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Rules and Regulations

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1222

[Document Number AMS–SC–18–0072]

Paper and Paper-Based Packaging Promotion, Research and Information Order; Change in Membership and Nominations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the membership and nomination procedures of the Paper and Packaging Board (Board). The Paper and Paper-Based Packaging Promotion, Research and Information Order (Order) is administered by the Board with oversight by the U.S. Department of Agriculture (USDA). This rule also makes administrative changes to other provisions of the Order.

DATES: *Effective:* August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Marlene Betts, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915; or electronic mail: *Marlene.Betts@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule affecting 7 CFR part 1222 (the Paper and Paper-Based Packaging Promotion, Research and Information Order (Order)) is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This rule reduces the size of the Board from 12 members to 8 members, reduces the number of regions for manufacturer representation on the Board from four (South, Northeast, Midwest, and West) to two (South and Other parts of the United States), eliminates the at-large seat, and changes the nomination process under the Order. The Order is administered by the Board with oversight by USDA. Under the Order, assessments are collected from manufacturers and importers and used for projects to promote the use of paper and paper-based packaging.

Board Membership and Regional Representation

Currently, the 1996 Act and § 1222.40(c) require the Board to review its membership and size of the Board to reflect changes in its geographical distribution and quantity of paper and paper-based packaging manufactured in the U.S. and the quantity of paper and paper-based packaging imported into the U.S. This is the first review of the Board's membership and size since the Board's implementation in 2014. The Board reviewed data to determine if the geographical distribution of paper and paper-based packaging manufactured in the U.S. and the quantity imported into the U.S. and Board membership needed to be changed. The proposed action was unanimously recommended by the Board in June 2018 and will contribute to the effective administration of the program.

Section 1222.40 provides that the Board should consist of 12 members—11 manufacturers and 1 importer. Section 1222.40 also requires that the Board be comprised of manufacturers and importers of paper and paper-based packaging that manufacture or import 100,000 short tons or more of paper and paper-based packaging during the year. Of the 11 manufacturers, 10 shall be from the following four regions: South—6 members; Northeast—1 member; Midwest—2 members; and West—1.

One manufacturer at-large member may be from any region and shall manufacture at least 100,000 short tons but no more than 250,000 short tons of paper and paper-based packaging. If there are no eligible nominees, the seat shall be allocated to the largest producing region.

In 2017, approximately 61.3 million short tons of U.S. paper and paper-based packaging was produced and covered under the program. Of the 61.3 million short tons, it is estimated that 64 percent was manufactured in the South, 17 percent was manufactured in the Midwest, 9 percent was manufactured in the Northeast, and 10 percent was manufactured in the West. While the U.S. production of paper and paper-based packaging has dropped from 66.1 million short tons in 2014 to 61.3 million short tons in 2017, the number of domestic companies that pay assessments into the program has decreased from 53 to 39, which equals a 26 percent decrease in three years. Due to the consolidation in the industry, the Board believes that the proposed changes to the Board size and its regions would better reflect the distribution of the manufacturing of paper and paper-based packaging and the imports of paper and paper-based packaging.

With this amendment, the total number of Board members will decrease from the current 12 members to 8 members. The 8-member Board will be comprised of 7 manufacturers and 1 importer. Of the 7 manufacturers, 4 members will be from the South, and 3 members will be from all other parts of the U.S. According to the Board, this action will make the reduced number of seats easier to fill and reflect the current distribution of the industry.

The Board recommended a transitional approach to reduce the Board from 12 members to 8 members over a three-year period. The 2019 Board currently has 12 members. The 2020 Board will have 10 members consisting of 5 members representing the South, 4 members representing the other parts of the U.S., and 1 importer. This will require the Board to fill two seats in the South region whose terms will expire December 31, 2019. The original recommendation was for the 2021 Board to have 8 members consisting of 4 members representing the South, 3 members from other parts of the U.S., and 1 importer. However, this would require half of the board seats to be filled in one year, the five commenters requested that the 2021 Board have 9 members consisting of 5 members representing the South, 3 members representing other parts of the U.S., and 1 importer; and the 2022 Board and subsequent Boards have 8 members consisting of 4 members representing the South, 3 members representing other parts of the U.S., and 1 importer. These changes are authorized under § 1222.40(c). Lastly, the Board recommended one seat from the South whose term will expire on December 31, 2021, be for a two-year term rather than a three-year term. Section 515 of the 1996 Act (7 U.S.C. 7414) and § 1222.42 state that members shall serve for a term of three-years, except for the initial appointments. Therefore, a term shorter than three-years is not being implemented as recommended.

Nomination Process

Sections 1222.41 and 1222.46 provide authority for the Board to recommend amendments to the Order. Nominations to the Board are currently made by an election process. This process is conducted by the Board, which notifies all known manufacturers and importers of 100,000 short tons or more of paper and paper-based packaging annually of the open Board seats. Manufacturers and importers may nominate eligible persons from their own company or any other eligible company for a seat on the Board. Once the Board receives the nominees, the Board conducts an election by mail ballot in each region where there is a vacancy. The votes are tabulated by region, with nominees receiving the highest number of votes placed at the top of the list, in descending order. Due to consolidation of companies from 53 to 39, the pool of eligible manufacturers to fill board seats has decreased, therefore the number of eligible nominees has decreased too. The Board recommended a new nomination process to help alleviate this situation.

The Board will conduct outreach and issue a call for nominations for all open seats to all known manufacturers and importers of 100,000 short tons or more of paper and paper-based packaging. The Board will evaluate all the nominees and recommend at least two names for each open seat as their first and second choice to be placed on the nomination slate. Other qualified persons interested in serving in the open seats, but not recommended by the Board, will be submitted and designated as additional nominees for consideration by the Secretary.

In addition, this proposal will change the OMB control number in §§ 1222.88 and 1222.108 from 0581–0281 to 0581–0093, the control number assigned by OMB. This change will reflect the accurate OMB control number.

Final Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the rule on small entities. Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000, and small agricultural service firms (first handlers and importers) as those having annual receipts of no more than $7.5 million.

According to the Board, there are 39 manufacturers in the United States that produce the types of paper and paper-based packaging covered under the Order. Using an average price of $784 per short ton,[1] a manufacturer who produces less than about 9,560 short tons of paper and paper-based packaging per year would be considered a small entity. It is estimated that no more than three manufacturers produced less than 9,560 short tons per year in 2017. Thus, the majority of manufacturers would not be considered small businesses.

Based on U.S. Customs and Border Protection (Customs) data, it is estimated that in 2017 there were approximately 1700 importers of paper and paper-based packaging. Fifty importers, or about 3 percent, imported more than $7.5 million worth of paper and paper-based packaging. Thus, the majority of importers would be considered small entities. However, all of the 20 entities that imported 100,000 short tons or more (the Order's exemption threshold) also imported more than $7.5 million worth of paper and paper-based packaging. Therefore, none of the 20 importers covered under the Order would be considered small businesses.

Based on domestic production of approximately 61.3 million short tons in 2017 and an average price of $784 per short ton, the domestic paper and paper-based packaging industry is valued at approximately $48.1 billion. According

[1] Industry sources do not publish information on average price for paper and paper-based packaging. A reasonable estimate for average price of paper and paper-based packaging is the value per ton of paper and paper-based packaging exports. According to U.S. Census data, the average value of paper and paper-based packaging exports in 2017 was approximately $784 per short ton.

to Customs data, the value of paper and paper-based packaging imports in 2017 was about $5.9 billion.

The rule reduces the size of the Board from 12 members to 8, reduces the number of regions for manufacturers from four (South, Northeast, Midwest, and West) to two (South, and other parts of the United States), eliminates the at-large member, and changes the nomination process as specified in §§ 1222.40 and 1222.41. The revisions are administrative in nature; therefore, there should be no economic impact on manufacturers and importers.

Currently, the Order requires 12 Board members, 11 domestic manufacturers and one importer. Of the 11 domestic manufacturers, 6 represent the South, 2 represent the Midwest, 1 represents the Northeast, 1 represents the West, and 1 at-large member represents any region and must manufacture at least 100,000 short tons, but not more than 250,000 short tons. Due to mergers and closings, the number of eligible companies (manufacturers and importers of 100,000 tons or more of paper and paper-based packaging annually) has decreased from 53 to 39 eligible manufacturers since the inception of the Order in 2014. With an overall pool of 39 eligible U.S. manufacturers, an 8-member Board can effectively represent the interest of the paper and paper-based packaging industry.

The revised 8-member Board will be comprised of 7 manufacturers and 1 importer. Of the 7 manufacturers, 4 members will be from the South, and 3 members will be from all other parts of the U.S. According to the Board, this action makes the reduced number of seats easier to fill and reflects the current distribution of the industry.

This rule is also changing the nomination procedures. The Board unanimously recommended eliminating the election process and recommended a new nomination process, whereby all the submitted names of the eligible candidates are submitted to the Secretary with recommendations by the Board. This action allows the Board the flexibility to provide a slate that reflects the diverse membership of the paper and paper-based packaging industry in terms of various segments of the industry.

The new nomination process allows the Board to conduct outreach to all known manufacturers and importers of 100,000 short tons or more of paper and paper-based packaging, whereby the Board evaluates all the nominees and recommends at least two names for each open seat. Other qualified persons interested in serving in the open seats, but not recommended by the Board, are to be submitted and designated as additional nominees for consideration by the Secretary.

The changes to the size of the Board, number of regions, and nomination process are administrative in nature and have no economic impact on entities covered under the program. These changes are thought to help increase the pool of candidates as companies operate in multiple regions and seek nomination for a region of their choice. Eligible manufacturers and importers interested in serving on the Board have to complete a background questionnaire. Those requirements are addressed later in this rule in the section titled *Reporting and Recordkeeping Requirements*.

Regarding alternatives, the Board considered recommending no changes and considered a variety of mechanisms for nominating candidates. The Board explored whether other industry organizations should be tasked with nominating candidates but determined that it would unnecessarily complicate the nominations process. However, due to mergers and closings, the number of eligible companies has decreased, making it more difficult to fill Board seats. Therefore, the Board concluded that reducing the Board size, reducing the number of regions, eliminating the at-large member, and revising the nomination process will establish a Board that better reflects the industry.

Lastly, this rule makes changes to §§ 1222.80 and 1222.108 to correct the OMB control numbers that are assigned to the Paper and Packaging Board by OMB.

Reporting and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are imposed by the part have been previously approved by OMB under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved and does not impose additional reporting requirements or recordkeeping burden on manufacturers or importers of paper and paper-based packaging.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Board met on June 28, 2018, and unanimously recommended reducing the size of the Board, reducing the number of regions, and eliminating the election process for nominations and using a new nominations process. The Board meetings are open to the public and interested persons are invited to participate and express their views.

A proposed rule concerning this action was published in the **Federal Register** on April 12, 2019 (84 FR 14891). A 30-day comment period ending May 13, 2019, was provided to allow interested persons to submit comments.

Analysis of Comments

Five comments were received in response to the proposed rule. All of the comments supported reducing the size of the Board from 12 to 8 members, reducing the number of regions from 5 (South, Northeast, Midwest, West, and at-large) to 2 (South and all other parts of the U.S.), and revising the nomination process. All of the comments also stated their support for a transitional approach in reducing the Board from 12 to 8 members. They were supportive of the Board's original proposal to have a two-year term for a member from the South region during the transition; however, as stated previously, the 1996 Act and Order require members serve for a term of three-years, except for the initial appointments, so this change is not being implemented.

All five commenters stated their concern that losing half of the Board in a single year would be disruptive and cause a sudden loss of institutional knowledge within the Board. Therefore, in the alternative, they suggested adding an additional year to the transitional period, for a total of three years. So, the 2020 Board would have 10 members consisting of 5 members representing the South, 4 members representing the other parts of the U.S., and 1 importer. The 2021 Board would have 9 members consisting of 5 members representing the South, 3 members representing other parts of the U.S., and 1 importer. Finally, the 2022 Board and subsequent Boards would have 8 members consisting of 4 members representing the South, 3 members representing other parts of the U.S., and 1 importer. We agree with the commenters that adding an additional year to transition from a current 12 member Board to an 8 member Board in 2022 and beyond will make it less disruptive to the Board's operations going forward. Accordingly, we are adopting the modifications and this final rule with changes to the composition of the Board from the current Board of 12 members to 8 members over the next three-years, reducing the number of manufacturing regions from 5 (South, Northeast, Midwest, West and at-large) to 2 (South and all other parts of the U.S.), and modifications to the nomination process.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board, the comments received, and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the 1996 Act.

List of Subjects in 7 CFR Part 1222

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Paper and paper-based packaging promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1222 is amended as follows:

PART 1222—PAPER AND PAPER-BASED PACKAGING PROMOTION, RESEARCH AND INFORMATION ORDER

■ 1. The authority citation for part 1222 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. Revise § 1222.40(b) to read as follows:

§ 1222.40 Establishment and membership.

* * * * *

(b) *Composition of Board.* The 2020 Board shall be composed of 10 members. The 2021 Board shall be composed of 9 members. The 2022 Board and each subsequent Board shall be composed of 8 members. The Boards shall be established as follows:

(1) *Manufacturers.* For the 2020 Board, 9 members shall be manufacturers. For the 2021 Board, 8 members shall be manufacturers, and for the 2022 Board and each subsequent Board, 7 members shall be manufacturers, from the following two regions:

(i) Five members shall be from the South for the 2020 Board, five members shall be from the South for the 2021 Board, and four members shall be from the South for the 2022 Board and each subsequent Board. The South shall consist of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and

(ii) Four members shall be from all other parts of the United States for the 2020 Board, and three members shall be from all other parts of the United States for the 2021 Board and each subsequent Board. All other parts of the United States consist of those states not listed in paragraph (b)(1)(i) of this section.

(2) *Importers.* One member shall be an importer.

* * * * *

■ 3. Revise § 1222.41(c) to read as follows:

§ 1222.41 Nominations and appointments.

* * * * *

(c) Subsequent nominations shall be conducted as follows:

(1) The Board shall conduct outreach to all known manufacturers and importers manufacturing or importing 100,000 short tons or more of paper and paper-based packaging in a marketing year. Manufacturers and importers may submit nominations to the Board;

(2) Manufacturer and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board;

(3) Nominees may seek nomination to the Board for all vacant seats for which the nominees are qualified;

(4) For domestic seats allocated by region, domestic manufacturers must manufacture paper and paper-based packaging in the region for which they seek nomination. Nominees that manufacture in both regions may seek nomination in one region of their choice. The Board will issue the call for nominations to all known manufacturers and recommend nominees for each open seat and the additional nominees to the Secretary;

(5) Nominees that are both a manufacturer and an importer may seek nomination to the board as either a manufacturer or importer so long as they meet the qualifications. The Board will issue the call for nominations to all known importers and recommend nominees for each open seat and the additional nominees to the Secretary;

(6) The Board will evaluate all the nominees and recommend at least two names for each open seat. Other qualified persons interested in serving in the open seats, but not recommended by the Board, will be designated by the Board as additional nominees for consideration by the Secretary;

(7) The Board must submit nominations to the Secretary at least six months before the new Board term begins. From the nominations submitted by the Board, the Secretary shall select the members of the Board;

(8) Any manufacturer or importer nominated to serve on the Board shall file with the Secretary at the time of the nomination a background questionnaire;

(9) From the nominations made pursuant to this section, the Secretary shall appoint members of the Board on the basis of representation provided in § 1222.40(b);

(10) No two members shall be employed by a single corporation, company, partnership or any other legal entity; and,

(11) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modification shall be implemented through rulemaking by the Secretary.

■ 4. Revise § 1222.88 to read as follows:

§ 1222.88 OMB control number.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, are OMB control number 0505–0001 (Board nominee background statement) and OMB control number 0581–0093.

■ 5. Revise § 1222.108 to read as follows:

§ 1222.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581–0093.

Dated: June 25, 2019.

Bruce Summers,

Administrator.

[FR Doc. 2019–13923 Filed 7–1–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003 and 1292

[EOIR Docket No. 159; AG Order No. 4478–2019]

RIN 1125–AA58

Board of Immigration Appeals: Affirmance Without Opinion, Referral for Panel Review, and Publication of Decisions as Precedents

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (Department) is publishing this final rule (''final rule'' or ''rule'') to amend the regulations regarding the administrative review procedures of the Board of Immigration Appeals (BIA or Board). This final rule sets forth the Department's longstanding position that the regulations providing for an affirmance without opinion (AWO), a single-member opinion, or a three-member panel opinion are not intended to create any substantive right to a particular manner of review or decision. The final rule also clarifies that the BIA is presumed to have considered all of the parties' relevant issues and claims of error on appeal regardless of the type of the BIA's decision, and that the parties are obligated to raise issues and exhaust claims of error before the BIA. In addition, the final rule codifies standards for the BIA's consideration in evaluating whether to designate particular decisions as precedents. Finally, the final rule provides clarity surrounding precedent decisions in the context of decisions from the Executive Office for Immigration Review (EOIR) regarding the recognition of organizations and the designation of accredited representatives.

