information best supports a major declaration request. This rule does not preclude that flexibility for States. Rather, the rule provides clarity by specifically identifying factors considered in the IA declarations process, including many factors that FEMA previously considered under the ''other relevant information'' prong of the regulation but are not currently specified in 44 CFR 206.48(b).

As noted above, most of the information included in the factors was previously captured under the ''other relevant information'' prong of the 44 CFR 206.48. FEMA used this information, when appropriate, in evaluating requests for a major disaster declaration that authorized IA. In some instances, FEMA has had to reach back to the State to obtain additional information [59] on major disaster declaration requests which would better support FEMA's recommendation on a major disaster declaration authorizing IA. By clearly identifying information considered in the rule, FEMA anticipates that delays in the declaration process will be reduced. The changes in the final rule will improve clarity regarding relevant information that can be used to substantiate a declaration request. States are encouraged to include the additional information in the original request because it may reduce follow-up correspondence and speed up the determination of a major disaster declaration request. Currently, FEMA does not track the number of times FEMA has had to reach back to the State for additional information and the reduction cannot be quantified at present. However, FEMA subject matter experts believe that greater clarity will promote understanding, resulting in less back-and-forth.[60]

FEMA believes inclusion of the new Fiscal Capacity factor will further inform and strengthen FEMA's recommendations to the President with regard to major disaster declarations that authorize IA. TTR is sufficiently reliable to serve as the principal indicator for each State from which the discussion about fiscal capacity can begin. TTR provides a general picture of how a State's economy is changing over time. FEMA recognizes there is a two-year lag in TTR data and encourages

outreach materials and once for the final rule materials.

[58] The total number of webinars reflects two conducted to support the NPRM and four for the final rule.

[59] Historically, FEMA has attempted to increase clarity by providing States with major disaster declaration request template letters, which provided a suggested organizational structure for States to follow when making their request for a major disaster declaration.

[60] In making past determinations, FEMA has not tracked the length of time or the number of written or oral correspondence with the State to retrieve additional data. Therefore FEMA cannot quantify the potential savings from the clarifications provided in the regulation.

each State to provide additional information about its fiscal capacity, especially if there have been noteworthy changes during the two-year period. In addition, the new information considered provides more context about a State's capacity to respond than information FEMA previously considered. For example, although FEMA previously considered median household income for States, this measure does not necessarily reflect the State's capacity to respond, because it is based on the individuals' earnings. Certainly, individual household incomes within a State can affect the State's capacity to respond, but TTR provides a more direct measurement. The new information also may be more objective compared to other ways of assessing a State's capacity to respond for the same reasons.

d. Transfer Payments

FEMA intends the rule to specify and codify factors it will use when making recommendations to the President. FEMA already considers the majority of these factors described in the rule and has done so during previous deliberations on whether to recommend a major disaster declaration authorizing IA to the President. The only information FEMA has not specifically considered in the past are the new measures of fiscal capacity.

Based on FEMA's retrospective analysis on the effect of using ICC ratios in past declaration decisions, FEMA concludes that even though State TTR is a new factor, it will not have an impact on the overall number of major disaster declarations granted each year that authorize IA because FEMA previously used similar economic data and takes multiple factors into account when making its recommendation. FEMA finds including the fiscal capacity factor (State TTR for States; GDP by State for Territories, and per capita personal income for areas smaller than States and Territories) to be additional objective information because it captures income flows that a State can potentially tax.

The ultimate determination regarding whether or not to grant a State's request for a major disaster declaration resides with the President of the United States. FEMA neither anticipates nor intends for this rule to affect the number of major disaster declarations authorizing IA that are granted each year. Rather, FEMA believes this rule clarifies FEMA's regulations consistent with the statutory mandate in a cost-effective manner. The majority of the factors included in the rule have previously been considered by FEMA when it made its recommendation to the President on past declaration requests for IA. Based on these reasons, FEMA anticipates this rule will not have an effect on transfer payments, which are payments from the Federal government to States and individuals.

6. Total Impact of the Final Rule

FEMA estimates the impact of all the factors together will result in a small burden increase for States and FEMA. The additional burden results from States having to provide the Fiscal Capacity factor in their requests, to attend training, and to become familiar with the regulatory change. For FEMA, the additional costs result from retrieving data for its consideration of major disaster declaration requests and providing training on the rule to States. The net quantified impact is a ten-year total cost of $44,102 discounted at 7 percent and $49,441 discounted at 3 percent. These are considered opportunity costs and are not expected to increase staffing needs or have an effect on Federal or State expenditures. FEMA anticipates no impact to average annual transfer payments due to codifying the existing factors or including the new factor. Based on the above analysis, FEMA estimates the rule will impose a total additional annual burden to States and FEMA of $28,040 in year 1 and $2,939 in each subsequent year.

7. Marginal Analysis of the Factors

The following table provides a breakdown of each IA declaration factor included in the final rule, its baseline, and the marginal effect of the rule. Activity costs per year [61] and associated benefits also are included. The rule would not change the total amount of Federal assistance available to individuals and households.

TABLE 5—IA DECLARATIONS FACTOR BASELINE AND MARGINAL ANALYSIS

Factor	Baseline: factors previously included in States' Dec. requests		Marginal analysis activity cost per year		Benefits
	Number of times	Percent	FEMA	States	
Fiscal Capacity: Total Taxable Resources (TTR) of the State, 44 CFR § 206.48(b)(1)(i)(A).	New	n/a	*Training:* $911—In year 1, FEMA will spend approximately 12.7 hours to develop, review, and conduct training on the new factor and 0 hours and $0 in subsequent years.	*Training:* $3,464—In year 1, States will spend a total of approximately 58 hours participating in the IA declaration factor training, and 0 hours and $0 in subsequent years.	Informs States that FEMA may assess State's taxable resources based on TTR and will use TTR as the basis for calculating the ICC ratio to depict State economic growth or decline and relative fiscal capacity with comparably-sized States or the Nation.
			Download Data: $11—In year 1, FEMA will spend 10–15 minutes retrieving and storing Treasury data (including all State data in one retrieval).	*Download Data and Update Files:* $2,323—In year 1, States will spend a total of approximately 58 hours retrieving and storing Treasury data and updating templates to accommodate the new data.	