DATES: This rule is effective September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, Virginia 22041; telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

The Department published a proposed rule with request for comments in the **Federal Register** in June 2008. *See Board of Immigration Appeals: Affirmance Without Opinion, Referral for Panel Review, and Publication of Decisions as Precedents,* 73 FR 34654 (June 18, 2008). At the conclusion of the comment period on August 18, 2008, three public interest law and advocacy groups; two law professors; a law student and a recent law school graduate; and one non-attorney had submitted six sets of comments. Because some comments overlapped, and because other commenters covered multiple topics, the comments are addressed summarily by topic in Section III, *infra.*

II. Introduction

A. Background

On October 18, 1999, the Department published a final rule authorizing a single BIA member to affirm the decision of an immigration judge by a summary written order without issuing a separate written opinion. *See Executive Office for Immigration Review; Board of Immigration Appeals: Streamlining,* 64 FR 56135 (Oct. 18, 1999). The written order used for this purpose is commonly referred to as an affirmance without opinion (AWO). The AWO contains only two sentences, both prescribed by regulation, without any additional language or explanation for the affirmance. Under the relevant regulations, the AWO states: ''The Board affirms, without opinion, the result of the decision below [*i.e.,* the decision of the immigration judge or the Department of Homeland Security (DHS) officer that was appealed to the BIA]. The decision below is, therefore, the final agency determination. See 8 CFR 3.1(a)(7).'' [1] *See* 8 CFR 1003.1(e)(4)(ii).[2]

In 2002, the Department published a final rule that, while maintaining the basic AWO process, mandated the use of an AWO in any case that met the regulatory threshold criteria. *See Board of Immigration Appeals: Procedural Reforms To Improve Case Management,* 67 FR 54878 (Aug. 26, 2002). *Compare* 8 CFR 3.1(a)(7)(ii) (2000) (providing that a single BIA member ''may'' affirm without opinion), *with* 8 CFR 1003.1(e)(4) (2003) [3] (providing that a single BIA member ''shall'' affirm without opinion).

Under the 2002 rule, an AWO is issued if the BIA member concludes that ''the result reached in the decision under review was correct,'' that any errors in the decision were ''harmless or nonmaterial,'' and that either the issues on appeal are ''squarely controlled'' by precedent and do not present a novel factual scenario that requires a decision to apply precedent or are not so substantial as to warrant issuance of a written opinion by the BIA. 8 CFR 1003.1(e)(4)(i) (2003).

On January 9, 2006, Attorney General Alberto Gonzales directed a comprehensive review of the immigration courts and the BIA. The Department undertook the review in response to concerns about the quality of the decisions of the immigration judges and the BIA and to reports of intemperate behavior by some immigration judges.

The review team received comments about the BIA's streamlining process and its reform regulations. Critics of the procedural reforms rule speculated that the revised procedures allowed BIA members insufficient time to review cases thoroughly and made it more difficult for the BIA to publish adequate numbers of precedent decisions. Supporters observed that the reforms brought much-needed efficiency to the appellate process, which allowed the BIA to eliminate a large backlog of cases and to adjudicate cases in a more timely manner.

On August 9, 2006, Attorney General Gonzales announced that the review was complete and directed that EOIR implement 22 measures to improve adjudications by the immigration judges and the BIA. This final rule is one of several regulatory actions relating to that review.

B. The Proposed Regulatory Changes

The 2008 proposed rule stated that the Department had evaluated the BIA's caseload and resources and found that ''the basic principles set forth in the [2002] Board reform rule were still necessary to prevent future backlogs and delays in adjudication.'' 73 FR at 34655. Thus, the proposed rule did not seek comment on whether the BIA should continue to use AWOs. *Id.* (stating that ''the Department is not reopening or seeking public comment on the existing final regulations that were adopted in 2002''). Rather, the Department

[1] The text later changed to cite to 8 CFR 3.1(e)(4). *See* 67 FR at 54903.

[2] The background discussion accompanying the proposed rule published in the current rulemaking proceeding contains an account of the history and use of AWOs. 73 FR at 34655–57.

[3] In 2003, the Attorney General redesignated the previous regulations in 8 CFR part 3, relating to EOIR, as 8 CFR part 1003 in connection with the abolition of the former Immigration and Naturalization Service and the transfer of its responsibilities to DHS. *See Aliens and Nationality; Homeland Security; Reorganization of Regulations,* 68 FR 9824 (Feb. 28, 2003). Under the Homeland Security Act, EOIR (including the BIA and the immigration judges) remains under the authority of the Attorney General. *See* 6 U.S.C. 521; 8 U.S.C. 1103(g).

proposed three specific adjustments that would: (1) Encourage the increased use of single-member written decisions instead of AWOs to address poor or intemperate decisions of immigration judges, (2) allow the use of three-member written decisions for the purpose of providing greater legal analysis for particularly complex cases, and (3) authorize three-member panels, by majority vote, to designate their decisions as precedent decisions. *Id.*

C. Decisions Regarding the Recognition of Organizations and the Accreditation of Representatives

At the time of the underlying proposed rule's publication, responsibility for administering EOIR's recognition and accreditation program, which recognizes organizations and authorizes accredited representatives to represent aliens in immigration proceedings before EOIR and in cases with DHS, lay with the BIA. Consequently, under its general authority to issue precedent decisions, the BIA would intermittently issue precedent decisions in cases involving recognition and accreditation issues. *See, e.g., Matter of United Farm Workers Found.,* 26 I&N Dec. 454 (BIA 2014) (addressing whether a recognized organization needs to apply for a representative's accreditation at more than one location). In 2017, responsibility for the recognition and accreditation program within EOIR was transferred from the BIA to the Office of Legal Access Programs (OLAP), but the transfer did not provide a mechanism by which EOIR could designate decisions as precedents. *See Recognition of Organizations and Accreditation of Non-Attorney Representatives,* 81 FR 92346 (Dec. 19, 2016). This rule would correct that deficiency.

III. Intent and Nature of the Regulations

In each of the respects discussed below, the Department in this rulemaking is revising the regulations to clarify the intent and nature of the regulations relating to the form of BIA decisions and the scope of the BIA's consideration of issues presented on appeal. The Department's interpretations of the intended meaning of its regulations are fully consistent with the Attorney General's authority to issue regulations and clarify the intent, purpose, and nature of those regulations. *See INS* v. *Stanisic,* 395 U.S. 62, 72 (1969) (quoting *Bowles* v. *Seminole Rock & Sand Co.,* 325 U.S. 410, 414 (1945)) (an administrative agency's interpretation of its own regulations is entitled to '''controlling weight unless it is plainly erroneous or inconsistent with the regulation'''); *Matter of Armendarez-Mendez,* 24 I&N Dec. 646, 653 (BIA 2008).

With regard to the provisions of the 2008 proposed rulemaking, the Department has considered the public comments, the continuing need to maintain AWOs as a necessary resource for BIA adjudication, and the goal of securing finality in immigration cases as efficiently as possible.

With respect to one proposal outlined in the proposed rule, the Department has determined that it will not revise EOIR's regulations to provide for publication of precedent decisions by majority vote of the permanent Board members assigned to a three-member panel. Although the Department recognizes that a single member or a panel of BIA members is able to address and resolve issues in a thorough and judicious manner, the Department also recognizes that the BIA's published decisions representing the views of the majority of the *en banc* BIA are important in ensuring accuracy, consistency, uniformity, and clarity in the BIA's guidance and interpretation of relevant law and regulation. The current process better provides for the consistency of BIA case law. *See Matter of Burbano,* 20 I&N Dec. 872, 873–74 (BIA 1994). Apart from this decision regarding publication by majority vote, this final rule adopts, with changes, the regulatory amendments set forth in the proposed rule.

Finally, the Department is including a related revision to the regulations to clarify the intent to provide for the issuance of precedent decisions in the context of the recognition and accreditation program.

A. The Form of a Board Decision

The 2008 proposed rule discussed the Department's interpretation of the BIA's regulatory structure regarding the BIA's decision to issue an AWO or a single-member or three-member decision. 73 FR at 34656–57. The purpose of thats discussion was to clarify that institutional concerns, which are uniquely within the BIA's expertise, may factor into the assessment of what form of decision to issue. The Department presented that discussion in regards to both the proposal to allow BIA members to exercise discretion in determining whether to issue an AWO, 73 FR at 34656, and the proposal to clarify that the regulations do not create any substantive or procedural right to a particular form of BIA decision, 73 FR at 34657.

Commenters raised several objections to the discussion in both contexts. With regard to the BIA's discretion, the proposed rule stated that:

> In determining whether to exercise its discretion to issue an AWO or a single-member opinion, the Board may consider available resources to balance the need to complete cases efficiently while evaluating whether there is a need to provide further guidance to the immigration judge, the parties, and the federal courts through a written decision addressing the issues in a case.

73 FR at 34356. The commenters who raised issues concerning this statement argued that the BIA's caseload and resources should have no bearing on what form of decision the BIA uses or whether to resolve an appeal by an AWO or other type of decision. One commenter suggested that if caseload and resources are considerations, a BIA member might use the streamlining process to ''deny an immigrant's claim, rather than grant relief, on the grounds that the Board member reviewing the case simply lacked the time or inclination to spend his or her resources writing a reasoned, public opinion for that particular case.''

The BIA employs a staff of attorneys, paralegals, and support personnel that prepares the cases and draft decisions for BIA member review. In particular, under the BIA's case-processing system, a staff attorney reviews a case and recommends issuance of a decision as an AWO, a single-member decision, or a three-member decision. A BIA member then decides what form of decision to issue after an independent review of the record of proceedings and consideration of the nature of the case, the issues and arguments presented by the parties in support of the appeal or motion, and prior agency decisions. The BIA member also assesses whether the regulatory criteria set forth in 8 CFR 1003.1(e)(4)(i), (e)(5), or (e)(6) require the issuance of an AWO decision, warrant a single-member decision, or warrant referral to a three-member panel for decision. Thus, a BIA member—in contrast to the commenter's suggestion—does not decide whether to issue an AWO based on whether he ''lack[s] the time or inclination to spend his or her resources writing a reasoned, public opinion for that particular case.''

The Department seeks to clarify that the use of an AWO does not reflect an abbreviated review of a case, but rather reflects the use of an abbreviated order to describe that review where the regulatory requirements of 8 CFR 1003.1(e)(4)(i) are met. The Department also seeks to clarify that a case before the BIA undergoes tiers of staff screening and review with a BIA member who ultimately determines what form of decision to use. Accordingly, the Department is satisfied that each case has undergone thorough and complete review before a determination of whether an AWO is required. This final rule retains an AWO as a mandatory form of decision to be issued in appropriate situations.

Taking into account caseload and resources in deciding what form of decision the BIA chooses to issue is not new. In 1999, Attorney General Janet Reno linked resource and caseload concerns to the form of the BIA's dispositions when she created the first AWO and single-member reforms and observed that three-member written opinions are time consuming, require significant resources, and should be used selectively. *See* 64 FR at 56136–38; *see also Matter of Burbano,* 20 I&N Dec. at 874 (recognizing that ''summary treatment of a case does not mean that we have conducted an abbreviated review of the record or have failed to exercise our own discretion''). The BIA in 1998 received in excess of 28,000 new cases, and concerns about resource management have grown only more pronounced in the intervening years; in fiscal year 2018, for example, the BIA received more than 49,000 new cases.

Attorney General Reno also explained that, ''[e]ven in routine cases,'' the ''process of screening, assigning, tracking, drafting, revising, and circulating cases is extremely time consuming.'' 64 FR at 56137. In addition, she explained that ''disagreements concerning the rationale or style of a draft decision can require significant time to resolve.'' *Id.* Attorney General Reno concluded that the BIA should use more streamlined forms of dispositions and become selective in using three-member decisions. *Id.* The Department further stated in the 1999 rule that using streamlined forms of decisions would ''allow the Board to manage its caseload in a more timely manner'' and ''maintain a viable appellate organization that handles an extraordinarily large caseload.'' 64 FR at 56138. Similarly, in 2002, Attorney General John Ashcroft cited caseload and resource considerations as the justification for expanding the streamlining procedures to promote the issuance of AWOs and to normalize single-member decisions. *See* 67 FR at 54879. Although former Attorney General Reno's statements in the proposed rule about caseload considerations, internal resources, and layers of review pertained primarily to issuing single-member decisions instead of three-member decisions, these considerations are also relevant when a single BIA member assesses whether an AWO would most efficiently use the BIA's limited resources in resolving an appeal.

The 2008 proposed rule expressed concern that some courts have construed the regulations to permit judicial review of the BIA's decision about what form of opinion to issue, independently of the merits of the final agency position, and that this ''additional layer of review in some circuits is not consistent with the [2002] rule's goal of promoting efficiency and finality in the immigration system.'' 73 FR at 34657. The proposed rule sought to address this concern by clarifying that regulations providing for an AWO, a single-member opinion, or a three-member panel opinion were intended to reflect an internal agency directive created for the purpose of efficient case management and disposition of cases pending before the BIA, and were not to be interpreted to create any substantive or procedural rights enforceable before any immigration judge, the BIA, or any court. Several commenters raised issues concerning this proposed amendment.

The commenters wrote that the agency may not eliminate an alien's ''right'' to review of a BIA member's judgment to issue an AWO or other form of BIA decision. The courts of appeals that have reviewed challenges to the streamlining process have uniformly concluded, however, that respondents have no constitutional or statutory right to a particular form or manner of a BIA decision. *See Zhang* v. *U.S. Dept. of Justice,* 362 F.3d 155, 157–58 (2d Cir. 2004); *Yuk* v. *Ashcroft,* 355 F.3d 1222, 1229–32 (10th Cir. 2004); *Dia* v. *Ashcroft,* 353 F.3d 228, 242 (3d Cir. 2003) (*en banc*); *Denko* v. *INS,* 351 F.3d 717, 729–30 (6th Cir. 2003); *Falcon Carriche* v. *Ashcroft,* 350 F.3d 845, 850–51 (9th Cir. 2003); *Khattak* v. *Ashcroft,* 332 F.3d 250, 252–53 (4th Cir. 2003); *Georgis* v. *Ashcroft,* 328 F.3d 962, 967 (7th Cir. 2003); *Mendoza* v. *U.S. Att'y Gen.,* 327 F.3d 1283, 1288–89 (11th Cir. 2003); *Albathani* v. *INS,* 318 F.3d 365, 376–77 (1st Cir. 2003). Thus, the Department is not eliminating an existing substantive right, but is simply clarifying the original intent underlying the streamlining regulation that the form of the BIA's decision should not be reviewable.

Indeed, the 2002 final rulemaking explained that there is no statutory right or law requiring a particular form of decision or method of review before the BIA. 67 FR at 54883, 54888–90. Because the BIA is established under the Attorney General's regulations, he ''is free to tailor the scope and procedures of administrative review of immigration matters as a matter of discretion.'' 67 FR at 54882 (citing, *e.g., Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 524–25 (1978)). The 2002 final rulemaking also quoted the Supreme Court's admonition against review of certain agency matters, stating that '' 'administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.' '' *Id.* (quoting *Vermont Yankee,* 435 U.S. at 524–25 (quoting *FCC* v. *Pottsville Broad. Co.,* 309 U.S. 134, 143 (1940))).

Commenters also suggested that an independent review of the judgment of a single BIA member to issue an AWO is necessary to ensure the adequacy of the BIA's review. One commenter claimed that ''the AWO formula . . . affirms the result reached by the Immigration Judge but expressly eschews reliance on the Immigration Judge's reasoning and affords no information concerning the BIA's reasoning in affirming the decision.'' However, the immigration judge's decision becomes the final agency decision for the court's review and provides reasons for the decision that can themselves be reviewed. The 2002 final rulemaking explained that ''[t]he immigration judge's order provides the rationale'' for an AWO, and ''[t]he Department does not believe there is any basis for believing that providing a regurgitation of the same facts and legal reasoning . . . will be beneficial to the respondent or the reviewing courts in most cases.'' 67 FR at 54885–86. The 2002 final rule expressly designated the immigration judge's decision as the one to be reviewed, required standard language to that effect in each AWO, and prohibited the BIA from adding any explanation or reasoning. *See* 8 CFR 1003.1(e)(4)(ii). This prohibition pertains to a single member's reasons for affirming the immigration judge's decision. Thus, the language of the AWO itself states, ''The Board affirms, without opinion, the result of the decision below. *The decision below is, therefore, the final agency determination.*'' *Id.* (emphasis added).

Moreover, as several courts have already recognized, the BIA's judgment to issue an AWO is similar to the practices of several courts of appeals to issue a summary disposition, as a matter of judicial efficiency, in cases that are viewed as not raising novel or complex issues, or whose issues were adequately addressed by the lower court. *See, e.g., Ngure* v. *Ashcroft,* 367 F.3d 975, 984–85 (8th Cir. 2004); *Blanco de Belbruno* v. *Ashcroft,* 362 F.3d 272, 281–82 (4th Cir. 2004); *Dia,* 353 F.3d at 240 n.7; *Soadje* v. *Ashcroft,* 324 F.3d 830, 832 (5th Cir.

2003); *see also* 8th Cir. R. 47B (allowing the use of an AWO if an opinion would have no precedential value and (1) fact-findings are not clearly erroneous, (2) the evidence in support of a jury verdict is not insufficient, (3) the relevant administrative order is supported by substantial evidence on the record as a whole, or (4) no error of law appears); 3d Cir. Internal Operating Procedures 10.6 (after affording parties opportunity to submit argument regarding summary action, ''the court . . . may take summary action . . . if it clearly appears that no substantial question is presented or that subsequent precedent or a change in circumstances warrants such action''); 4th Cir. R. 36.3 (allowing the use of summary affirmance, following oral argument, where all judges on a panel agree that ''a case would have no precedential value, and that summary disposition is otherwise appropriate''). It has never been thought that the Supreme Court would review the propriety of a court's decision to use one of these summary dispositions, as opposed to the merits of the underlying decision, or that these sorts of summary dispositions are improper. *See Ngure,* 367 F.3d at 985.

Commenters also argued that the decision to dispose of an appeal by AWO should be reviewable as a means of resolving the ''jurisdictional conundrum'' that arises when a court is unable to determine, by virtue of the AWO, the extent to which the agency's decision rests upon grounds that it may review. This objection is invalid for several reasons.

As a preliminary matter, should a court be unable to ascertain if it has jurisdiction, the court may remand under traditional principles to the agency for clarification, without reviewing the decision to issue an AWO. *See SEC* v. *Chenery Corp.,* 318 U.S. 80 (1943); *see also Zhu* v. *Ashcroft,* 382 F.3d 521 (5th Cir. 2004) (finding flawed analysis of merits of asylum claim and remanding for clarification of whether the BIA agreed with the immigration judge's determination that the asylum application was untimely). If there have been new developments between the time of the immigration judge's decision and the BIA's AWO, and if the court is unable to determine the agency's decision on a question reserved for appeal, the court also has authority under *Ventura* principles to remand for an agency decision, again, without resorting to independent review of the decision to issue an AWO. *See INS* v. *Ventura,* 537 U.S. 12, 16–18 (2002) (per curiam); *Haoud v Ashcroft,* 350 F.3d 201, 208–09 (1st Cir. 2003) (remanding for an agency decision in the first instance where there were intervening developments after the immigration judge's decision not addressed by his decision). Additionally, when it is possible to conclude that one reviewable ground of the agency's decision is valid and suffices as a basis for the immigration judge's decision, the jurisdictional conundrum simply falls away. *See, e.g., Garcia-Melendez* v. *Ashcroft,* 351 F.3d 657, 661–62 (5th Cir. 2003) (finding that respondent applying for cancellation of removal had not established ten years' continuous physical presence in the United States and denying the petition on that basis); *cf. Dia,* 353 F.3d at 272–73 (Stapleton, J., dissenting) (noting that the court may remand for further explanation if the court, upon examination of the record, is unable to sustain the decision on the grounds stated by the immigration judge and is unable to determine the agency's reasoning on a particular point).

Commenters also objected that the Department's intent regarding the nature and purpose of its regulations is immaterial to whether a court may independently review the BIA's decision to issue an AWO. Settled case law, however, restricts judicial review of an agency's compliance with procedural rules in instances in which the rule in question is designed primarily to benefit the agency carrying out its functions, rather than ''to confer important procedural benefits upon individuals in the face of otherwise unfettered discretion.'' *Am. Farm Lines* v. *Black Ball Freight Serv.,* 397 U.S. 532, 538–39 (1970). Agencies possess authority to create internal rules to govern their management and performance of their duties that are not intended to also create judicially enforceable rights. *See, e.g., Sandin* v. *Conner,* 515 U.S. 472, 481–83 (1995) (recognizing that regulations governing the adjudication of inmate disciplinary charges may be designed primarily to guide correctional officials in administering a prison, and not to create judicially enforceable rights in inmates). Under such circumstances, the agency's compliance with its processes is traditionally not subject to review because the decision whether to follow those processes is committed to agency discretion by law. *See Heckler* v. *Chaney,* 470 U.S. 821, 826, 836 (1985) (FDA policy statement that agency is ''obligated'' to investigate unapproved uses of an approved drug when such use became ''widespread'' or ''endanger[ed] the public health'' did not create procedural right to insist on investigation of state's use of drugs in executing condemned prisoners).

The foregoing discussion and the relevant text in the final regulation seek to set forth the Department's position as it has existed since the establishment of the streamlining process and to clarify that the rules governing § 1003.1(e)(4) through (6) are internal agency rules designed to assist the BIA in efficiently managing its caseload and carrying out its duties. The 2002 rule was successful in creating procedures that increased efficiency and promoted finality in immigration cases. The rule was not intended to create an additional layer of judicial review or a substantive right to review the form of the BIA's decision. The efficient and fair adjudication of immigration appeals remains a priority of the Department. This revision to the regulations in no way reflects a diminished commitment to timely and fair adjudications at the administrative appeal level.

Accordingly, this final rule does not adopt the changes to 8 CFR 1003.1(e)(4) related to the AWO process in the proposed rule and retains the language noting that the decision to issue an AWO remains mandatory in appropriate circumstances. It also clarifies that a decision to issue any particular form of decision is a decision based on an internal agency rule or directive created for the purpose of efficient case management that does not create any substantive or procedural rights.

B. Scope of BIA's Dispositions on Appeal

The 2008 proposed rule sought to provide regulatory authority for the Department's longstanding position regarding the scope of a BIA decision regardless of the form of the decision. First, the proposed regulatory text provided that ''[a] decision by the Board . . . carries the presumption that the Board properly and thoroughly considered all issues, arguments, claims and record evidence raised or presented by the parties, whether or not specifically mentioned in the decision.'' 73 FR at 34663. The purpose of the proposed rule was to clarify that ''the Board need not specifically address every issue raised on appeal, but is presumed to have considered all properly raised issues on appeal in reaching its decision, even if that decision is an AWO or short order that does not specifically discuss every issue the parties may have raised on appeal.'' 73 FR at 34658 (citing, *e.g., Toussaint* v. *Att'y Gen.,* 455 F.3d 409 (3d. Cir. 2006)).

Second, the rule proposed that the BIA's decision, whether in the form of an AWO, a single-member decision, or a three-member panel decision, is based on issues and claims of error that the parties raised on appeal and is not to be construed as waiving a party's obligation to exhaust issues and claims before the BIA. 73 FR at 34663. The proposed rule sought to clarify the parties' obligations to identify issues, arguments, and claims of error on appeal in a meaningful manner and with sufficient precision, even in instances where the BIA, in its discretion, *sua sponte* considers issues not raised on appeal. 73 FR at 34658. Third, the rule proposed to make clear that ''the Board may address an issue that was not raised on appeal *sua sponte.*'' *Id.*

One commenter objected to the stated formalization of a presumption that the BIA properly and thoroughly adjudicates appeals before it, contending that the proposed rule would impede judicial review of BIA decisions and, in effect, would supersede the Department's commitment to provide a reasoned agency decision adequate for judicial review. The Department rejects this argument. The proposed presumption is simply a particularized statement of the well-settled presumption of regularity that attaches to agency processes. *See, e.g., INS* v. *Miranda,* 459 U.S. 14, 18 (1982) (presumption of regularity applied to agency adjudication of application for lawful permanent resident status). Board Members, like other government officials, ''d[o] their jobs fairly, conscientiously and thoroughly.'' *Angov* v. *Lynch,* 788 F.3d 893, 905 (9th Cir. 2015) (applying the presumption of regularity to a Department of State letter reflecting the overseas investigation of an asylum claim). Moreover, the proposed rule does not supersede other regulations that govern BIA adjudications and is not intended to impede judicial review or supersede pertinent circuit precedent. *See* 8 CFR 1003.1; *Matter of Olivares-Martinez,* 23 I&N Dec. 148 (BIA 2001); *Matter of Anselmo,* 20 I&N Dec. 25 (BIA 1989).

With regard to exhaustion, the commenter objected to the proposed rule on the grounds that it is an improper attempt to regulate the jurisdiction of the courts of appeals and that use of the term ''meaningful manner'' creates a more demanding standard than the prevailing standards reflected in judicial opinions. In light of the comment, and upon further consideration, the Department believes that revisions are warranted to clarify the intent of the proposed rule.

As initially proposed in 2008, the rule provided that a BIA decision ''is not to be construed as waiving a party's obligation to exhaust administrative remedies by raising in a meaningful manner all issues and claims of error in the first instance on appeal to the Board.'' 73 FR at 34663. In adjudicating appeals, the BIA follows the party presentation rule. *See, e.g., Matter of M–A–S–,* 24 I&N Dec. 762, 767 n.2 (BIA 2009) (noting that DHS did not advance any argument on appeal about additional conditions on the immigration judge's voluntary departure order) (citing *Greenlaw* v. *United States,* 554 U.S. 237 (2008)). Under this rule, it is the responsibility of each party to advance its arguments on appeal to the BIA because adversarial proceedings ''rely on the parties to frame the issues for decision and assign to [the adjudicator] the role of neutral arbiter of matters the parties present.'' *Greenlaw,* 554 U.S. at 243. This principle applies throughout ''our adversary system, in both civil and criminal cases, in the first instance and on appeal.'' *Id.; see also Honcharov* v. *Barr,* No. 15–71554, 2019 U.S. App. LEXIS 15804, at *5–6 (9th Cir. May 29, 2019) (explaining that ''[w]aiver and forfeiture are . . . important tools for preserving the structure of hierarchical court systems,'' and that these principles likewise ''hold in the context of removal proceedings in the [EOIR]''). The proposed rule sought to reaffirm the obligation of the parties to raise any and all issues and claims before the BIA. *See* 8 CFR 1003.3(b), 1003.2(b); *see also* 8 CFR 1003.2(c) (requiring the parties moving to reopen proceedings to identify and specify findings and errors and state new facts to be proved). Indeed, when a party fails to specify the reasons for appeal, the BIA may summarily dismiss it without further consideration of the underlying merits of the case. 8 CFR 1003.1(d)(2)(i)(A). The requirement that the parties allege errors, issues, arguments, or claims with particularity aids the Board in adjudicating the cases before it. Thus, as is its practice, the BIA may decide an appeal or motion based on a party's failure to raise an alleged error, issue, argument, or claim before the BIA, the immigration court, or DHS immigration officer, if such error, issue, argument, or claim existed at the time of adjudication of the appealed matter. *See, e.g., Honcharov,* 2019 U.S. App. LEXIS 15804, at *6–7 (joining ''every other circuit to have addressed the issue'' in concluding that ''the Board may apply a procedural default rule to arguments raised for the first time on appeal'').

The Department seeks to clarify that the ''obligation to exhaust,'' as set forth in the proposed rule, is a separate and distinct matter from the doctrine of ''exhaustion of administrative remedies,'' as set forth in section 242(d)(1) of the Immigration and Naturalization Act (the Act), which refers to the jurisdictional limits of a federal court's review of an issue.[4] *See id.* at *5 n.2 (explaining that ''[w]aiver and forfeiture in this context are related to, but distinct from, the doctrine[ ] of exhaustion''). Nonetheless, for purposes of clarification, the Department has removed the reference to exhaustion of administrative remedies in this final rule. The Department also has removed the ''meaningful manner'' language because it is not the Department's intention to establish a novel ''meaningful manner'' standard for presenting claims before the BIA. Instead, the rule seeks to simply reaffirm the need of the parties to raise any and all issues to the BIA on appeal. The rule further clarifies that the BIA, in the exercise of its discretion, may rule on an issue not raised by the parties on appeal if the issue was addressed in the underlying decision. However, this rule is not intended to alter the BIA's practice of not considering evidence proffered for the first time on appeal. *See, e.g., Matter of Soriano,* 19 I&N Dec. 764, 766 (BIA 1988). Finally, the Department has determined that, given the content of this aspect of the rule, this provision is more appropriately included in a new paragraph at § 1003.1(e)(9), rather than paragraph (e)(4), as previously proposed.

Accordingly, this final rule, in new § 1003.1(e)(9), states that a decision by the Board under paragraph (e)(4), (5), or (6) of that section carries the presumption that ''the Board properly and thoroughly considered all issues, arguments, and claims raised or presented by the parties on appeal or in a motion that were deemed appropriate to the disposition of the appeal or motion, whether or not specifically mentioned in the decision.'' A decision also carries the presumption that the

[4] Language in some decisions of the courts of appeals suggests that the BIA can waive the application of the exhaustion of remedies requirement set forth in section 242(d)(1) of the Act. However, that language, properly read, refers to the BIA's authority to consider an issue that was not presented, specified, or identified by the parties where the Board determines it is ''administratively-ripe to warrant its appellate review,'' as distinguished from the separate question of whether an issue has been preserved for appellate review in the courts of appeals. *Sidabutar* v. *Gonzales,* 503 F.3d 1116, 1119–22 (10th Cir. 2007); *see also Bin Lin* v. *Att'y Gen.,* 543 F.3d 114, 122–26 (3d Cir. 2008); *Pasha* v. *Gonzales,* 433 F.3d 530, 532–33 (7th Cir. 2005); *Hassan* v. *Gonzales,* 403 F.3d 429, 432–33 (6th Cir. 2005); *Johnson* v. *Ashcroft,* 378 F.3d 164, 170 (2d Cir. 2004).

BIA did not need to consider any issue, argument, or claim not raised or presented by the parties on appeal or in the motion.

In addition to the issues discussed above, one commenter contended that the provision authorizing the BIA to consider issues *sua sponte* authorizes violations of the BIA's review standards and permits the BIA to engage in fact-finding in violation of regulatory or court rules. The commenter argued that allowing the BIA to consider issues *sua sponte* would ''empower the BIA to provide the reasoning missing from an Immigration Judge's opinion so long as the issue was somehow presented before the Immigration Judge.''

The commenter misunderstands the purpose of the rule. This rule is not intended to undermine the fact-finding authority or to supplement the fact-finding of the immigration judge. Rather, this rule is intended to allow the BIA to resolve issues, when necessary or appropriate, to ensure proper and thorough review of the appeal or motion before it, to provide guidance on the interpretation of the immigration laws and regulations, or to address recurring legal, procedural, and factual issues. Lastly, this provision permits the BIA to address the conduct of immigration judges when appropriate and where such issues were not raised by the parties.

Thus, the BIA must have the tools and flexibility to properly adjudicate the appeals and motions before it. The Department agrees with the commenter that there should be a vehicle by which parties, in appropriate cases, may be provided an opportunity to address dispositive issues the BIA wishes to consider *sua sponte* before the BIA renders a decision. For this reason, the final rule permits the BIA to set a supplementary briefing schedule where it chooses to consider an issue not raised by the parties in its discretion by stating, in § 1003.1(e)(9), that in any decision under paragraph (e)(5) or (6) of that section, ''the Board may rule, in the exercise of its discretion as provided under this part, on any issue, argument, or claim not raised by the parties, and the Board may solicit supplemental briefing from the parties on the issue(s) to be considered before rendering a decision.''

C. Three-Member Panel Decisions

The 2008 proposed rule sought to improve the BIA's review of complex and problematic cases by expanding the criteria for three-member decisions under 8 CFR 1003.1(e)(6). The public comments that addressed this provision supported the decision to expand the criteria.