[61] FEMA based the proportional distribution of the fiscal capacity factor costs in Table 6 on the estimated time it takes to retrieve, store, and update the data, as shown in section ''5.a. State Costs.'' FEMA estimated a total burden of 47.5 minutes (0.8 hours). Specifically, costs are apportioned to TTR data from Treasury (12.5 minutes or 26 percent of the total); BEA's GDP by State (12.5 minutes or 26 percent of the total); and BEA's per capita personal income by local area (22.5 minutes or 48 percent of the total). For example, FEMA estimates the total cost to FEMA for providing the IA declaration factor training is $3,503. In Table 5 FEMA apportions 26 percent of the total ($911) to TTR, 26 percent of the total ($911) to GDP by State, and 48 percent of the total ($1,682) to per capita personal income by local area.

TABLE 5—IA DECLARATIONS FACTOR BASELINE AND MARGINAL ANALYSIS—Continued

Factor	Baseline: factors previously included in States' Dec. requests		Marginal analysis activity cost per year		Benefits
	Number of times	Percent	FEMA	States	
			$11—In subsequent years, FEMA will spend 10–15 minutes retrieving and storing Treasury data (including all State data in one retrieval). No new costs are included for reviewing the data. FEMA review of this data is offset by no longer having to review median household income.	$464—In subsequent years, States will spend a total of approximately 12 hours retrieving and storing Treasury data for their respective state. No new costs are included for reviewing the data. FEMA assumes that State review of this data is offset by no longer having to review median household income. *Familiarization:* $577—In year 1, States will spend a total of approximately 7.3 hours reading the new rule as it relates to Treasury data. $288—In subsequent years, States will spend a total of approximately 3.6 hours re-reading the rule.	
Gross Domestic Product (GDP) by State 44 CFR § 206.48(b)(1)(i)(B).	New	n/a	*Training:* $911—In year 1, FEMA will spend approximately 12.7 hours to develop, review, and conduct training on the new factor and 0 hours and $0 in subsequent years. *Download Data:* $11—FEMA will spend 10–15 minutes a year for retrieving and storing BEA GDP data (including all State and Territory data in one retrieval). $11—In subsequent years, FEMA will spend 10–15 minutes retrieving and storing BEA GDP data (including all State and Territory data in one retrieval). No new costs are included for reviewing the data. FEMA review of this data is offset by no longer having to review median household income.	*Training:* $3,468—In year 1, States will spend a total of approximately 58 hours participating in the fiscal capacity factor training, and 0 hours and $0 in subsequent years. *Download Data and Update Files:* $2,323—In year 1, States will spend a total of approximately 58 hours retrieving and storing BEA GDP data and updating templates to accommodate the new data. $464—In subsequent years, States will spend a total of approximately 12 hours a year for retrieving and storing BEA GDP data for their respective state. No new costs are included for reviewing the data. FEMA assumes that State review of this data is offset by no longer having to review median household income. *Familiarization:* $577—In year 1, States will spend a total of approximately 7.3 hours reading the new rule as it relates to BEA GDP data. $288—In subsequent years, States will spend a total of approximately 3.6 hours re-reading the rule.	Informs States that FEMA may assess State fiscal capacity with this data point when TTR data is not available or if the TTR data don't reflect current fiscal capacity due to the two-year lag in the data.
Per Capita Personal Income by Local Area, 44 CFR § 206.48(b)(1)(i)(C).	New	n/a	*Training:* $1,682—In year 1, FEMA will spend approximately 24 hours to develop, review, and conduct training on the new factor and 0 hours and $0 in subsequent years.	*Training:* $6,403—In year 1, States will spend a total of approximately 108 hours participating in the fiscal capacity factor training and 0 hours and $0 in subsequent years.	Provides FEMA the flexibility to use information on the local fiscal capacity characteristics to judge IA needs in disaster affected areas.

TABLE 5—IA DECLARATIONS FACTOR BASELINE AND MARGINAL ANALYSIS—Continued

Factor	Baseline: factors previously included in States' Dec. requests		Marginal analysis activity cost per year		Benefits
	Number of times	Percent	FEMA	States	
			Download Data: $21—In year 1, and subsequent years, FEMA will spend approximately 15–30 minutes to retrieving and storing BEA Per Capita Personal Income data (including data on all local areas in one retrieval). No new costs are included for reviewing the data. FEMA review of this data is offset by no longer having to review median household income.	*Download Data and Update Files:* $4,289—In year 1, States will spend a total of approximately 108 hours retrieving and storing BEA Per Capita Personal Income data and updating templates to accommodate the new data. $858—In subsequent years, States will spend a total of approximately 21.5 hours a year for retrieving and storing BEA Per Capita Personal Income data for their respective state. No new costs are included for reviewing the data. FEMA assumes that the review of this data is offset by no longer having to review median household income. *Familiarization:* $1,065—In year 1, States will spend a total of approximately 13.4 hours reading the new rule as it relates to BEA PCPI data. $532—In subsequent years, States will spend a total of approximately 6.7 hours re-reading the rule.	
Other Factors, 44 CFR § 206.48(b)(1)(i)(D).	New	n/a	FEMA's time will vary and data will be used on a case-by-case basis as needed. Costs not estimated.	State time will vary and data will be used on a case-by-case basis as needed. Costs not estimated.	Provides flexibility to use any other data or information on a State or local area's fiscal capacity to judge disaster needs in affected areas.
Resource Availability:					
State Tribal and Local Governmental Organizations (NGO) and Private Sector Activity, 44 CFR § 206.48(b)(1)(ii)(A).	76 of 85 total	89	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Cumulative Effect of Recent Disasters, 44 CFR § 206.48(b)(1)(ii)(B).	77 of 85 total	91	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Uninsured Home and Personal Property Losses:					
The cause of damage, 44 CFR § 206.48(b)(2)(i).	85 of 85 total	100	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The jurisdictions impacted and concentration of damage, 44 CFR § 206.48(b)(2)(ii).	84 of 85 total	99	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The number of homes impacted and degree of damage, 44 CFR § 206.48(b)(2)(iii).	76 of 85 total	89	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The estimated cost of assistance, 44 CFR § 206.48(b)(2)(iv).	73 of 85 total	86	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The homeowner-ship rate of impacted homes, 44 CFR § 206.48(b)(2)(v).	54 of 85 total	64	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The percentage of affected households with insurance coverage appropriate to the peril, 44 CFR § 206.48(b)(2)(vi).	68 of 85 total	80	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.

TABLE 5—IA DECLARATIONS FACTOR BASELINE AND MARGINAL ANALYSIS—Continued

Factor	Baseline: factors previously included in States' Dec. requests		Marginal analysis activity cost per year		Benefits
	Number of times	Percent	FEMA	States	
Other relevant preliminary damage assessment data, 44 CFR § 206.48(b)(2)(vii).	States may provide any additional information they believe is pertinent to the declaration request		FEMA's time will vary and data will be used on a case-by-case basis as needed. Costs not estimated.	State time will vary and data will be used on a case-by-case basis as needed. Costs not estimated.	Clarification of current practice in regulation.
Disaster Impacted Population Profile:					
The percentage of the population for whom poverty status is determined, 44 CFR § 206.48(b)(3)(i).	71 of 85 total	84	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
The percentage of the population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Assistance Program benefits, 44 CFR § 206.48(b)(3)(ii).	**4 of 85 total	5	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
The pre-disaster unemployment rate, 44 CFR § 206.48(b)(3)(iii).	58 of 85 total	68	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
The percentage of the population that is 65 years old and older, 44 CFR § 206.48(b)(3)(iv).	69 of 85 total	81	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
The percentage of the population 18 years old and younger, 44 CFR § 206.48(b)(3)(v).	**15 of 85 total	18	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
The percentage of the population with a disability, 44 CFR§ 206.48(b)(3)(vi).	57 of 85 total	67	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
The percentage of the population who speak a language other than English and speak English less than "very well", 44 CFR § 206.48(b)(3)(vii).	**6 of 85 total	7	$0—No change in time burden due to current compliance, data collected in PDA process.	$0—No change in time burden due to current compliance, data collected in PDA process.	Clarification of current practice in regulation.
Any unique considerations regarding American Indian and Alaskan Native Tribal populations that may not be reflected in the U.S. Census Bureau data, 44 CFR § 206.48(b)(3)(viii).	**15 of 85 total	18	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Impact to Community Infrastructure:					
Life Saving and Life Sustaining Services, 44 CFR § 206.48(b)(4)(i).	71 of 85 total	84	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Essential Community Services, 44 CFR § 206.48(b)(4)(ii).	70 of 85 total	82	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Transportation Infrastructure and Utilities, 44 CFR § 206.48(b)(4)(iii).	73 of 85 total	86	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Casualties: The number of missing, injured, or deceased individuals, 44 CFR § 206.48(b)(5).	59 of 85 total	69	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.

TABLE 5—IA DECLARATIONS FACTOR BASELINE AND MARGINAL ANALYSIS—Continued

Factor	Baseline: factors previously included in States' Dec. requests		Marginal analysis activity cost per year		Benefits
	Number of times	Percent	FEMA	States	
Disaster Related Unemployment: The number of disaster survivors who lost work or became unemployed due to a disaster and who do not qualify for standard unemployment insurance, 44 CFR § 206.48(b)(6).	**34 of 85 total	40	$0—No change in time burden due to current compliance.	$0—No change in time burden due to current compliance.	Clarification of current practice in regulation.
Summary of All Factors, 44 CFR § 206.48(b).	.....	.....	$3,546 in year 1 and $43 in subsequent annual reoccurring costs—Increased time burden due to the new factor, downloading and storing data, and training (year 1 only).	$24,494 in year 1 and $2,896 in subsequent annual reoccurring costs—Increased time burden due to the new factor, downloading and storing data and updating files, familiarization, and training (year 1 only).	Informs States with the information that FEMA considers when deciding whether to recommend an IA declaration to the President
	Baseline: 85 total declaration requests examined. *Marginal Effect of Final Rule:* 4 New and 23 Previously Considered				

* Activity Cost per Year captures training costs (development and presentation by FEMA; attendance by States) for both the NPRM outreach webinars and the final rule training webinars. FEMA is providing outreach and training webinars in response to a public comment requesting training on the new rule once finalized. Thus, FEMA has added the cost for these webinars to the analysis of this final rule. An Activity Cost per Year that is listed as ''$0'' represents the incremental cost associated with codifying the factor in the final rule. As stated throughout, these factors were previously considered; thus, there is $0 new cost, i.e. no marginal cost associated with codifying the factor.

** These factors are specific to demographic components that States do not frequently include in their disaster declaration requests. FEMA believes that when these factors are included in a request, it is because the affected State focuses on the vulnerability of that demographic component and its needs. For example, the population under 18 years of age is often included when schools have been damaged and special assistance is requested. Tribal concerns and the population that speaks English less than ''very well'' often are not included because these populations were not specifically focused on by the State. Post-disaster unemployment is often not included unless a specific industry which is key in the disaster impact area was severely affected. FEMA does not expect States to include every factor in every request, and anticipates States will continue to include these factors only where appropriate for the type and level of disaster.

8. Regulatory Alternatives

FEMA includes the regulatory alternatives to the rule and FEMA's reasons for not choosing each alternative in the following discussion. FEMA's decision on each alternative was based on qualitative factors and not on a quantitative analysis of these alternatives. When possible, FEMA acknowledges if a given alternative could have an impact on transfer payments or costs.

a. Voluntary, Faith and Community Based Organizations Resources

FEMA considered removing the factor under which FEMA would consider the availability of resources from voluntary, faith-based, and community-based organizations during disasters. Commenters suggested removing this factor because the available data about these resources may not accurately reflect actual resource availability for any given disaster. For instance, the availability of voluntary, faith-based, and community-based organizations may be limited by such organizations' financial circumstances, their donors' economic situations, and the circumstances of their volunteers. FEMA recognizes this concern, but believes that information on the activities of these organizations is generally valuable because it can enhance the picture of disaster needs at a local level and may offset or reveal a need for supplemental Federal assistance. FEMA also recognizes that these organizations have limited resources and considers this point when determining the need for an IA declaration.