The proposed rule added a seventh criterion that would have allowed a BIA member, in the exercise of discretion, to refer a case to a three-member panel when the case presents a ''complex, novel, or unusual issue of law or fact.'' *See* 73 FR at 34663. Upon further consideration, the Department is revising this criterion to state that a BIA member may refer a case for three-member review ''to resolve a complex, novel, unusual, or *recurring* issue of law or fact.'' (Emphasis added.) Addition of the word ''recurring'' recognizes that the BIA is in the best position to identify issues that are recurring nationwide. Such issues may not result in inconsistent decisions among immigrations judges or rise to the level of ''major national import,'' *see* 8 CFR 1003.1(e)(6)(i), (iv), yet immigration judges, attorneys, respondents, and the federal courts still might benefit from guidance from the BIA on how to address such recurring issues. Allowing for referral to a three-member panel will result in enhanced review and analysis and perhaps publication of a precedent decision to provide nationwide guidance, if necessary.

Accordingly, the final rule adopts the proposal to expand the criteria to allow for referral to a three-member panel. This final rule amends 8 CFR 1003.1(e)(6) by adding a new paragraph (vii) to allow assignment to a three-member panel for review when there is a '' need to resolve a complex, novel, unusual, or recurring issue of law or fact.''

D. Publication of Precedent Decisions

One comment, which was endorsed by another commenter, expressed concern with the proposal to authorize a vote by three-member panels on whether to issue precedent decisions. The comment stated that the proposal is unnecessary, ripe for possible misuse, and lacking in adequate oversight and guarantees of uniformity. The comment stated that it would be a mistake to allow two permanent members of the BIA to issue a precedent decision without first obtaining approval of a majority of permanent BIA members. The comment reasoned that the proposed regulation allows only for notice to other members of the BIA; that there is nothing in the supplemental information to indicate that the existing system is burdensome or unworkable; and that the change will result in increased numbers of precedent decisions. The comment concluded that the BIA is currently issuing an adequate number of decisions and that the courts are demonstrating appropriate deference to the BIA. In general, the Department agrees with these comments and has decided not to adopt the proposal to allow the BIA to issue precedent decisions by majority vote of permanent members of a three-member panel.

Although the number of BIA precedent decisions has varied from year to year, the Board has averaged nearly 29 precedent decisions each year over the last 14 years, and it has issued fewer than 23 precedent decisions only once, in 2005, when it issued 11. Consequently, it does not appear that the Board's current process for precedent decisions is unworkable or has inhibited it from providing necessary guidance through published decisions. In short, the Department has determined that the process currently in place for BIA's designation and publication of precedent decisions is appropriate and adequate.

Under this process, the BIA will continue to publish its precedent decisions as three-member panel decisions through the process of a majority vote of permanent members of the BIA and not, as initially proposed, by majority vote of the permanent BIA members assigned to a three-member panel. Adopting the proposed change would be counterproductive and inefficient, creating a greater likelihood of inconsistency among BIA member panels involving similar cases and issues that could be potentially selected for publication. Such potential for greater inconsistency and lack of uniformity among the panel decisions selected for publication would be further amplified by a recent regulation increasing the size of the BIA from 17 to 21 members. *See Expanding the Size of the Board of Immigration Appeals,* 83 FR 8321 (Feb. 27, 2018). Moreover, the mechanism for resolving this issue, considering a case *en banc,* does not substantively differ from the current procedure in which Board members vote *en banc* to publish a decision as precedent. Thus, the proposed change would simply add an additional level of process in order to ultimately achieve a similar result as the current process.

The BIA, as an appellate body and the highest administrative tribunal interpreting immigration law, is charged with, *inter alia,* providing clear and uniform guidance across the country in applying and interpreting immigration law. Ensuring that only the majority of permanent BIA members vote on and select cases to serve as precedent will continue to provide an invaluable safeguard against unnecessary and potentially conflicting outcomes in cases under the BIA's review. Moreover, the participation of all BIA members in the precedent decision selection and voting process is essential to the efficient and collaborative function of the BIA. This final rule therefore does not adopt the proposal to allow the BIA to issue precedent decisions by majority vote of permanent members of three-member panels.

The Department did not receive any comments on the criteria for publication, in § 1003.1(g)(3)(i) through (vi) of the proposed rule, and adopts this provision with only one change. In addition to the standard in the proposed rule for a decision that ''modifies or clarifies a rule of law or prior precedent,'' the final rule also includes a reference to a decision that ''distinguishes'' a rule of law or prior precedent. This standard will allow the BIA to not only consider whether publication of a decision that ''modifies, clarifies, or distinguishes'' a rule of law or prior precedent is necessary to maintain consistency and uniformity, but also to consider whether a choice not to publish a decision that could potentially be seen as clarifying or distinguishing a prior precedent may result in a lack of clear guidance to immigration judges and parties as to the proper course to follow in other cases because an unpublished decision by the BIA is not binding in other cases.

As discussed above, the Attorney General expects that the BIA will continue to exercise its authority to issue precedent decisions as widely as is practicable to promote the consistency and uniformity of adjudications and to provide authoritative nationwide guidance to the immigration judges, the government, the respondents in immigration proceedings, petitioners for certain alien relatives, members of the immigration bar, and the federal courts with respect to the interpretation of ambiguous provisions of the immigration statutes and regulations and recurring legal, procedural, and factual issues arising in the adjudication of cases before the immigration judges, the U.S. Citizenship and Immigration Services, and the BIA.

E. Review of Decisions Involving Recognition and Accreditation

Although the regulations transferring responsibility for the recognition and accreditation program clarified the new designation of officials responsible for issuing decisions in those cases,[5] the prior regulatory changes did not address the precedential nature of any such decisions going forward, leaving EOIR without any specified authority to continue to issue precedent decisions to provide guidance in these cases. This oversight was unintentional, and EOIR continues to maintain that precedential guidance in recognition and accreditation cases is important, especially now that the BIA no longer issues the decisions in those cases. *See* 8 CFR 1292.18. The revisions to this part are matters relating to agency management or personnel and impose no burdens on the public. Further, although the Attorney General maintains plenary authority over immigration matters handled by EOIR, the transfer of oversight responsibility for the recognition and accreditation program from the BIA to OLAP did not include a specific mechanism for the referral of recognition and accreditation cases for review by the Attorney General.

For these reasons, the final rule corrects an oversight regarding precedent decisions involving EOIR's recognition and accreditation program. This correction, which is a logical outgrowth of the broader review of the BIA's use of precedent in the 2008 proposed rulemaking, allows for the continued publication of precedent decisions pertaining to recognition and accreditation, even though those decisions are no longer issued by the BIA. The final rule also corrects a related oversight by reestablishing an explicit mechanism for decisions involving recognition and accreditation to be referred to the Attorney General now that they are no longer adjudicated by the BIA.

IV. Regulatory Requirements

A. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small businesses or small governmental entities. This rule is related to agency organization and management of cases pending before the immigration judges and the Board. Accordingly, the preparation of a Regulatory Flexibility Analysis is not required.

B. Unfunded Mandates Reform Act of 1995

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

C. Congressional Review Act of 1996

This rule is not a major rule as defined by section 251 of the Congressional Review Act, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

D. Executive Orders 12866, 13563, and 13771 (Regulatory Review)

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of using the best available methods to quantify costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and, for all qualifying regulations, to identify at least two existing regulations for elimination.

This rule has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Although the notice of proposed rulemaking in 2008 proposed changes to the AWO process, the final regulation does not adopt those changes and does not actually change any part of the AWO process nor amend the portions of 8 CFR 1003.1(e)(4) relating to AWOs. Consequently, there is no expected increase in the use of AWOs due to the final regulation.

Although the use of AWOs is not expected to increase as a result of the final regulation, the Department acknowledges that the final rule may nonetheless raise novel legal or policy issues. The Department thus considers

[5] The OLAP Director adjudicates initial applications for recognition or accreditation, adjudicates requests for renewal of recognition or accreditation, and makes determinations on administrative termination of recognition or accreditation; he also adjudicates requests for reconsideration of any of these decisions. 8 CFR 1292.13, 1292.16, 1292.17. The EOIR Director adjudicates requests to review the reconsideration decisions of the OLAP Director. 8 CFR 1292.18.

the rule to be a ''significant regulatory action'' under section 3(f)(4) of Executive Order 12866, and the regulation has accordingly been submitted to the Office of Management and Budget for review.

Finally, this rule is exempt from the requirements of Executive Order 13771 because this rule concerns regulations related to agency organization, management, or personnel. The final rule is an internal rule of procedure that relates to the management of immigration cases on appeal. It does not alter any substantive rights, and it conforms to existing directives on the efficient management and disposition of cases. Accordingly, it does not impose any additional costs on the processing of cases on appeal.

E. Executive Order 13132 (Federalism)

This rule 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule has been prepared in accordance with the standards in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

This rule is exempt from the requirements of the Paperwork Reduction Act because it does not create any information collection requirements.

List of Subjects

8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

8 CFR Part 1292

Administrative practice and procedure, Immigration, Lawyers, Referrals, Precedent decisions.

Accordingly, for the reasons set forth in the preamble, 8 CFR parts 1003 and 1292 are amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 2. Section 1003.1 is amended:

■ a. In paragraph (e)(6)(iii), by removing ''the Service'' and adding in its place ''DHS'';

■ b. In paragraph (e)(6)(v), by removing ''or'';

■ c. In paragraph (e)(6)(vi), by removing ''the Service'' and adding in its place ''DHS'' and by removing the period at the end and adding in its place ''; or'';

■ d. By adding paragraphs (e)(6)(vii) and (e)(9); and

■ e. By revising paragraph (g).

The additions and revision read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

* * * * *

(e) * * *

(6) * * *

(vii) The need to resolve a complex, novel, unusual, or recurring issue of law or fact.

* * * * *

(9) The provisions of paragraphs (e)(4)(i) and (e)(5) and (6) of this section are internal agency directives for the purpose of efficient management and disposition of cases pending before the Board and are not intended to create any substantive or procedural rights to a particular form of Board decision. A decision by the Board under paragraph (e)(4), (5), or (6) of this section carries the presumption that the Board properly and thoroughly considered all issues, arguments, and claims raised or presented by the parties on appeal or in a motion that were deemed appropriate to the disposition of the appeal or motion, whether or not specifically mentioned in the decision. A decision by the Board under paragraph (e)(4), (5), or (6) also carries the presumption that the Board did not need to consider any issue, argument, or claim not raised or presented by the parties on appeal or in a motion to the Board. In any decision under paragraph (e)(5) or (6) of this section, the Board may rule, in the exercise of its discretion as provided under this part, on any issue, argument, or claim not raised by the parties, and the Board may solicit supplemental briefing from the parties on the issues to be considered before rendering a decision.

* * * * *

(g) *Decisions as precedents*—(1) *In general.* Except as Board decisions may be modified or overruled by the Board or the Attorney General, decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.

(2) *Precedent decisions.* Selected decisions designated by the Board, decisions of the Attorney General, and decisions of the Secretary of Homeland Security as provided in paragraph (h)(2)(i) of this section will be published and serve as precedents in all proceedings involving the same issue or issues.

(3) *Designation of precedents.* By majority vote of the permanent Board members, or as directed by the Attorney General or his designee, selected decisions of the Board issued by a three-member panel or by the Board *en banc* may be designated to be published and to serve as precedents in all proceedings involving the same issue or issues. In determining whether to publish a precedent decision, the Board may take into account relevant considerations, in the exercise of discretion, including among other matters:

(i) Whether the case involves a substantial issue of first impression;

(ii) Whether the case involves a legal, factual, procedural, or discretionary issue that can be expected to arise frequently in immigration cases;

(iii) Whether the issuance of a precedent decision is needed because the decision announces a new rule of law, or modifies, clarifies, or distinguishes a rule of law or prior precedent;

(iv) Whether the case involves a conflict in decisions by immigration judges, the Board, or the federal courts;

(v) Whether there is a need to achieve, maintain, or restore national uniformity of interpretation of issues under the immigration laws or regulations; and

(vi) Whether the case warrants publication in light of other factors that give it general public interest.

* * * * *

PART 1292—REPRESENTATION AND APPEARANCES

■ 3. The authority citation for part 1292 continues to read as fol1ows:

Authority: 8 U.S.C. 1103, 1362.

■ 4. In § 1292.18, add paragraphs (c) and (d) to read as follows:

§ 1292.18 Administrative review of denied requests for reconsideration.

* * * * *

(c) *Referral of cases to the Attorney General.* The Director will refer to the Attorney General for review of decisions pursuant to this section in all cases that the Attorney General directs the Director to refer to him or that the Director believes should be referred to him.

(d) *Decisions as precedents.* The Director, in his discretion, may cause reconsideration decisions by the OLAP Director pursuant to § 1292.13(e), § 1292.16(f), or § 1292.17(d), or decisions by the Director pursuant to this section to be published as precedents in the same manner as decisions of the Board and the Attorney General. Such decisions by the OLAP Director, except as overruled by the Director, and such decisions by the Director, except as overruled by the Attorney General, will serve as precedents in all proceedings under part 1292 involving the same issue or issues.

Dated: June 25, 2019.

William P. Barr,

Attorney General.

[FR Doc. 2019–13933 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10 and 800

[Docket No. FDA–2016–N–2378]

RIN 0910–AH37

Internal Agency Review of Decisions; Requests for Supervisory Review of Certain Decisions Made by the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing a final rule to amend its regulations regarding internal agency supervisory review of certain decisions related to devices regulated by the Center for Devices and Radiological Health (CDRH or the Center) under the Federal Food, Drug, and Cosmetic Act (FD&C Act) to conform to the applicable provisions in the FD&C Act, as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA) and the 21st Century Cures Act (Cures Act). This final rule codifies the procedures and timeframes for supervisory review of significant decisions pertaining to devices within CDRH. FDA is also finalizing regulations to provide new procedural requirements for requesting internal agency supervisory review within CDRH of other types of decisions made by CDRH not addressed in FDASIA and the Cures Act. This action is also part of FDA's implementation of Executive Orders (EOs) 13771 and 13777. Under these EOs, FDA is comprehensively reviewing existing regulations to identify opportunities for repeal, replacement, or modification that will result in meaningful burden reduction, while allowing the Agency to achieve its public health mission and fulfill statutory obligations.

DATES: This rule is effective August 1, 2019.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: *With regard to the final rule:* Adaeze Teme, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5574, Silver Spring, MD 20993–0002, 240–402–0768; or the Ombudsman for the Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4282, Silver Spring, MD 20993–0002, 301–796–5669, or *CDRHOmbudsman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Final Rule

FDA is issuing this final rule to implement regulations on the procedures regarding internal agency supervisory review of certain decisions made by CDRH under the FD&C Act. Section 603 of FDASIA (Pub. L. 112–144) added new section 517A to the FD&C Act (21 U.S.C. 360g–1), which was amended by sections 3051 and 3058 of the Cures Act (Pub. L. 114–255). These provisions established procedures and timeframes for supervisory review under Title 21 of the Code of Federal Regulations (CFR) § 10.75 (21 CFR 10.75) of significant decisions by CDRH pertaining to devices. After the enactment of FDASIA, FDA issued a guidance document entitled ''Center for Devices and Radiological Health Appeals Processes: Questions and Answers About 517A—Guidance for Industry and Food and Drug Administration Staff'' (Q&A Guidance) to provide interpretation of key provisions of section 517A of the FD&C Act, including those that pertain to requests for supervisory review of significant decisions by CDRH (available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM352254.pdf*). FDA is finalizing this regulation to codify: (1) The procedures and timeframes for § 10.75 appeals of ''significant decisions'' by CDRH established under section 517A and (2) the interpretation of key provisions of section 517A of the FD&C Act regarding supervisory review. In addition, the regulations codify new procedural requirements for supervisory review within CDRH of other CDRH decisions that were not addressed in FDASIA and the Cures Act.

The final rule provides transparency and clarity for internal and external stakeholders on CDRH's process for supervisory review of decisions and provides requesters new predictability through binding deadlines for FDA action on a request for supervisory review within CDRH and the Center's internal agency review of ''significant decisions.'' Furthermore, this final rule codifies the types of decisions that are considered ''significant decisions,'' for which the timeframes apply. The final regulations also codify the timeframe for submission of requests for the review of other decisions within CDRH.

B. Summary of the Major Provisions of the Final Rule

FDA is amending part 10 (21 CFR part 10) by adding § 10.75(e). Section 10.75 currently provides that an interested person outside the Agency may request internal agency review of a decision of an FDA employee. FDA is amending § 10.75 to add paragraph (e) to require that requests for internal agency supervisory review of a decision within CDRH also comply with new § 800.75 (21 CFR 800.75). This change to the regulations encompasses both significant decisions under section 517A of the FD&C Act and other decisions by CDRH employees for which review is requested through the supervisory chain within CDRH.