FEMA anticipates there could be impacts on transfer payments due to changes in the number of disaster declarations if resources available from voluntary, faith, and community based organizations were no longer considered. If FEMA were to remove this factor from consideration in major disaster declaration requests for IA, it could potentially result in either a decrease or an increase in transfer payments, depending on the situation. For example, if a State's voluntary agencies are overwhelmed, but the State declines to provide this information to FEMA as part of its declaration request, then FEMA might be less likely to find that Federal assistance is warranted. And if a State's voluntary agencies are providing ample assistance but the State declines to provide this information to FEMA as part of its declaration request, FEMA might be more likely than it otherwise would to find that Federal assistance is warranted.

b. Maintain the 44 CFR 206.48(b)(6) Table

FEMA evaluated the usefulness of the table at current 44 CFR 206.48(b)(6), which lists the average amount of IA based on State size. FEMA ultimately determined that the table causes confusion with stakeholders, sometimes resulting in the misimpression that the averages function as a threshold for whether a State should request IA. FEMA never intended the table to set a threshold of eligibility for IA. Rather, it is intended as guidance to States and voluntary agencies as they develop plans and programs to meet the needs of disaster survivors. Furthermore, the table has been interpreted by States to suggest that State population is the main factor, or the only factor, in determining State capability or fiscal capacity. Under this rule, FEMA will continue to consider various factors when making its recommendation. FEMA did not quantify the potential impacts of implementing this alternative, but assumed there would not be economic impacts from maintaining the table because other factors are already considered. FEMA has chosen to remove the table for clarification purposes.

c. Automatically Trigger Contiguous Counties and States

Based on public comments, FEMA considered whether to include a provision that would allow contiguous affected counties and States to be automatically eligible for assistance under a major disaster declaration after an event that crosses the borders of a declared State, county, or parish. FEMA recognizes that governmental boundaries do not bind disaster events geographically. When considering whether to recommend a declaration in a particular area, FEMA must consider the damages in the area, as well as the capabilities of the jurisdictional governments. The Stafford Act requires that a Governor's request for a major disaster declaration be based on a finding that the disaster is of such severity and magnitude to be beyond the capabilities of the State and affected local governments to effectively respond. 42 U.S.C. 5170(a). Thus, FEMA is maintaining the requirement that each State must request a major disaster declaration after determining that the disaster damages and impacts are beyond the capabilities of the affected area's State or local government. FEMA cannot automatically grant a major disaster declaration based on a request from the State's Governor and an area's proximity to other declared areas without evidence that the disaster damage and impacts are beyond the affected area's capabilities.

FEMA did not quantify the potential impacts of implementing this alternative, but acknowledges there could be an increase in transfer payments if FEMA automatically declared affected counties and States contiguous to a declared State or county. FEMA believes this alternative would increase transfer payments because specifics about damage information and resource capabilities of nearby counties would not be considered and contiguous counties could be provided assistance based on geographic proximity rather than demonstrated need.

d. Considering Negative Impact on Businesses

Commenters also recommended that FEMA consider including the impact of an incident on businesses in affected areas due to the potential loss of family income and the direct correlation to communities' recovery. Consistent with the proposed rule, FEMA included a factor in this rule that considers the impact to businesses by capturing the negative impacts to employers and employees who are disaster survivors. *See* 44 CFR 206.48(b)(6). As part of information provided under this factor, the State may provide an estimate of the number of disaster survivors who lost work or became unemployed due to a disaster and who do not qualify for standard unemployment insurance, as well as information regarding major employers affected. The negative impact on the survivors may affect a community's ability to recover. This impact is captured in the Disaster Unemployment Assistance (DUA) factor, which provides information on the potential need for unemployment benefits and re-employment services to individuals who have become unemployed as a result of a major disaster and who are not eligible for regular State unemployment insurance. *See* id.; *see also* 44 CFR 206.141.

Business losses alone will not result in a Presidential major disaster declaration that authorizes IA because the IA grant programs do not provide assistance to businesses. Instead, FEMA considers the effect that business disruptions have on disaster survivors. For example, if disaster survivors lose work or become unemployed due to business impacts from a disaster, this information may highlight an increased need for DUA. In addition, the SBA has separate statutory authority and programs, which may be available to assist businesses regardless of whether the President has issued a major disaster declaration.

FEMA did not quantify the impacts of the alternative considering business losses separately from business impacts to disaster survivors because FEMA cannot provide assistance for business losses.

e. Linking Individual Assistance Cost Factor With Public Assistance (PA) Cost Factor

Commenters also recommended that FEMA consider aligning the financial indicators for IA and PA major disaster declarations. Commenters asked why a financial indicator could not be used for IA since FEMA evaluates whether a State is eligible for PA based on a financial indicator. Currently, FEMA evaluates the need for a PA major disaster declaration using the estimated cost of Federal and non-Federal public assistance per capita (*i.e.,* against the statewide population). 44 CFR 206.48(a)(1). That factor also establishes a $1 million threshold, based on the proposition that even States with the smallest populations have the capability to cover that level of infrastructure damage. Under FEMA's current regulations, there is no corresponding IA single indicator designed to evaluate the total cost of the disaster against the capability of a requesting State.

Since the per capita indicator was initially adopted in 1986, it has lost its relation to both of the metrics upon which it was first calculated. In 1986, per capita personal income (PCPI) in the United States was $11,687. By 2015, PCPI had risen to $48,112, an increase of over 300 percent. FEMA has applied inflation adjustments since 1999, and the per capita indicator has risen by just 41 percent over that same period.

The Public Assistance per capita indicator has also fallen short of keeping pace with State general fund expenditures. According to the National Association of State Budget Officers (NASBO), State general fund spending in 2015 totaled $759.4 billion. Collectively, the States' per capita indicators equaled $435.3 million in 2015. Consequently, the relation of the per capita indicator to State general fund expenditures is just 57 percent of what it was in 1986.