The final rule also adds new § 800.75 to part 800 (21 CFR part 800). Section 800.75 incorporates in the regulations the provisions of section 517A of the FD&C Act for review of ''significant decisions'' related to devices regulated under the FD&C Act by CDRH. Section 800.75 defines ''significant decisions.'' Section 800.75 also includes the timeframes for submission of requests for internal agency review of significant decisions within CDRH and for responses to such requests.

Section 800.75 further addresses requests for supervisory review within CDRH of decisions other than section 517A decisions and indicates the timeframe for submission of these requests for internal agency review.

C. Legal Authority

FDA's legal authority to implement requirements pertaining to the process and timelines for § 10.75 appeals of decisions within CDRH derives from sections 510(k), 515, 515B, 517A, and 520(g) of the FD&C Act (21 U.S.C. 360(k), 360e, 360e–3, 360g–1, and 360j(g)) and other provisions under which a decision might be appealed, and 701(a) of the FD&C Act (21 U.S.C. 371(a)). Section 701(a) of the FD&C Act gives FDA general rulemaking authority to issue regulations for the efficient enforcement of the FD&C Act.

D. Costs and Benefits

We expect the costs and benefits of the final rule will be negligible.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation	What it means
510(k)	Premarket notification.
513(f)(2)	De Novo classification process.
517A decision	A significant decision regarding a device as set forth in section 517A of the FD&C Act.
Agency	Food and Drug Administration.
CDRH or Center	Center for Devices and Radiological Health.
CFR	Code of Federal Regulations.
CLIA	Clinical Laboratory Improvement Amendments, 42 U.S.C. 263a.
EO	Executive Order.
FD&C Act	Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 *et seq.*
FDA	Food and Drug Administration.
FDASIA	Food and Drug Administration Safety and Innovation Act.
FDASIA amendments.	Section 603 of FDASIA.
HDE	Humanitarian Device Exemption.
IDE	Investigational Device Exemption.
Non-517A decision.	CDRH decisions outside the scope of section 517A of the FD&C Act.
NSE	Not substantially equivalent.
OMB	Office of Management and Budget.
Part 10	21 CFR part 10.
PMA	Premarket approval.
PRA	Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.
PHS Act	Public Health Service Act.
Section 10.75	21 CFR 10.75.
U.S.C	United States Code.
We or us	Food and Drug Administration.

III. Background

A. Need for the Regulation/History of the Rulemaking

FDA has long provided a path for outside parties to request internal agency review of decisions. A procedure for this type of review was first published as a proposed regulation in 1975 (40 FR 40682, September 3, 1975). In the preamble for that proposed rule, the Agency recognized that a process for administrative review of Agency decisions would advise outside parties on how they should pursue matters that interest and concern them (40 FR 40682 at 40693). A final rule published in 1977 incorporated these provisions into the Code of Federal Regulations at § 2.17 (21 CFR 2.17) (42 FR 4680, January 25, 1977).

These regulations provided that any decision of an FDA employee, other than the Commissioner, on any matter was subject to review by the employee's supervisor under any of the following circumstances: (1) At the request of the employee, (2) on the initiative of the supervisor, (3) at the request of any interested person outside of the Agency, or (4) as required by duly promulgated delegations of authority. The review shall be accomplished by consultation between the employee and the supervisor, by review of the administrative file, or both. The review shall ordinarily follow established Agency channels of supervision. Internal agency review shall be based on the data and information available in the administrative file. If an interested person presents new data or information not contained in the administrative file, then the matter shall be returned to the appropriate lower level within the Agency for a reevaluation based upon the new information (42 FR 4680 at 4707).

The following year, in 1978, a proposed rule was published to reorganize and revise the Agency's administrative practices and procedures regulations (43 FR 51966, November 7, 1978). When the final rule for that action was published, the regulations for internal agency review were moved from § 2.17 and redesignated as § 10.75 (44 FR 22318, April 13, 1979), where these regulations remain today.

In 1998, § 10.75 was amended to add provisions allowing a sponsor, applicant, or manufacturer of a drug or device to request review of a scientific controversy by an appropriate scientific advisory panel or advisory committee (63 FR 63978, November 18, 1998). Aside from the specific situation addressed by the amendment, the elements of internal agency review under § 10.75 relating to who may request the review and the information on which the review must be based remained unchanged.

Section 10.75 contains regulations that establish an orderly process for internal agency review of decisions, based on information in the FDA administrative file. Section 10.75 applies to requests for review of decisions made by any FDA employee, other than decisions by the Commissioner of Food and Drugs. Section 10.75 does not establish timelines for requests for Agency review or for the Agency to act upon these requests. The FDA guidance document entitled ''Center for Devices and Radiological Health Appeals Processes: Guidance for Industry and Food and Drug Administration Staff'' describes the § 10.75 appeal processes available to outside stakeholders to request review of decisions or actions by CDRH employees (available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM284670.pdf*).

On July 9, 2012, the FD&C Act (21 U.S.C. 301 *et seq.*) was amended by FDASIA. Section 603 of FDASIA added new section 517A to the FD&C Act, which specifies procedures and timeframes for the supervisory review of significant decisions pertaining to devices regulated by CDRH.

On December 13, 2016, the FD&C Act was further amended by the Cures Act. Section 3051 of the Cures Act, ''Breakthrough Devices,'' added section 515B to the FD&C Act (as amended by section 901(f)(2) of the FDA Reauthorization Act of 2017 (Pub. L. 115–52)) and amended section 517A(a)(1) to include any significant decision by CDRH regarding a request for designation as a breakthrough device under section 515B.

In addition, section 3058, ''Least Burdensome Device Review,'' of the Cures Act amended section 517A(a) by adding paragraph (3), which requires that the substantive summary include a brief statement of how the least burdensome requirements were considered and applied consistent with sections 513(i)(1)(D), 513(a)(3)(D), and 515(c)(5) of the FD&C Act (21 U.S.C. 360c(i)(1)(D), 360c(a)(3)(D), and 360e(c)(5)), as applicable.

Section 517A of the FD&C Act provides that any person may request a supervisory review of any significant decision of CDRH regarding the submission or review of a report under section 510(k), an application under section 515, a request for designation under section 515B, or an application for an exemption under section 520(g) of the FD&C Act. Any person may request such review, which may be conducted at the next supervisory level or higher above the individual who made the significant decision. Where the request for supervisory review was made at the organizational level, any person may request a supervisory review to the next organizational level or higher above the level at which the decision was made. In addition, the Office or Center Director may designate a subordinate to be their representative, as the authority for a request made to that level. In this situation, a request for review heard by a designated subordinate is rendered on behalf of the Director and constitutes a review by that level of the organization.

Section 517A of the FD&C Act includes specific timeframes both for the person requesting review and for FDA to respond to such a request. A request for review of a significant decision is required to be submitted to FDA not later than 30 days after such decision. In responding to this request, if the requester seeks an in-person meeting or a teleconference review, FDA is required to schedule the requested interaction not later than 30 days after the request is made. FDA is required to issue a decision not later than 30 days after the interaction, or, in the case of a person who does not seek an in-person meeting or teleconference review, FDA is required to issue a decision no later than 45 days after the request for supervisory review is received by FDA. An exception to the timeframes related to scheduling an in-person meeting or teleconference review, and to FDA's decision on a request for supervisory review of the significant decision, is provided in cases that are referred to experts outside of FDA. Although the procedures and timeframes in section 517A of the FD&C Act apply to an initial request for supervisory review of a significant decision by CDRH, CDRH has chosen to enhance transparency and predictability and apply those procedures and timeframes as well to sequential requests for supervisory review of significant decisions that are submitted to CDRH.

On January 17, 2018, FDA published a proposed rule to incorporate the procedures and timeframes in section 517A of the FD&C Act to an initial or sequential request for supervisory review within CDRH of ''significant decisions'' by CDRH into FDA's regulations (83 FR 2388). The proposed regulation also introduced new procedural requirements for requests for supervisory review within CDRH under § 10.75 of decisions that do not fall under ''significant decisions'' under section 517A of the FD&C Act. We are finalizing this rule as described below.

1. Amendments to § 10.75

Part 10 is amended to add § 10.75(e). FDA is adding language to clarify that requests by interested persons outside the Agency for internal agency review of a decision within CDRH must also comply with new § 800.75. The amendments to § 10.75(e) are not limited to significant decisions under section 517A of the FD&C Act. Rather, § 10.75(e) also encompasses supervisory review within CDRH of decisions other than 517A decisions made by CDRH.

2. New § 800.75

Section 517A of the FD&C Act establishes procedural requirements, including timeframes for a request for internal agency review of a ''significant decision'' by CDRH. ''Significant decision'' is not defined in the statutory provision. FDA defines ''significant decision'' in § 800.75 to provide greater clarity regarding which decisions fall within this statutory term.

A ''517A decision'' is defined as a significant decision made by CDRH, as set forth in section 517A of the FD&C Act. We use the term ''517A decision'' rather than the term ''significant decision'' because we do not want to imply that any other decisions of CDRH that do not fall within section 517A of the FD&C Act are not significant. Similarly, we do not use the term ''non-significant decision'' when speaking of decisions outside of the scope of section 517A, as that might imply some unintended assessment on our part concerning the importance of these types of decisions. In addition, because we include regulatory decisions by CDRH in addition to those set forth in section 517A of the FD&C Act, we believe that this will avoid any confusion that might occur in distinguishing between these two categories of decisions. For these reasons, we instead are using the term ''517A decision'' for those decisions that are identified under section 517A as significant decisions and refer to other decisions by CDRH as ''non-517A decisions.''

The review procedures under section 517A of the FD&C Act apply only to a request for review of a significant decision by CDRH regarding submission or review of a report under section 510(k) (Premarket Notification), an application under section 515 (Premarket Approval Application (PMA)/Humanitarian Device Exemption (HDE)), a request for designation under section 515B (Breakthrough Devices), or an application for an exemption under section 520(g) of the FD&C Act (Investigational Device Exemption (IDE)). Under the new § 800.75, only the following decisions are considered significant decisions under section 517A of the FD&C Act and, thus, defined for purposes of this rule as ''517A decisions'':

- 510(k): Not substantially equivalent; Substantially equivalent.
- PMA/HDE: Not approvable; Approvable; Approval; Denial.
- Breakthrough Device Designation Request (request for breakthrough designation for devices subject to premarket notification, premarket approval, or De Novo classification process (see ''Breakthrough Devices Program: Guidance for Industry and FDA Staff''; available at: *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm581664.pdf*): Grant; Denial of request for breakthrough designation.
- IDE: Disapproval; Approval.
- Failure to reach agreement on protocol under section 520(g)(7) of the FD&C Act.
- ''Clinical Hold'' determinations under section 520(g)(8) of the FD&C Act.

We are mindful that outside parties may use § 10.75 to request review of decisions other than 517A decisions. For this reason, we provided procedural requirements for internal agency supervisory review within CDRH under § 10.75 of non-517A decisions made by CDRH employees. A request for supervisory review of a CDRH decision other than a 517A decision is to be received no later than 60 days after the date of the decision that is subject to review. Any request received after 60 days in these cases will be denied as untimely, unless CDRH, for good cause related to circumstances beyond the control of the submitter, such as snow emergency, Federal Government shutdown, or other unforeseen emergency event, permits the request to be filed after 60 days.

Section 800.75 provides that requests for CDRH review of 517A decisions and non-517A decisions must be addressed to the next organizational level or higher above the individual who made the decision. Requests to elevate the review of such decisions should include a rationale. The decision to collapse two or more levels of review or to elevate a review would solely be at CDRH's discretion. In addition, requesters should have exhausted review through the supervisory chain below the Center Director level prior to request for review at the Center Director level.

As provided in the FDA guidance entitled ''eCopy Program for Medical Device Submissions: Guidance for Industry and Food and Drug Administration Staff'' (eCopy guidance), appeals to submission types identified under section 745A(b) of the FD&C Act are subject to the electronic format requirements (available at: *https://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm313794.pdf*). Therefore, § 10.75 requests for supervisory review of 517A decisions within CDRH, and certain decisions other than 517A decisions, must be submitted in accordance with section 745A(b) of the FD&C Act and the standards established by the eCopy guidance, when applicable. In addition, requests for breakthrough designation under section 515B of the FD&C Act for devices under sections 510(k), 513(f)(2), and 515(c) of the FD&C Act would be considered ''presubmissions'' to those submission types as identified under section 745A, and, therefore, requests for breakthrough designation would be subject to section 745A(b) of the FD&C Act, and likewise, § 10.75 requests for review within CDRH.

Further, § 800.75 requires that requests for supervisory review of CDRH decisions other than 517A decisions be sent to the CDRH Ombudsman, and if subject to section 745A of the FD&C Act, are to be submitted in electronic format.

B. Summary of Comments in Response to the Proposed Rule

The comments on the proposed rule were generally favorable and supportive of the proposal to codify the procedures and timeframes for supervisory review of 517A and non-517A decisions pertaining to devices regulated by CDRH.

A comment appreciated the Agency's actions to clarify the CDRH process for supervisory review of decisions along with deadlines for certain FDA actions. Another comment, however, requested clarification about escalating review beyond the next organizational level above the decision maker (telescoping review). Another comment questioned whether the scope of significant decisions under section 517A of the FD&C Act should be expanded; specifically, recognition of additional CDRH decisions as 517A decisions. A comment was received on clarifying timeframes for receipt of a substantive summary upon request as required for a 517A decision. The comment also expressed concern over the proposed timeframe for requests for supervisory review of non-517A decisions, requested clarification on specific timeframes for non-517A decisions for requesters that seek to schedule a meeting or teleconference, and requested the addition of timeframes for when CDRH will render a decision.

IV. Legal Authority

We are issuing this final rule to codify the procedures and timeframes in section 517A of the FD&C Act, added by section 603 of FDASIA and amended by the Cures Act, for § 10.75 appeals of ''significant decisions'' regarding the submission or review of a report under section 510(k), an application under section 515, a request for designation under section 515B, or an application for an exemption under section 520(g) of the FD&C Act.

We are also finalizing additional procedural requirements for § 10.75 appeals submitted to CDRH of other types of CDRH decisions not addressed in FDASIA and the Cures Act.

FDA's legal authority to implement requirements pertaining to the process and timelines for § 10.75 appeals submitted to CDRH derives from sections 510(k), 515, 515B, 517A, and 520(g) of the FD&C Act and other provisions under which a decision might be appealed, and 701(a) of the FD&C Act. Section 701(a) of the FD&C Act gives FDA general rulemaking authority to issue regulations for the efficient enforcement of the FD&C Act.

V. Comments on the Proposed Rule and FDA Response

A. Introduction

We received various comments from a trade organization and an individual on the proposed rule by the close of the comment period; however, only one commenter provided comments on issues relevant to the proposed rule.

We describe and respond to the comments below. We have separated different issues discussed in the same set of comments and designated them as distinct comments for purposes of our responses. The number assigned to each comment topic is purely for organizational purposes and does not signify the comment's value or importance.

B. Description of Comments and FDA Responses

(Comment 1) One comment appreciates FDA's efforts to provide clarity to industry on the CDRH process for supervisory review of decisions, along with binding deadlines for certain FDA actions related to supervisory review and other related timeframes.

(Response 1) FDA proposed the regulation to provide clarity on the process for supervisory review and instruction on how external stakeholders, who disagree with a decision or action taken by CDRH, may seek resolution. FDA believes a well-informed process for CDRH reviews of significant decisions under 517A of the FD&C Act, as well as non-517A decisions, promotes consistency, predictability, efficiency, and a transparent pathway of our review process.

(Comment 2) A comment requested that FDA expand the definition of significant decision as set forth in section 517A of the FD&C Act by including: (1) a grant or denial of Clinical Laboratory Improvement Amendments (CLIA) waiver and a (2) grant or decline of a De Novo classification request.

(Response 2a) When Congress passed CLIA in 1988 (Pub. L. 100–578), amending section 353 of the Public Health Service (PHS) Act (42 U.S.C. 263a), they established clinical laboratory quality standards for all laboratory testing. While the Centers for Medicare & Medicaid Services has primary responsibility for administering CLIA, FDA also has certain responsibilities under CLIA, including categorizing tests as high complexity, moderate complexity, or waived. However, Congress did not include CLIA waived categorization under the PHS Act as regulatory decisions that trigger the requirements under section 517A of the FD&C Act. Therefore, FDA does not intend to expand the definition of a significant decision to the grant or denial of a CLIA waiver because it is outside the scope of the types of decisions expressly included under section 517A of the FD&C Act.