The failure of the per capita indicator to keep pace with changing economic conditions and the increasing frequency and costs of disasters has led to criticism of the per capita indicator. Those critiques have emphasized that the per capita indicator is artificially low. Many have called for FEMA to find ways to decrease the frequency of disaster declarations and Federal disaster costs, by increasing the per capita indicator to transfer costs back to State and local jurisdictions. These have included recommendations from GAO, reports of the DHS OIG, and proposed legislation. FEMA is currently evaluating possible alternatives to the per capita indicator. *See, e.g.,* 82 FR 4064 (Jan. 12, 2017).

FEMA chose not to use the PA per capita indicator measure and instead chose to use the fiscal capacity factor as the indicator of a State's fiscal capability to meet the needs of individuals after an event. FEMA considers multiple factors and does not believe a set limit, even based on estimated damages and population, is an appropriate indicator for IA due to the varying needs and circumstances of disaster survivors. FEMA did not quantify the impact of this alternative, but assumes it could have an impact on transfer payments given that it could potentially change the number of major disaster declarations that authorize IA.

f. Use of Factor Thresholds

Some stakeholders indicated they would prefer specific ''hard'' thresholds that indicate whether a State would be eligible to receive a major disaster declaration authorizing IA. The

stakeholders felt established thresholds give States a clear idea of what level of damage and need the State must have before requesting assistance. Further, the stakeholders believed thresholds would prevent States from spending the time compiling the data and requesting a declaration when they have not sustained enough damage to qualify for a major disaster declaration that authorizes IA.

FEMA rejected a threshold indicator because it is inconsistent with the principles of Section 320 of the Stafford Act which prohibits the denial of assistance to a geographic area based solely on the use of an arithmetic formula or a sliding scale based on income or population. 42 U.S.C. 5163. FEMA believes that a systematic and objective approach using standardized factors is important for making informed and consistent recommendations to the President as well as enhancing predictability for a State when they request IA. FEMA also decided to not pursue using thresholds because they are too restrictive for determining whether disaster survivors need assistance after an event and are not flexible enough to assess the various scenarios that demonstrate the State's need for a declaration authorizing IA. FEMA assumes this alternative could have an impact on transfer payments due to changes in the number of declarations and could reduce States' costs if they chose not to pursue a declaration request for IA.

g. Homes in Foreclosure

Some stakeholders expressed concern that if an area with a high foreclosure rate is affected by a disaster, then these homes would be a greater burden to the State during the recovery process. Stakeholders believed that homes in foreclosure (either abandoned or owned by the bank) are not taken care of as well as homes that are owner-occupied. When the home is owned by the bank, there may be little incentive to quickly make the repairs. When it is abandoned, there is no incentive to make the repairs and the properties are often abated by the community through code enforcement, which likely translates to additional costs and time burden on the community.

FEMA recognizes that high levels of foreclosure may be associated with economic difficulties in the affected area and this could negatively impact a community's ability to recover. However, FEMA's IA programs do not provide any form of assistance for foreclosed homes; repair assistance is available only for owner-occupied primary residences. If a State believes the number of homes in foreclosure will impact their capability to respond to the disaster, then the State may articulate this concern in the narrative portion of its declaration request. FEMA considers all relevant information provided in a State's request. *See* 44 CFR 206.48. However, FEMA believes other factors, including poverty level, pre-disaster unemployment, and per capita personal income are adequate indicators of economic health. For this reason, FEMA chose to not include home foreclosure rates as an evaluation factor.

h. Do Not Include Fiscal Capacity Indicators

FEMA considered the alternative of not including fiscal capacity indicators. FEMA chose to include the fiscal capacity indicators for the reasons set forth above. The Stafford Act is premised upon State and local governments handling response and recovery to disasters that are within their capability, with the Federal government only stepping in with supplemental assistance for events that are beyond local and then State capability. This necessarily requires an examination of the capability of the State government. Given that the supplemental assistance that FEMA provides is overwhelmingly in the form of financial assistance, it is important to determine whether a given event is within, or should be within, the State's fiscal capacity. If FEMA were not to include the fiscal capacity indicators it would be forced to rely on population as a proxy. In addition, FEMA would continue to utilize the inadequate and outdated table found at 44 CFR 206.48(b)(6) which divides States into three buckets (small, medium, and large) based solely on population size instead of a more individualized look at each State's fiscal resources and capability. In this alternative, the Federal cost of the final rule is estimated to decrease by approximately $43 a year, based on FEMA no longer having to retrieve BEA and Treasury data. The cost to States is estimated to decrease by approximately $8,935 in year 1 and $1,787 in each subsequent year for the same reason.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FEMA must consider the impact of this rule on small entities. The term ''small entities'' includes small businesses; not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and governmental jurisdictions with populations of less than 50,000. When the Administrative Procedure Act requires an agency to publish a notice of proposed rulemaking under 5 U.S.C. 553, the RFA requires a regulatory flexibility analysis for both the proposed rule and the final rule. This requirement does not apply if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). Such certification must include a statement providing the factual basis for such certification.

This final rule provides States with factors FEMA will consider when making a recommendation on a major disaster declaration that authorizes IA. The rule codifies many factors that are currently considered, but are not adequately captured in 44 CFR 206.48(b). This rule will not directly impact small businesses, small not-for-profit organizations, or small governmental jurisdictions. States are not considered small entities under the RFA because they have populations of more than 50,000.[62] Hence, FEMA certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 658, 1501–1504, 1531–1536, 1571, pertains to any notice of proposed rulemaking which implements any rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) or more in any one year. If the rulemaking includes a Federal mandate, the Act requires an agency to prepare an assessment of the anticipated costs and benefits of the Federal mandate. FEMA has determined this rule can be excluded from this assessment because the rule meets the criteria set forth in 2 U.S.C. 1503(4), which states, ''This chapter shall not apply to . . . any provision in a proposed or final Federal regulation that . . . (4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal

[62] The District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, which are considered States under 44 CFR 206.2(a)(22), all have populations greater than 50,000.

government.'' Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. National Environmental Policy Act

Under the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 42 U.S.C. 4321 et. seq., an agency must prepare an environmental assessment or environmental impact statement for any rulemaking that significantly affects the quality of the human environment. FEMA has determined that this rulemaking does not significantly affect the quality of the human environment and consequently has not prepared an environmental assessment or environmental impact statement.