(Response 2b) FDA recognizes that the De Novo classification process is an important part of our regulatory framework. In accordance with section 513(f)(2)(A)(i) of the FD&C Act, any person who submits a 510(k) for a type of device that has not been previously classified under the FD&C Act, and that is classified into class III, may request, after receiving written notice of such classification, FDA to classify the device based on the criteria set forth in section 513(a)(1) of the FD&C Act. Under section 513(f)(2)(A)(ii) of the FD&C Act, a person who determines that there is no legally marketed device upon which to base a determination of substantial equivalence may request FDA to classify the device based on the criteria set forth in section 513(a)(1) of the FD&C Act without first submitting a 510(k). The process created by section 513(f)(2) of the FD&C Act, which was added by the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) and referred to therein as the Evaluation of Automatic Class III Designation, is what is now referred to as the De Novo classification process. Although the decision to grant or decline a De Novo request is within FDA's regulatory authority, it is not a decision type identified in section 517A of the FD&C Act as a significant decision. Because section 517A of the FD&C Act does not identify decisions on requests under section 513 of the FD&C Act as one of the types of significant decisions subject to section 517A, FDA believes that a De Novo request appropriately remains within the regulatory category of a non-517A decision.

(Comment 3) One comment requested that FDA permit the collapsing of two or more levels of review, which is otherwise referred to as ''telescoped review'' to support assessment at the appropriate level and, alternatively, recommended emphasizing that requesters should exhaust review through the supervisory chain below the Center Director level prior to request for review at the Center Director level, absent adequate rationale.

(Response 3) FDA has recognized that CDRH preserves ''telescoped review'' as a discretionary action in matters pertaining to regulatory issues, new policy questions, or highly complex scientific questions. As explained in the guidance entitled ''Center for Devices and Radiological Health Appeals Processes: Guidance for Industry and Food and Drug Administration Staff,'' engagement of a next-level supervisor in a matter under dispute does not necessarily disqualify the next-level supervisor from hearing the dispute on appeal; however, elevation of a dispute may be appropriate if the next-level supervisor has been significantly and substantively involved in the regulatory action under review. Certain circumstances may also warrant referral of the review directly to the next-level supervisor, up to and including the Center Director. In these situations, the Center intends that the review will be undertaken and decided by the next-level supervisor. For example, circumstances such as imminent risk to public health may warrant elevation of a Division-level appeal directly to the Center Director. A stakeholder wishing to elevate a dispute should indicate a request for telescoped review with an accompanying rationale. The decision to collapse two or more levels of review or to elevate a review is made solely at the Center's discretion and the Center intends to document the rationale for the decision in the review decision letter.

Absent approval for ''telescoped review,'' requesters must exhaust review through the supervisory chain below the Center Director level prior to requesting review at the Center Director level.

(Comment 4) A comment requested clarification on the timeframe for receipt of a substantive summary and requested that FDA allow additional time to request supervisory review following a company's receipt of a substantive summary under section 517A of the FD&C Act.

(Response 4) In accordance with section 517A(a) of the FD&C Act, FDA shall furnish, upon request, a substantive summary of the scientific and regulatory rationale for any significant decision regarding a report under section 510(k), an application under section 515, a request under section 515B, or an application under section 520(g) of the FD&C Act, to the person who is seeking to submit, or who has submitted, such report or application. The substantive summary must include documentation of significant controversies or differences of opinion and the resolution of such controversies or differences of opinion for any such significant decision of CDRH, as well as a brief statement of how least burdensome requirements were considered and applied consistently with sections 513(i)(1)(D), 513(a)(3)(D), and 515(c)(5) of the FD&C Act, as applicable.

CDRH prepares and furnishes the final decision, as well as the substantive summary of the scientific and regulatory rationale, solely on the basis of the information in the administrative record, including in a report under section 510(k), an application under 515, a request for designation under 515B, or an application for an exemption under 520(g) of the FD&C Act. Therefore, both the substantive summary and the final decision rely upon the same information in the administrative record, including the information submitted by the sponsor or applicant.

Additionally, CDRH provides the information necessary to file an appeal in its final decision rendered for one of these reports or applications, including CDRH's rationale for the decision. In other words, the sponsor or applicant has the requisite information needed to submit an appeal in accordance with the timelines designated in the statute or identified as part of this final rule. While the substantive summary may include additional information, such as documentation of significant controversies or differences of opinion and the resolution of such, if applicable, that additional information is not necessary to file an appeal. Nonetheless, CDRH is committed to its current practice of furnishing the request for a substantive summary in a timely manner.

(Comment 5) Another comment suggested that FDA update the final rule to include the following: (1) Revise the deadline for requests for supervisory review of non-517A decisions from 60 to 90 days and, in the alternative and (2) further clarify the meaning of ''good cause'' as well as expand ''good cause'' to include matters pertaining to public health and other justifications.

(Response 5a) Although section 517A of the FD&C Act does not require FDA to implement procedures regarding CDRH decisions other than for 517A decisions, we are mindful that outside parties may use § 10.75 to request review of non-517A decisions. For this reason, we proposed that a request for supervisory review of a CDRH decision other than a 517A decision is to be received no later than 60 days after the date of the decision. Any request received after 60 days in these cases will be denied as untimely absent good cause.

We believe 60 days is timely and appropriate for submission of a request for supervisory review of a non-517A decision. We note that this timeframe is twice as long as that for submission of a request for supervisory review of a 517A decision. The primary purpose regarding the deadline of a request for supervisory review of non-517A decisions in this final rule is to provide predictability, and to ensure that such requests are filed in a timely manner.

We believe that the timely filing of such requests within the 60-day timeframe will aid CDRH in efficiently handling disputes of non-517A decisions. However, expanding the 60-day timeframe for a request for supervisory review of a non-517A decision may negatively impact other decisions on CDRH regulated medical products. For example, a longer deadline may delay actions and resolutions of other pending matters that may be interrelated. This could negatively affect FDA's ability to act timely in fulfilling its mission to protect and promote the public health. For these reasons, we believe 60 days is an appropriate and reasonable timeframe.

(Response 5b) On the occasion of an unforeseen emergency event, FDA will consider the basis for causes beyond the control of the submitter. As such, FDA may permit the request for supervisory review of a non-517A decision to be filed after 60 days for good cause related to a snow emergency, Federal Government shutdown, or other unforeseen emergency event. We believe that good cause related to ''other unforeseen emergency event'' can include issues impacting public health. If a request for supervisory review of a non-517A decision is filed after 60 days, FDA will consider whether there is good cause for extending the timeline based on the circumstances.

(Comment 6) A comment requested that FDA provide specific timelines for non-517A decisions related to when CDRH will schedule a meeting or teleconference, if requested by the person requesting supervisory review and when CDRH will render a decision if no teleconference or meeting is requested.

(Response 6) We disagree that timelines for these actions are needed for FDA to provide timely responses for supervisory review of non-517A decisions. This final rule does not negatively affect CDRH's current practice of providing timely responses regarding requests for supervisory review of non-517A decisions. Apart from this rulemaking, we continue to work with industry and welcome stakeholder feedback on how to improve our communication regarding how CDRH will respond to an appeal of an adverse non-517A decision.

VI. Effective Date

This rule will become effective 30 days after its publication in the **Federal Register**.

VII. Economic Analysis of Impacts

We have examined the impacts of the final rule under E.O. 12866, E.O. 13563, E.O. 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). E.O.s 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). E.O. 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this final rule is not a significant regulatory action as defined by E.O. 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we lack information about the number of firms affected and because the affected firms will incur minimal costs to read and understand the rule, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $154 million, using the most current (2018) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

In our preliminary regulatory impact analysis, we estimated that the costs and benefits of the rule would be negligible. We received no comments on our preliminary regulatory impact analysis of the proposed rule and thus retain our original estimate for the final regulatory impact analysis. Because the final rule does not change the effort needed to prepare and submit a request for supervisory review, we anticipate that affected firms will incur only negligible costs to read and learn about the provisions of the final rule. The final rule will clarify the supervisory review process. However, we do not expect additional costs for FDA.

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

This final rule contains previously approved information collections found in FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information regarding the appeals process for devices in the guidance document entitled ''Center for Devices and Radiological Health Appeals Processes'' have been approved under OMB control number 0910–0738; the collections of information in 21 CFR part 807, subpart E (premarket notification) have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 (investigational device exemption) have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subparts A through E (premarket approval) have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H (humanitarian use devices) have been approved under OMB control number 0910–0332; the collections of information regarding ''Requests for Feedback on Medical Device Submissions'' have been approved under OMB control number 0910–0756; the collections of information in the guidance document, ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information regarding ''Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices: Guidance or Industry and Food and Drug Administration Staff'' have been approved under OMB control number 0910–0598; and the collections of information regarding ''Administrative Procedures for CLIA Categorization: Guidance for Industry and Food and Drug Administration Staff'' have been approved under OMB control number 0910–0607.

X. Federalism

We have analyzed this rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that would 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies 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. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

List of Subjects

21 CFR Part 10

Administrative practice and procedure, News media.

21 CFR Part 800

Administrative practice and procedure, Medical devices, Ophthalmic goods and services, Packaging and containers, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 10 and 800 are amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 5 U.S.C. 551–558, 701–706; 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–397, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264.

■ 2. In § 10.75, add paragraph (e) to read as follows:

§ 10.75 Internal agency review of decisions.

* * * * *

(e) Each request by an interested person for review of a decision within the Center for Devices and Radiological Health shall also comply with § 800.75 of this chapter.

PART 800—GENERAL

■ 3. The authority citation for part 800 is revised to read as follows:

Authority: 5 U.S.C. 551–559; 21 U.S.C. 301–399f.

■ 4. Add § 800.75 to subpart C to read as follows:

§ 800.75 Requests for supervisory review of certain decisions made by the Center for Devices and Radiological Health.

(a) *Definitions.* The following definitions shall apply to this section:

(1) *FDA* means the Food and Drug Administration.

(2) *517A decision* means a significant decision made by the Center for Devices and Radiological Health, as set forth in section 517A of the Federal Food, Drug, and Cosmetic Act, and includes one of the following decisions:

(i) A substantially equivalent order under § 807.100(a)(1) of this chapter, or a not substantially equivalent order under § 807.100(a)(2) of this chapter;

(ii) An approval order under § 814.44(d) of this chapter, an approvable letter under § 814.44(e) of this chapter, a not approvable letter under § 814.44(f) of this chapter, or an order denying approval under § 814.45 of this chapter;

(iii) An approval order under § 814.116(b) of this chapter, an approvable letter under § 814.116(c) of this chapter, a not approvable letter under § 814.116(d) of this chapter, or an order denying approval under § 814.118 of this chapter;

(iv) A grant or denial of a request for breakthrough device designation under section 515B of the Federal Food, Drug, and Cosmetic Act;

(v) An approval order under § 812.30(a) of this chapter or a disapproval order under § 812.30(c) of this chapter;

(vi) A failure to reach agreement letter under section 520(g)(7) of the Federal Food, Drug, and Cosmetic Act; or

(vii) A clinical hold determination under section 520(g)(8) of the Federal Food, Drug, and Cosmetic Act.

(3) *CDRH* means the Center for Devices and Radiological Health.

(b) *Submission of request*—(1) *Review of 517A decisions.* (i) An initial or sequential request for supervisory review within CDRH of a 517A decision under § 10.75 of this chapter must be addressed to the next organizational level or higher above the individual who made the decision; submitted in electronic format in accordance with section 745A(b) of the Federal Food, Drug, and Cosmetic Act; marked ‘‘Appeal: Request for Supervisory Review’’; and received by CDRH no later than 30 days after the date of the decision involved. Any such request for supervisory review not received by CDRH within 30 days after the date of the decision involved is not eligible for review. Except as provided in paragraph (b)(1)(ii) or (iii) of this section, FDA will render a decision within 45 days of the request for supervisory review.

(ii) A person requesting supervisory review under paragraph (b)(1)(i) may request an in-person meeting or teleconference with the supervisor reviewing the request for supervisory review. Except as provided in paragraph (b)(1)(iii) of this section, if a request for in-person meeting or teleconference is included in the request for supervisory review to CDRH, CDRH will schedule the meeting or teleconference to occur within 30 days of receipt of the request. Except as provided in paragraph (b)(1)(iii) of this section, a decision will be rendered within 30 days of such meeting or teleconference.

(iii) The timeframes for CDRH to render a decision provided in (b)(1)(i) and (ii) of this section, and the timeframe to schedule an in-person meeting or teleconference review in (b)(1)(ii) of this section, do not apply if a matter related to the 517A decision under review is referred by CDRH to external experts, such as an advisory committee, as provided in § 10.75(b) of this chapter.

(2) *Supervisory review.* An initial or sequential request for supervisory review within CDRH under § 10.75 of this chapter of a decision other than a 517A decision that is not received by CDRH within 60 days after the date of the decision involved will be denied as untimely, unless CDRH, for good cause, permits the request to be filed after 60 days. An initial or sequential request for supervisory review within CDRH of a decision other than a 517A decision must be addressed to the next organizational level or higher above the individual who made the decision; submitted in electronic format in accordance with section 745A(b) of the Federal Food, Drug, and Cosmetic Act, when applicable; marked, ‘‘Appeal: Request for Supervisory Review’’ in the subject line of the electronic request; and sent to the CDRH Ombudsman at *CDRHOmbudsman@fda.hhs.gov.*

Dated: June 20, 2019.

Norman E. Sharpless,

Acting Commissioner of Food and Drugs.

Dated: June 25, 2019.

Eric D. Hargan,

Deputy Secretary, Department of Health and Human Services.

[FR Doc. 2019–14096 Filed 7–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9869]

RIN 1545–BM77

Self-Employment Tax Treatment of Partners in a Partnership That Owns a Disregarded Entity

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that clarify the employment tax treatment of partners in a partnership that owns a disregarded entity. These regulations affect partners in a partnership that owns a disregarded entity.

DATES:

Effective date: These regulations are effective on July 2, 2019.

Applicability date: For dates of applicability, see § 301.7701–2(e)(8).

FOR FURTHER INFORMATION CONTACT: Andrew K. Holubeck at (202) 317–4774 or Danchai Mekadenaumporn at (202) 317–6798 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 301. Section 301.7701–2(c)(2)(i) of the regulations specifies that, except as otherwise provided, a business entity that has a single owner and is not a corporation under § 301.7701–2(b) is disregarded as an entity separate from its owner (a disregarded entity). However, § 301.7701–2(c)(2)(iv)(B) treats a disregarded entity as a corporation for purposes of employment taxes imposed under Subtitle C of the Internal Revenue Code (Code). This exception to the treatment of disregarded entities does not apply to taxes imposed under Subtitle A of the Code, including self-employment taxes, and the regulations issued in TD 9670 on June 26, 2014 (79 FR 36204) explicitly provided that the owner of a disregarded entity who is treated as a sole proprietor for income tax purposes is subject to self-employment taxes.

On May 4, 2016, temporary regulations (TD 9766) clarifying the employment tax treatment of partners in a partnership that owns a disregarded entity were published in the **Federal Register** (81 FR 26693, as corrected July 5, 2016, at 81 FR 43488). Prior to the publication of the temporary regulations, the regulations did not explicitly address situations in which the owner of a disregarded entity is a partnership, and the Department of the Treasury (Treasury Department) and the IRS had been informed that some taxpayers were reading the regulations to permit the treatment of the individual partners in a partnership that owned a disregarded entity (either directly or through tiered partnerships) as employees of the disregarded entity. The Treasury Department and the IRS issued the temporary regulations to clarify that the rule that a disregarded entity is treated as a corporation for employment tax purposes does not apply to the self-employment tax treatment of any individuals who are partners in a partnership that owns a disregarded entity. The temporary regulations, like the final regulations they replaced, continued to explicitly provide that the owner of a disregarded entity who is treated as a sole proprietor for income tax purposes is subject to self-employment taxes. A notice of proposed rulemaking (REG–114307–15) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (81 FR 26763). No public hearing was requested or held. Comments responding to the notice of proposed rulemaking were received. All comments were considered and are available for public inspection and copying at *http://www.regulations.gov* or upon request. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision, and the corresponding temporary regulations are removed. The public comments are discussed in this preamble.

Explanation and Summary of Comments

The Treasury Department and the IRS received two comments in response to the proposed regulations. One commenter requested that the Treasury Department and the IRS consider addressing whether an eligible entity's election to be classified as an association (and thus a corporation under § 301.7701–2(b)(2)) pursuant to the final entity classification regulations under section 7701 of the Code (also known as the ''Check-the-Box'' regulations) would change the result such that a partner of the upper tier entity could be an employee at the lower tier entity that is treated as a corporation. While the temporary regulations did not address tiered entities, the use of an entity classified as a corporation under the Check-the-Box regulations presents different issues, such as whether, under the facts and circumstances, the partner is an employee of the corporation. However, these issues are outside the scope of these final regulations, and for this reason, these regulations do not address this comment.

In the preamble of TD 9766, the Treasury Department and the IRS requested comments on the appropriate application of the principles of Rev. Rul. 69–184, 1969–1 C.B. 256, to tiered partnership situations, the circumstances in which it may be appropriate to permit partners to also be employees of the partnership, and the impact on employee benefit plans (including, but not limited to, qualified retirement plans, health and welfare plans, and fringe benefit plans) and on employment taxes if Rev. Rul. 69–184 were to be modified to permit partners to also be employees in certain circumstances.

In response to this request, one commenter described the effects of the application of the principles of Rev. Rul. 69–184 in the context of publicly traded partnerships. This commenter noted that one particular concern in the publicly traded partnership context is that the publicly traded partnership may not know which service providers treated as employees (whether at the publicly traded partnership level or at any disregarded entity owned by the publicly traded partnership) hold units since individuals may purchase units on the open market without the knowledge of the publicly traded partnership. If an acquisition of units by the service provider occurs without the publicly traded partnership's knowledge, then improper tax withholding and benefit plan participation may occur until the publicly traded partnership discovers the error. This commenter also noted a number of negative effects on service providers receiving equity-based compensation from a publicly traded partnership and the ensuing burden required in administering any equity-based compensation plan in the publicly traded partnership context. This commenter requested that the IRS consider an exception to the principles of Rev. Rul. 69–184 for publicly traded partnerships.

As noted in the preamble to TD 9766, these regulations do not address the application of Rev. Rul. 69–184 in tiered partnership situations, but rather clarify that a disregarded entity owned by a partnership is not treated as a corporation for purposes of employing any partner of the partnership. Similarly, these regulations also do not address the application of Rev. Rul. 69–184 to publicly traded partnerships. Accordingly, the final regulations do not provide an exception to the principles of Rev. Rul. 69–184 for publicly traded partnerships. However, the Treasury Department and the IRS will continue to consider the application of Rev. Rul. 69–184, including the specific issue noted by the commenter, and welcome further comments.

The temporary regulations provided that their applicability date would be the later of August 1, 2016, or the first day of the latest-starting plan year following May 4, 2016 of an affected plan (based on the plans adopted before, and the plan years in effect as of, May 4, 2016) sponsored by an entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2. It has come to the attention of the Treasury Department and the IRS that some taxpayers may have read the applicability date to begin on the first day of the last plan year prior to the termination of an affected plan (as defined in § 301.7701–2(e)(8)), which may have been a date after May 4, 2017 . This is not a proper reading of the applicability date.

In the case of an entity with several affected plans that may have different plan years, the applicability date was the first day of the plan year of the affected plan that had the latest plan year beginning after May 4, 2016, and on or before May 4, 2017 (assuming that date is after August 1, 2016). For example, an entity may have had two affected plans, with one plan year that began on September 1, 2016, and another plan year that began on January 1, 2017. In this case, the applicability date for this entity would have been January 1, 2017. The applicability date for any entity affected by these regulations should not have been delayed beyond May 4, 2017 in any case. For this reason, the final regulations clarify in § 301.7701–2(e)(8) that the applicability date of § 301.7701–2(c)(2)(iv)(C)(*2*) is the later of August 1, 2016, or the first day of the latest-starting plan year beginning after May 4, 2016, and on or before May 4, 2017, of an affected plan (based on the plans adopted before, and the plan years in effect as of, May 4, 2016) sponsored by an entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2.

Special Analysis

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the NPRM preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Andrew Holubeck of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes). However, other personnel from the IRS and the Treasury Department participated in their development.

Statement of Availability

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.7701–2 is amended by:

■ 1. Revising paragraph (c)(2)(iv)(C)(*2*).

■ 2. Removing the ''(e)'' from the ''(e)(8)'' paragraph designation and revising paragraph (e)(8).

The revisions read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(C) * * *

(*2*) Paragraph (c)(2)(i) of this section applies to taxes imposed under subtitle A of the Code, including Chapter 2—Tax on Self-Employment Income. Thus, an entity that is treated in the same manner as a sole proprietorship under paragraph (a) of this section is not treated as a corporation for purposes of employing its owner; instead, the entity is disregarded as an entity separate from its owner for this purpose and is not the employer of its owner. The owner will be subject to self-employment tax on self-employment income with respect to the entity's activities. Also, if a partnership is the owner of an entity that is disregarded as an entity separate from its owner for any purpose under this section, the entity is not treated as a corporation for purposes of employing a partner of the partnership that owns the entity; instead, the entity is disregarded as an entity separate from the partnership for this purpose and is not the employer of any partner of the partnership that owns the entity. A partner of a partnership that owns an entity that is disregarded as an entity separate from its owner for any purpose under this section is subject to the same self-employment tax rules as a partner of a partnership that does not own an entity that is disregarded as an entity separate from its owner for any purpose under this section.

* * * * *

(e) * * *

(8) Paragraph (c)(2)(iv)(C)(*2*) of this section applies on the later of—

(i) August 1, 2016; or

(ii) The first day of the latest-starting plan year beginning after May 4, 2016, and on or before May 4, 2017, of an affected plan (based on the plans adopted before, and the plan years in effect as of, May 4, 2016) sponsored by an entity that is disregarded as an entity separate from its owner for any purpose under this section. For rules that apply before the applicability date of paragraph (c)(2)(iv)(C)(*2*) of this section, see 26 CFR part 301 revised as of April 1, 2016. For the purposes of this paragraph (e)(8)—

(A) An affected plan includes any qualified plan, health plan, or section 125 cafeteria plan if the plan benefits participants whose employment status is affected by paragraph (c)(2)(iv)(C)(*2*) of this section;

(B) A qualified plan means a plan, contract, pension, or trust described in paragraph (A) or (B) of section 219(g)(5) (other than paragraph (A)(iii)); and

(C) A health plan means an arrangement described under § 1.105–5 of this chapter.

* * * * *

§ 301.7701–2T [Removed]

■ **Par. 3.** Section 301.7701–2T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: May 15, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019–14121 Filed 6–28–19; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0323]

RIN 1625–AA00

Safety Zone; Columbia River, Fireworks Kennewick, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Columbia River near Kennewick, WA. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display on July 4, 2019. This regulation will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 9 p.m. to 11:30 p.m. on July 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0323 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 LCDR Dixon Whitley, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

Western Display notified the Coast Guard that it will be conducting a fireworks display from 10 p.m. to 10:30 p.m. on July 4, 2019, to commemorate Independence Day. The fireworks will launch from a site over the Columbia River in Kennewick, WA. In response, on May 24, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Columbia River, Fireworks Kennewick, WA (84 FR 24059). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 10, 2019, we received no comments.

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 because the Coast Guard needs to have a safety zone regulation in place by July 4, 2019, to respond to the potential safety hazards associated with the fireworks display on that date.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this July 4, 2019 display will be a safety concern for anyone within a 450-yard radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published May 24, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 9 p.m. to 11:30 p.m. on July 4, 2019. The safety zone would cover all navigable waters of the Columbia River within 450-yards of the discharge site located at 46°13′22″ N, 119° 9′17″ W, in vicinity of Kennewick, WA. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 p.m. to 10:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a 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 Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Columbia River for approximately 2.5 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A, 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.

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 Environmental Planning COMDTINST 5090.1 (series), 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 lasting less than two and a half hours that would prohibit entry within 450 yards of the fireworks discharge site.

It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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.T13–0323 to read as follows:

§ 165.T13–0323 Safety Zone; Columbia River, Fireworks Kennewick, WA.

(a) *Safety zone.* The following area is designated a safety zone: Waters of the Columbia River, within a 450-yard radius of the fireworks discharge site located at 46°13′22″ N, 119°9′17″ W in vicinity of Kennewick, WA.

(b) *Regulations.* 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 Captain of the Port Columbia River or his designated representative. Also in accordance with § 165.23, no person may bring into, or allow to remain in this safety zone any vehicle, vessel, or object unless authorized by the Captain of the Port Columbia River or his designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. to 11:30 p.m. on July 4, 2019.

Dated: June 26, 2019.

J.C. Smith,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2019–14068 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0540]

RIN 1625–AA00

Safety Zone; Lake Michigan, Manitowoc River, Manitowoc, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Manitowoc River, in the vicinity of the 10th St. Bridge and the northern point of the

Manitowoc Dock. This action is needed to protect personnel and vessels from potential hazards created by the introduction of kayaks and paddle board in the channel. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Lake Michigan.

DATES: This rule is effective from 10:45 a.m. through noon on July 13, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0540 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 the 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:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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 doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public, vessels, mariners, and property from the hazards associated with a kayak and paddle board race on July 13, 2019.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231); The Captain of the Port Lake Michigan will enforce a safety zone from 10:45 a.m. through noon on July 13, 2019, for a kayak and paddle board race to occur on the Manitowoc River in Manitowoc, WI. The Captain of the Port Lake Michigan has determined that this race will pose a significant risk to public safety and property. Such hazards include collisions, capsized kayaks, and contenders in the water.

IV. Discussion of the Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to protect persons and vessels during the kayak and paddleboard race in the waters of the Manitowoc River, in Manitowoc, WI. This zone is effective and will be enforced from 10:45 a.m. through noon on July 13, 2019. The safety zone will be enforced for all navigable waters of the Manitowoc River, in the vicinity of the 10th St. Bridge and the Northern point of the Manitowoc Dock within an area bounded by the following coordinates; at 44°05′29.5″ N 87°39′37.5″ W (NAD 83) continuing North across the Manitowoc River to 44°05′32.9″ N 87°39′37.7″ W (NAD 83) then East along the riverbank to 44°05′32.6″ N 87°39′02.2″ W (NAD 83) then South across the Manitowoc River to 44°05′29.1″ N 87°39′03.5″ W (NAD 83) then West returning to the point of origin.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his or her designated on-scene representative. The Captain of the Port or his or her designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. The safety zone created by this rule will be relatively small and enforced for only one and a quarter hours. Under certain conditions, vessels may still transit through the safety zone when permitted by the Captain of the Port. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about 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, 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 Environmental Planning COMDTINST 5090.1 (series), 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 lasting only one and a quarter hours that will prohibit entry within the established safety zone for the race. It is categorically excluded from further review under paragraph L[60](a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 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.T09–0540 to read as follows:

§ 165.T09–0540 Safety Zone; Lake Michigan, Manitowoc River, Manitowoc, WI.

(a) *Location.* All navigable waters of the Manitowoc River, in the vicinity of the 10th St. Bridge and the Northern point of the Manitowoc Dock within an area bounded by the following coordinates; at 44°05′29.5″ N 87°39′37.5″ W (NAD 83) continuing North across the Manitowoc River to 44°05′32.9″ N 87°39′37.7″ W (NAD 83) then East along the riverbank to 44°05′32.6″ N 87°39′02.2″ W (NAD 83) then South across the Manitowoc River to 44°05′29.1″ N 87°39′03.5″ W (NAD 83) then West returning to the point of origin.

(b) *Effective and enforcement period.* This section is effective and will be enforced from 10:45 a.m. through noon on July 13, 2019.

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

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

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

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

Dated: June 26, 2019.

Thomas J. Stuhlreyer,

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

[FR Doc. 2019–14085 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0549]

RIN 1625–AA00

Safety Zone; Chicago Harbor, Illinois River, Peru, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Illinois River in Peru, Illinois, in order to protect vessels and persons from the potential hazards associated with a shore based fireworks display. Vessels will not be allowed to enter, transit through, or anchor within the safety zone without the permission of the Coast Guard Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 9:15 p.m. on July 3, 2019, through 10 p.m. on July 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0549 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 rule, call or email MST2 Weston Hescock, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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 doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with a shore based fireworks display on July 3, 2019 or July 4, 2019.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

The Coast Guard will enforce a safety zone on July 3, 2019 from 9:15 p.m. through 10 p.m., with a rain date of July 4, 2019, for a shore based fireworks display on/near the Illinois River in Peru, Illinois. The Captain of the Port Lake Michigan has determined that the shore based fireworks display will pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels.

IV. Discussion of the Rule

The Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of the public during the shore based fireworks display on/near the Illinois River. This safety zone will be enforced from 9:15 p.m. through 10 p.m. on July 3, 2019, with a rain date of July 4, 2019. The safety zone will encompass all waters of the Illinois River between MM 222.4 to MM 222.6. Vessels will not be allowed to enter, transit through, or anchor within the safety zone without the permission of the Coast Guard Captain of the Port Lake Michigan or a designated representative. The Captain of the Port or a designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 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.'' 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).

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

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.

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit on a portion of the Illinois River from 9:15 p.m. through 10 p.m. on July 3, 2019, with a rain date of July 4, 2019.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zones, we will issue local Broadcast Notice to Mariners and Local Notice to Mariners so vessel owners and operators can plan accordingly.

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 Environmental Planning COMDTINST 5090.1 (series), 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 the establishment of a safety zone for a shore based fireworks display on/near the Illinois River, Peru, IL, encompassing all waters of the Illinois River between MM 222.4 to MM 222.6. It is categorically excluded from further review under paragraph L[60](a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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.T09–0549 to read as follows:

§ 165.T09–0549 Safety Zone; Chicago Harbor, Illinois River, Peru, IL.

(a) *Location.* The safety zone will encompass all waters of the Illinois River between mile marker (MM) 222.4 to MM 222.6.

(b) *Effective and enforcement period.* This safety zone will be enforced from 9:15 p.m. through 10 p.m. on July 3, 2019. In the case of inclement weather on July 3, the safety zone will be enforced at the same times on July 4, 2019.

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

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

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via VHF Channel 16 or at 414–747–7182. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain

of the Port Lake Michigan, or an on-scene representative.

Dated: June 27, 2019.

Thomas J. Stuhlreyer,

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

[FR Doc. 2019–14122 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0520]

RIN 1625–AA00

Safety Zone, Newport 4th of July Fireworks, Yaquina Bay, Newport, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of Yaquina Bay near Newport, OR. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display on July 4, 2019. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 9 p.m. to 11:30 p.m. on July 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0520 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 LCDR Dixon Whitley, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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 to do so would be impracticable to complete a notice-and-comment rulemaking prior to the date of the fireworks display, July 4, 2019, for which a safety zone is needed.

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 because action is needed on July 4, 2019, to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks display on July 4, 2019, will be a safety concern for anyone within a 450-yard radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. until 11:30 p.m. on July 4, 2019. The safety zone will cover all navigable waters of Yaquina Bay within 450 yards of the discharge site located at 44°37′32″ N, 124°2′5″ W, in vicinity of Newport, OR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 p.m. to 10:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a 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 size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Yaquina Bay for approximately 2 and ½ hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the 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, 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 Environmental Planning COMDTINST 5090.1 (series), 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 lasting less than two and a half hours that would prohibit entry within 450 yards of the fireworks discharge site.

It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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.T13–0520 to read as follows:

§ 165.T13–0520 Safety Zone; Newport 4th of July Fireworks, Yaquina Bay, Newport, OR.

(a) *Location.* The following area is designated a safety zone: Waters of Yaquina Bay, within a 450-yard radius of the fireworks discharge site located at 44°37′32″ N, 124°2′5″ W in vicinity of Newport, OR.

(b) *Regulations.* 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 Captain of the Port Columbia River or his designated representative. Also in accordance with § 165.23, no person may bring into, or allow to remain in this safety zone any vehicle, vessel, or object unless authorized by the Captain of the Port Columbia River or his designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. to 11:30 p.m. on July 4, 2019.

Dated: June 26, 2019.

J.C. Smith,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2019–14075 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0467]

RIN 1625–AA00

Safety Zone; Redwood City Independence Day Fireworks Display; Port of Redwood City, Redwood City, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Port of Redwood City near the Redwood City Turning Basin in support of the Redwood City Independence Day Fireworks Display on July 4, 2019. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or a designated representative.

DATES: This rule is effective from 9 a.m. to 10:20 p.m. on July 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0467 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 Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port San Francisco
CFR Code of Federal Regulations
DHS Department of Homeland Security
§ 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. Since the Coast Guard received notice of this event on April 30, 2019, notice and comment procedures would be impracticable in this instance.