Rulemaking is a major Federal action subject to NEPA. Categorical exclusion A3 included in the list of exclusion categories at Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, Appendix A, issued November 6, 2014, covers the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, and advisory circulars if they meet certain criteria provided in A3(a-f). This final rule amends an existing regulation without changing its environmental effect, which meets Categorical Exclusion A3(d).

In addition, this final rule revises the criteria that FEMA considers when recommending an area eligible for IA under a major disaster declaration. This activity amounts to information and data gathering and reporting in support of emergency and disaster response and recovery activities. Therefore, the activity this final rule applies to meets Categorical Exclusion M11 in Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, Appendix A, issued November 6, 2014. Because no other extraordinary circumstances have been identified, this rule does not require the preparation of either an EA or an EIS as defined by NEPA. *See* Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, section (V)(B)(2).

E. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat. 163, (May 22, 1995) (44 U.S.C. 3501 *et seq.*), FEMA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

In this final rule, FEMA is seeking a revision to the already existing collection of information, OMB Control Number 1660–0009, because FEMA has refined its estimate of the paperwork burden associated with 1660–0009. FEMA submitted the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: The Declaration Process: Requests for Preliminary Damage Assessment (PDA), Requests for Supplemental Federal Disaster Assistance, Appeals, and Requests for Cost Share Adjustments.

Type of information collection: Revision of a currently approved collection.

OMB Number: 1660–0009.

Form Titles and Numbers: FEMA Form 010–0–13, Request for Presidential Disaster Declaration Major Disaster or Emergency; FEMA Form 009–0–140.

Abstract: When a disaster occurs in a State, the Governor of the State or the Acting Governor in his/her absence, may request a major disaster declaration or an emergency declaration. The Governor should submit the request to the President through the appropriate Regional Administrator to ensure prompt acknowledgement and processing. The information obtained by joint Federal, State, and local preliminary damage assessments will be analyzed by FEMA regional senior level staff. The regional summary and the regional analysis and recommendation will include a discussion of State and local resources and capabilities, and other assistance available to meet the disaster related needs. The Administrator of FEMA provides a recommendation to the President and also provides a copy of the Governor's request. In the event the information required by law is not contained in the request, the Governor's request cannot be processed and forwarded to the White House. In the event the Governor's request for a major disaster declaration or an emergency declaration is not granted, the Governor may appeal the decision.

Affected Public: State, local, or Tribal Government.

Estimated Number of Respondents: 623.

Estimated Number of Responses: 356.

Estimated Total Annual Burden Hours: 11,792.8.

The previously approved Total Annual Burden Hours was 11,748 hours. Based on the final rule's minor increase in burden, the new estimated Total Annual Burden Hours is 11,792.8 hours. This increase of 44.8 hours is attributed to the additional fiscal capacity information FEMA anticipates States may provide to help evaluate the need for a major disaster declaration that authorizes IA.

Table A.12 provides estimates of annualized cost to respondents for the hour burdens for the collection of information.

TABLE A.12—ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS [63]

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent [64]	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate [65]	Total annual respondent cost
State, Local or Tribal Government.	Request for Presidential Disaster Declaration Major Disaster or Emergency/ FEMA Form 010–0–13.	623	.571	9	3,204	$79.22	$253,820.88

TABLE A.12—ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS [63]—Continued

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent [64]	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate [65]	Total annual respondent cost
State, Local or Tribal Government.	Initial Data Gathering for Governor's Request/No Form.	623	.571	24.126	8,588.8	39.89	342,607.23
Total		623			11,792.8		596,428.11

Note: The ''Avg. Hourly Wage Rate'' for each respondent includes a 1.46 multiplier to reflect a fully-loaded wage rate.
Note: Numbers in the table are rounded up due to rounding in ROCIS. Also ''Initial Data Gathering for Governor's Request/No Form'' total burden hours is rounded to 8,588.8 to align with Factors Considered When Evaluating a Governor's Request for Individual Assistance for a Major Disaster Final Rule.

Estimated Cost: $596,428.11.

Estimated Respondents' Operation and Maintenance Costs: FEMA does not anticipate that there will be any annual costs to respondents' operations and maintenance costs for technical services.

Estimated Respondents' Capital and Start-Up Costs: There are no annual start-up or capital costs.

Estimated Total Annual Cost to the Federal Government: The cost to the Federal government is $3,188,919.80.

F. Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, an agency must determine whether implementation of a proposed regulation will result in a system of records. A ''record'' is any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his/her education, financial transactions, medical history, and criminal or employment history and that contains his/her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. *See* 5 U.S.C. 552a(a)(4). A ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. An agency cannot disclose any record which is contained in a system of records except by following specific procedures.

FEMA completed a Privacy Threshold Analysis for this final rule. Any information will be collected in existing FEMA Forms 010–0–13 and 009–0–140 and will still only include the Governor's point of contact and general office phone number as well as other State specific and disaster specific information of a non-personally-identifiable nature. The information received through the form is neither retrieved nor retrievable by personally identifiable information (PII). Any retrieval would be done by utilizing State specific or disaster specific information of a non-identifiable nature. FEMA Form 010–0–13 is currently covered under the DHS/FEMA/PIA–013 Grants Management PIA. This rulemaking does not impact FEMA's collection of PII in the disaster declarations process and form and no System of Records Notice is required at this time.

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

Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 65 FR 67249, November 9, 2000, applies to agency regulations that have Tribal implications, that is, regulations 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.

FEMA has reviewed this final rule under Executive Order 13175 and has determined that this rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The disaster assistance granted by a major disaster declaration addressed by this final rule is provided to individuals and families, and would not have tribal implications.

Moreover, this rule finalizes revisions to regulations intended to address a *State's* request for an IA declaration. Although Section 1110 of SRIA authorizes Indian Tribal governments to request a declaration directly, SRIA charged FEMA to implement that authority separately by rulemaking. FEMA is implementing Section 1110 through a separate process, which involves extensive consultation with Tribes, issuance of pilot guidance, *see* 82 FR 3016 (Jan. 10, 2017), and eventually, regulations.

H. Executive Order 13132, Federalism

Executive Order 13132, ''Federalism,'' 64 FR 43255, August 10, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

As we noted in the proposed rule, FEMA has determined that this rule does not have a substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications as defined by the Executive

[63] *Note:* Numbers rounded due to rounding in ROCIS.

[64] *Note:* The number of responses per respondent for entering in Request for Presidential Disaster Declaration Major Disaster or Emergency/FEMA Form 010–0–13 has been updated to 0.571. FEMA recalculated this number to more accurately reflect the change in the final rule. FEMA calculated 0.571 based on the previous supporting statement's total number of response hours, 3,195, divided by the number of hours, 9.062, resulting in 356, and then divided by 623.

[65] *Note:* The ''Avg. Hourly Wage Rate'' for each respondent includes a 1.46 multiplier to reflect a fully-loaded wage rate.

Order. The disaster assistance granted by a major disaster declaration addressed by this final rule is provided to individuals and families, and would not have federalism implications. No commenters disagreed with our determination.

I. Executive Order 11988, Floodplain Management

Pursuant to Executive Order 11988, as amended by Executive Order 13690, ''each agency must provide leadership and take action to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare. In addition, each agency must restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. In carrying out these responsibilities, each agency must evaluate the potential effects of any actions it may take in a floodplain; ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and prescribe procedures to implement the policies and requirements of the Executive Order.

Before promulgating any regulation, an agency must determine whether the proposed regulations will affect a floodplain(s), and if so, the agency must consider alternatives to avoid adverse effects and incompatible development in the floodplain(s). If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in Executive Order 11988 is to promulgate a regulation that affects a floodplain(s), the agency must, prior to promulgating the regulation, design or modify the regulation in order to minimize potential harm to or within the floodplain, consistent with the agency's floodplain management regulations and prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

The requirements of Executive Order 11988 apply in the context of the provision of Federal financial assistance relating to, among other things, construction and property improvement activities, as well as conducting Federal programs affecting a floodplain(s). The changes in this final rule will not have an effect on floodplain management. This final rule revises the criteria that FEMA considers when recommending an area eligible for IA under a major disaster declaration. A major disaster declaration recommendation to the President is an administrative action for FEMA's IA Program. When FEMA undertakes specific actions in administering IA that may have effects on floodplain management (*e.g.,* placement of manufactured housing units on FEMA-constructed group sites; permanent or semi-permanent housing construction; Multi-Family Lease and Repair; financial assistance for privately owned roads and bridges), FEMA follows the procedures set forth in 44 CFR part 9 to assure compliance with this Executive Order. The notice that is required by the E.O. is provided separately at the time FEMA undertakes the specific action.

J. Executive Order 11990, Protection of Wetlands

Executive Order 11990, ''Protection of Wetlands,'' 42 FR 26961, May 24, 1977, sets forth that each agency must provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. Each agency, to the extent permitted by law, must avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

In carrying out the activities described in Executive Order 11990, each agency must consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are: Public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion; maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

The requirements of Executive Order 11990 apply in the context of the provision of Federal financial assistance relating to, among other things, construction and property improvement activities, as well as conducting Federal programs affecting land use. The changes in this final rule will not have an effect on land use or wetlands. This final rule revises the criteria that FEMA considers when recommending an area eligible for IA under a major disaster declaration. A major disaster declaration recommendation to the President is an administrative action for FEMA's IA Program. When FEMA undertakes specific actions in administering IA that may have such effects (*e.g.,* placement of manufactured housing units on FEMA-constructed group sites; permanent or semi-permanent housing construction; Multi-Family Lease and Repair; financial assistance for privately owned roads and bridges), FEMA follows the procedures set forth in 44 CFR part 9 to assure compliance with this Executive Order.

K. Executive Order 12898, Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' 59 FR 7629, February 16, 1994, as amended by Executive Order 12948, 60 FR 6381, February 1, 1995, FEMA incorporates environmental justice into its policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in programs, denying persons the benefits of programs, or subjecting persons to discrimination because of race, color, or national origin. FEMA has incorporated environmental justice into its programs, policies, and activities, as well as this rulemaking. This final rule contains provisions that ensure that FEMA's activities will not have a disproportionately high or adverse effect on human health or the environment or subject persons to discrimination because of race, color, or national origin. This final rule adds a provision specifically related to the

demographics of a disaster impacted population. FEMA is requesting information relating to the demographics of a disaster impacted area because the demographics may identify additional needs that require a more robust community response and might otherwise delay a community's ability to recover from a disaster.

No action that FEMA can anticipate under this rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population.

L. Congressional Review of Agency Rulemaking

Under the Congressional Review of Agency Rulemaking Act (CRA), 5 U.S.C. 801–808, before a rule can take effect, the Federal agency promulgating the rule must submit to Congress and to the Government Accountability Office (GAO) a copy of the rule, a concise general statement relating to the rule, including whether it is a major rule, the proposed effective date of the rule, a copy of any cost-benefit analysis, descriptions of the agency's actions under the Regulatory Flexibility Act and the Unfunded Mandates Reform Act, and any other information or statements required by relevant executive orders.

FEMA has sent this rule to the Congress and to GAO pursuant to the CRA. The rule is not a ''major rule'' within the meaning of the CRA. It will not have an annual effect on the economy of $100,000,000 or more, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs-housing and community development, Natural resources, Penalties, and Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Emergency Management Agency amends 44 CFR part 206, subpart B, as follows:

PART 206—FEDERAL DISASTER ASSISTANCE

■ 1. The authority citation for part 206 continues to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1; sec. 1105, Pub. L. 113–2, 127 Stat. 43 (42 U.S.C. 5189a note).

■ 2. In § 206.48, revise paragraph (b) to read as follows:

§ 206.48 Factors considered when evaluating a Governor's request for a major disaster declaration.

* * * * *

(b) *Factors for the Individual Assistance Program.* The following factors are used to evaluate the need for supplemental Federal assistance to individuals under the Stafford Act, as Federal assistance may not supplant the combined capabilities of a State, Tribal, or local government. Federal Individual Assistance, if authorized, is intended to assist eligible individuals and families when State, Tribal, and local government resources and assistance programs are overwhelmed. State fiscal capacity (44 CFR 206.48(b)(1)(i)) and uninsured home and personal property losses (44 CFR 206.48(b)(2)) are the principal factors that FEMA will consider when evaluating the need for supplemental Federal assistance under the Individuals and Households Program but FEMA will always consider all relevant information submitted as part of a declaration request. If the need for supplemental Federal assistance under the Individuals and Households Program is not clear from the evaluation of the principal factors, FEMA will turn to the other factors to determine the level of need.

(1) *State fiscal capacity and resource availability.* FEMA will evaluate the availability of State resources, and where appropriate, any extraordinary circumstances that contributed to the absence of sufficient resources.

(i) *Fiscal capacity (principal factor for individuals and households program).* Fiscal capacity is a State's potential ability to raise revenue from its own sources to respond to and recover from a disaster. The following data points are indicators of fiscal capacity.

(A) *Total taxable resources (TTR) of the State.* TTR is the U.S. Department of Treasury's annual estimate of the relative fiscal capacity of a State. A low TTR may indicate a greater need for supplemental Federal assistance than a high TTR.

(B) *Gross domestic product (GDP) by State.* GDP by State is calculated by the Bureau of Economic Analysis. GDP by State may be used as an alternative or supplemental evaluation method to TTR.

(C) *Per capita personal income by local area.* Per capita personal income by local area is calculated by the Bureau of Economic Analysis. A low per capita personal income by local area may indicate a greater need for supplemental Federal assistance than a high per capita personal income by local area.

(D) *Other factors.* Other limits on a State's treasury or ability to collect funds may be considered.

(ii) *Resource availability.* Federal disaster assistance under the Stafford Act is intended to be supplemental in nature, and is not a replacement for State emergency relief programs, services, and funds. FEMA evaluates the availability of resources from State, Tribal, and local governments as well as non-governmental organizations and the private sector.

(A) *State, tribal, and local government; non-governmental organizations (NGO); and Private Sector Activity.* State, Tribal, and local government, Non-Governmental Organizations, and private sector resources may offset the need for or reveal an increased need for supplemental Federal assistance. The State may provide information regarding the resources that have been and will be committed to meet the needs of disaster survivors such as housing programs, resources provided through financial and in-kind donations, and the availability of affordable (as determined by the U.S. Department of Urban and Housing Development's fair market rent standards) rental housing within a reasonable commuting distance of the impacted area.

(B) *Cumulative effect of recent disasters.* The cumulative effect of recent disasters may affect the availability of State, Tribal, local government, NGO, and private sector disaster recovery resources. The State should provide information regarding the disaster history within the last 24-month period, particularly those occurring within the current fiscal cycle, including both Presidential (public and individual assistance) and gubernatorial disaster declarations.

(2) *Uninsured home and personal property losses (principal factor for individuals and households program).* Uninsured home and personal property losses may suggest a need for supplemental Federal assistance. The State may provide the following preliminary damage assessment data:

(i) The cause of damage.

(ii) The jurisdictions impacted and concentration of damage.

(iii) The number of homes impacted and degree of damage.

(iv) The estimated cost of assistance.

(v) The homeownership rate of impacted homes.

(vi) The percentage of affected households with sufficient insurance coverage appropriate to the peril.

(vii) Other relevant preliminary damage assessment data.

(3) *Disaster impacted population profile.* The demographics of a disaster impacted population may identify additional needs that require a more robust community response and delay a community's ability to recover from a disaster. FEMA will consider demographics of the impacted communities for the following data points as reported by the U.S. Census Bureau or other Federal agencies:

(i) The percentage of the population for whom poverty status is determined.

(ii) The percentage of the population already receiving government assistance such as Supplemental Security Income and Supplemental Nutrition Assistance Program benefits.

(iii) The pre-disaster unemployment rate.

(iv) The percentage of the population that is 65 years old and older.

(v) The percentage of the population 18 years old and younger.

(vi) The percentage of the population with a disability.

(vii) The percentage of the population who speak a language other than English and speak English less than ''very well.''

(viii) Any unique considerations regarding American Indian and Alaskan Native Tribal populations raised in the State's request for a major disaster declaration that may not be reflected in the data points referenced in paragraphs (b)(3)(i) through (vii) of this section.

(4) *Impact to community infrastructure.* The following impacts to a community's infrastructure may adversely affect a population's ability to safely and securely reside within the community.

(i) *Life saving and life sustaining services.* The effects of a disaster may cause disruptions to or increase the demand for life-saving and life-sustaining services, necessitate a more robust response, and may delay a community's ability to recover from a disaster. The State may provide information regarding the impact on life saving and life sustaining services for a period of greater than 72 hours. Such services include but are not limited to police, fire/EMS, hospital/medical, sewage, and water treatment services.

(ii) *Essential community services.* The effects of a disaster may cause disruptions to or increase the demand for essential community services and delay a community's ability to recover from a disaster. The State may provide information regarding the impact on essential community services for a period greater than 72 hours. Such services include but are not limited to schools, social services programs and providers, child care, and eldercare.

(iii) *Transportation infrastructure and utilities.* Transportation infrastructure or utility disruptions may render housing uninhabitable or inaccessible. Such conditions may also affect the delivery of life sustaining commodities, provision of emergency services, ability to shelter in place, and efforts to rebuild. The State may provide information regarding the impact on transportation infrastructure and utilities for a period of greater than 72 hours.

(5) *Casualties.* The number of individuals who are missing, injured, or deceased due to a disaster may indicate a heightened need for supplemental Federal disaster assistance. The State may report the number of missing, injured, or deceased individuals.

(6) *Disaster related unemployment.* The number of disaster survivors who lost work or became unemployed due to a disaster and who do not qualify for standard unemployment insurance may indicate a heightened need for supplemental Federal assistance. This usually includes the self-employed, service industry workers, and seasonal workers such as those employed in tourism, fishing, or agriculture industries. The State may provide an estimate of the number of disaster survivors impacted under this paragraph as well as information regarding major employers affected.

Peter Gaynor,

Deputy Administrator, Federal Emergency Management Agency.

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