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**. For similar reasons as stated above, notice and comment procedures would be impractical in this instance due to the short notice provided for this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the Redwood City Independence Day Fireworks Display on July 4, 2019, will be a safety concern for anyone within a 100-foot radius of the fireworks barge during loading, staging, and transit, and anyone within a 560-foot radius of the fireworks barge starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, a safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks barge during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 a.m. until 10:20 p.m. on July 4, 2019 during the loading, staging, and transit of the fireworks barge, until approximately 30 minutes after completion of the fireworks display. From 9 a.m. to 9 p.m. on July 4, 2019, during the loading, staging, and transit of the fireworks barge until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge. Loading the pyrotechnics onto the fireworks barge is scheduled from 9 a.m. to 3 p.m. on July 4, 2019, at Pier 50 in San Francisco, CA. From 3 p.m. until 6 p.m. on July 4, 2019, the barge will remain at Pier 50. From 6 p.m. to 8:30 p.m. on July 4, 2019, the fireworks barge will be towed from Pier 50 to the display location, where it will remain until the conclusion of the fireworks display.

At 9 p.m. on July 4, 2019, 30 minutes prior to the commencement of the 20-minute Redwood City Independence Day Fireworks Display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 560 feet from the circle center at approximate position 37°30′28.5″ N, 122°12′51.5″ W (NAD 83). The safety zone will terminate at 10:20 p.m. on July 4, 2019.

The effect of the safety zone is to restrict navigation in the vicinity of the fireworks loading, staging, transit, and firing site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing site to ensure the safety of participants, spectators, and transiting vessels.

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 limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

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.

This rule may affect the following entities, some of which may be small entities: Owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of these safety zones via Notice to Mariners.

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 Environmental Planning COMDTINST 5090.1 (series), 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 of limited size and duration. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 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.T11–980 to read as follows:

§ 165.T11–980 Safety Zone; Redwood City Independence Day Fireworks Display, Port of Redwood City, Redwood City, CA.

(a) *Location.* The following area is a safety zone: from 9 a.m. on July 4, 2019 until 9 p.m. on July 4, 2019 the safety zone will encompass all navigable waters of the Port of Redwood City, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading and staging at Pier 50 in San Francisco, CA as well as during transit to and arrival at the display location in Redwood City, CA. Between 9 p.m. on July 4, 2019 and 10:20 p.m. on July 4, 2019, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connecting all points 560 feet out from the fireworks barge in approximate position 37°30′28.5″ N, 122°12′51.5″ W (NAD 83).

(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 or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart (b) 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) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 9 a.m. on July 4, 2019 until 10:20 p.m. on July 4, 2019. The Captain of the Port San Francisco will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners in accordance with 33 CFR 165.7.

Dated: June 18, 2019.

Marie B. Byrd,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2019–13948 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0186]

RIN 1625–AA00

Safety Zone; Missouri River, Mile Markers 366.3 to 369.8, Kansas City, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Missouri River from mile marker (MM) 366.3 to MM 369.8. This action is necessary to provide for the safety of life on these navigable waters near Kansas City, MO, during an air show from July 3 through July 7, 2019. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from 11 a.m. on July 3, 2019 through 7 p.m. on July 7, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0186 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, Waterways Management Division, Sector Upper Mississippi River, 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
U.S.C. United States Code

II. Background Information and Regulatory History

On March 14, 2019, the KC Air Show Charities notified the Coast Guard that it would be conducting an airshow over the Missouri River near Kansas City, MO on July 3, 2019 from 2 p.m. to 6 p.m., July 4, 2019 from noon to 6 p.m., and from 2 p.m. to 6 p.m. each day from July 5, 2019 through July 7, 2019. In response, on April 15, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled *Safety Zone; Missouri River, Mile Markers 366.3 to 369.8, Kansas City, MO* (84 FR 15165). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this airshow. During the comment period that ended on May 15, 2019, we received 17 comments.

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 contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the air show.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the air show to take place from July 3, 2019 through July 7, 2019 will be a safety concern for persons and vessels in that area. The purpose of this rule is to ensure safety of life on these navigable waters before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received seventeen comments on our NPRM published on April 15, 2019. Six of those commenters approved the establishment of the safety zone in that area. Three other commenters asked if there was a detour around the zone. Due to the limited width of the Missouri River, it is not possible to navigate a vessel around the safety zone. However, this rule provides plenty of notice for potential travelers to plan ahead for this event. In addition, anyone desiring to enter or pass through this zone, may request permission from the COTP or a designated representative. Such requests will be considered on a case-by-case basis considering all circumstances, and mainly the safety of the requested passage to the vessel and the show participants.

Three commenters asked the Coast Guard to list examples under which a vessel might be allowed to enter the zone and under which it would be excluded. One of these commenters specifically asked how ''obviously risky vessels'' would be treated if they request permission to enter the zone. And the other one asked under what circumstances ''small entities'' would be allowed to enter the zone. As stated above and in the NPRM, all requests for entry will be handled on a case-by-case basis. Any vessel that is deemed unsafe by the COTP or a designated representative will not be allowed to enter the zone. As another example, a vessel in the state of emergency, or a medical vessel, may be allowed to enter the zone if it is deemed safe by the COTP or a designated representative.

Two commenters were concerned about the enforcement times. One of them indicated that the enforcement times should be tailored to the exact length of the air show, and the other one indicated that a bigger time cushion would be needed it the show was delayed. The Coast Guard agrees that the time cushion should be provided to account for any delays, including weather, vessel entries, safety reasons, etc. In response to these comments, the Coast Guard has modified this rule's enforcement times to make it more flexible. We have added another day, July 3, 2019, during which the rule will be enforced from 1 p.m. to 7 p.m. We have also extended the beginning and end of the enforcement period as follows. Instead of noon—6 p.m. on July 4, 2019, the rule will be enforced 11 a.m.–7 p.m., and instead of 2 p.m.–6 p.m. on July 5–7, 2019, the rule will be enforced 1 p.m.–7 p.m.

Three commenters were concerned about business vessels that might be unable to transit the area safely or at all. One of these commenters asked the Coast Guard to move the safety zone to land. The other one suggested that the government compensate the vessels unable to transit the area. And the third commenter asked if business vessels would be safe transiting the area. The Coast Guard cannot move the zone because it does not have the authority to establish a marine safety zone on land. The comment about relief for small entities was of general nature and did not provide the Coast Guard with specific information requested in the NPRM. We asked that a business that believes it is qualified as a small entity and that the NPRM had a significant economic impact on it, to provide the Coast Guard with an explanation on why that specific business thought it qualified as such an entity and to what degree the rule would affect it. As to the comment about the safety of business vessels, the Coast Guard stresses that the safety of persons and vessels is the primary reason this safety zone. As stated above, the COTP or a designated representative may allow vessels to enter the zone on a case-by-case basis considering all circumstances, including the safety of a business vessel.

Another three commenters asked how the zone would be enforced and to how to contact the COTP. As stated in the NPRM, the COTP can be contacted at (314) 269–2332.

For the reasons stated above, the only changes in the regulatory text of this rule from the proposed rule in the NPRM is the modification of the enforcement time to allow for more flexibility. We have added another day, July 3, 2019, during which the rule will be enforced from 1 p.m. through 7 p.m. We have also extended the beginning and end of the enforcement period as follows. Instead of noon through 6 p.m. on July 4, 2019, the rule will be enforced 11 a.m. through 7 p.m., and instead of 2 p.m. through 6 p.m. on July 5–7, 2019, the rule will be enforced 1 p.m. through 7 p.m.

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 duration, location, and size of the safety zone. This zone will be in effect for up to eight hours per day for a total of five days and will affect three and one-half miles of the Missouri River. Additionally, persons and vessels would be allowed to request entry into the zone from the COTP or a designated representative.

B. Impact on Small Entities

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), 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 that will last up to eight hours per day for five days along three and one-half miles of the Missouri River for scheduled air show. This action is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 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.T08–0186 to read as follows:

§ 165.T08–0186 Safety Zone; Missouri River, Mile Markers 366.3 to 369.8, Kansas City, MO.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the Missouri River from Mile Marker (MM) 366.3 to MM 369.8 near Kansas City, MO.

(b) *Period of enforcement.* This section will be enforced from 1 p.m. through 7 p.m. on July 3, 2019; from 11 a.m. through 7.p.m. on July 4, 2019; and from 1 p.m. through 7 p.m. on each day from July 5, 2019 through July 7, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (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) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted by telephone at 314–269–2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners, Local Notices to Mariners, and/or actual notice.

Dated: June 26, 2019.

R. M. Scott,

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

[FR Doc. 2019–14109 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0407]

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce certain safety zones located in federal regulations for Annual Events in the Captain of the Port Buffalo Zone. This action is necessary and intended for the safety of life and property on navigable waters during these events. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo or a designated representative.

DATES: The regulations in 33 CFR 165.939(a)(1) as listed in Table 165.939 will be enforced from 9:45 p.m. through 11:15 p.m. on June 14, 2019.

The regulations in 33 CFR 165.939(b)(5) as listed in Table 165.939 will be enforced from 8:45 p.m. through 9:30 p.m. on July 03, 2019.

The regulations in 33 CFR 165.939(b)(7) as listed in Table 165.939 will be enforced from 8:45 p.m. through 11:15 p.m. on July 04, 2019.

The regulations in 33 CFR 165.939(b)(11) as listed in Table 165.939 will be enforced from 9:45 p.m. through 10:45 p.m. on July 04, 2019.

The regulations in 33 CFR 165.939(c)(1) as listed in Table 165.939 will be enforced from 7:15 a.m. through 11:45 a.m. July 20, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email *ryan.s.junod@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939 for the following events:

(1) *Festival of the Fish, Vermilion, OH;* The safety zone listed in Table 165.939 as (a)(1) will be enforced from 9:45 p.m. through 11:15 p.m. on June 14, 2019.

(2) *Mentor Harbor Yacht Club Fireworks, Mentor, OH;* The safety zone listed in Table 165.939 as (b)(5) will be enforced from 8:45 p.m. through 9:30 p.m. on July 03, 2019.

(3) *Lorain Independence Day Celebration, Lorain, OH;* The safety zone listed in Table 165.939 as (b)(7) will be enforced from 8:45 p.m. through 11:15 p.m. on July 04, 2019.

(4) *Bay Village Independence Day Celebration, Bay Village, OH;* The safety zone listed in Table 165.939 as (b)(11) will be enforced from 9:45 p.m. through 10:45 p.m. on July 04, 2019.

(5) *Whiskey Island Paddlefest, Cleveland, OH;* The safety zone listed in Table 165.939 as (c)(1) will be enforced from 7:15 a.m. through 11:45 a.m. July 20, 2019.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or a designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: June 25, 2019.

Joseph S. Dufresne,

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

[FR Doc. 2019–13910 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

33 CFR Part 207

[COE–2019–0002]

RIN 0710–AB10

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Direct final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is issuing this final rule to adjust a civil monetary penalty under the Rivers and Harbors Appropriation Act of 1922 to account for inflation. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act), which requires agencies to adjust the levels of civil monetary penalties with an initial ''catch-up'' adjustment followed by annual adjustments for inflation.

DATES: This rule is effective September 3, 2019 without further action, unless adverse comment is received by August 1, 2019. If adverse comment is received, the Corps will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number COE–2019–0002, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: Forrest.B.Vanderbilt@usace.army.mil. Include the docket number, COE–2019–0002, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, ATTN: CECW–NDC (Forrest B. Vanderbilt), Casey Building, 7701 Telegraph Road, Alexandria, VA 22315.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2019–0002. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov*. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Dr. Forrest B. Vanderbilt at 703–428–6288 or by email at *Forrest.B.Vanderbilt@usace.army.mil* or access the U.S. Army Corps of Engineers Navigation and Civil Works Decision Support Home Page at *http://www.iwr.usace.army.mil/About/Technical-Centers/NDC-Navigation-and-Civil-Works-Decision-Support/*.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Corps is publishing this final rule to adjust a civil monetary penalty for inflation pursuant to the Inflation Adjustment Act. This law requires the Corps to publish an initial ''catch-up'' adjustment with subsequent annual adjustments for inflation. The purpose of the Inflation Adjustment Act is to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today's dollars and rounding statutory civil penalties to the nearest dollar. Although the Inflation Adjustment Act required agencies to make an initial ''catch-up'' adjustment through an interim final rule to be published by July 1, 2016, and to publish annual adjustments beginning no later than January 15, 2017, the Corps has not yet made either adjustment for civil penalties under 33 U.S.C. 555. Accordingly, the Corps is combining both the ''catch-up'' adjustment that would have become effective by August 1, 2016, and the three annual adjustments for 2017, 2018, and 2019 in this final rule. The rule will apply prospectively, to penalty assessments beginning on its effective date, August 1, 2019. Subsequently, the Corps intends to publish annual adjustments as required by the Inflation Adjustment Act, no later than January 15 of each calendar year.

The Inflation Adjustment Act prescribes a formula for adjusting statutory civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. The adjustment criteria is provided by the Inflation Adjustment Act for the initial ''catch-up'' adjustment, the December 16, 2016, Office of Management and Budget (OMB) Memorandum regarding the ''Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015'', the December 15, 2017, OMB Memorandum regarding the ''Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,'' and the December 14, 2018, OMB Memorandum regarding the ''implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015.'' The 2016 catch-up adjustment and the 2017, 2018, and 2019 annual adjustments for inflation will increase the maximum civil penalty under 33 U.S.C. 555 to $5,732 per violation.

Pursuant to the Inflation Adjustment Act, the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), and guidance issued by the Office of Management and Budget (OMB),[1] the Corps finds that good cause exists for issuing this final rule without prior notice and comment. The Inflation Adjustment Act does not require agencies to implement the required adjustments through a notice and comment process unless proposing an adjustment of less than the amount otherwise required, and the Corps is not

[1] See OMB Memoranda M–16–06 (Feb. 24, 2016), M–17–11 (Dec. 16, 2016), M–18–03 (Dec. 15, 2017), and M–19–04 (December 14, 2018).

exercising any discretion it may have to make a lesser adjustment. For the annual adjustments beginning in 2017, the Inflation Adjustment Act provides a clear formula for adjustment of the civil penalties, and accordingly, the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. The Inflation Adjustment Act further provides that the increased penalty levels apply to penalties assessed after the effective date of the increase. For these reasons, the Corps finds that notice and comment would be impracticable and unnecessary in this situation and contrary to the language of the Inflation Adjustment Act. Although the Corps finds good cause for issuing this final rule without prior notice and comment, and the Corps has no discretion on this action, the 30-day delayed effective date period does provide the opportunity for the public to voice its concerns if the Corps has overlooked anything. Comments received on this civil penalty rulemaking will generally not be viewed as ''adverse.''

Section 4 of the Inflation Adjustment Act directs Federal agencies to publish annual penalty inflation adjustments. In accordance with Section 553 of the Administrative Procedure Act (APA), most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, because the Inflation Adjustment Act directed agencies to make the initial ''catch-up'' adjustment through an interim final rule, agencies were not required to complete a notice and comment process prior to promulgating that adjustment.[2] Section 4(b)(2) of the Inflation Adjustment Act further provides that each agency shall make the annual inflation adjustments ''notwithstanding section 553'' of the APA. According to the December 2016, December 2017, and December 2018 OMB guidance issued to Federal agencies on the implementation of the 2017, 2018, and 2019 annual adjustments, the phrase ''notwithstanding section 553'' means that ''the public procedure the APA generally provides—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.'' Consistent with the language of the Inflation Adjustment Act and OMB's implementation guidance, this rule is not subject to notice and opportunity for public comment. As the Corps did not previously publish an interim final rule, the Corps is delaying the effective date of this final rule for 30 days following publication.

[2] Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 4(b)(1)(A), 104 Stat. 890 (amended 2015) (codified as amended at 28 U.S.C. 2461 note); OMB Memorandum No. M–16–06 at 3.

Background

On August 3, 2011, the Deputy Secretary of Defense delegated to the Secretary of the Army the authority and responsibility to adjust penalties administered by the U.S. Army Corps of Engineers. On August 29, 2011, the Secretary of the Army delegated that authority and responsibility to the Assistant Secretary of the Army for Civil Works.

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, 701 (Inflation Adjustment Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 as previously amended by the 1996 Debt Collection Improvement Act (DCIA; collectively, ''prior inflation adjustment Acts''), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act requires agencies to do the following: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment, through an interim final rule to be published by July 1, 2016; and (2) beginning no later than January 15, 2017, make subsequent annual adjustments for inflation. The Inflation Adjustment Act does not alter an agency's statutory authority, to the extent it exists, to assess penalties below the maximum level. This final rule implements the initial ''catch-up'' adjustment mandated by the Inflation Adjustment Act as well as the 2017, 2018, and 2019 annual inflation adjustments mandated by the Act.

The Inflation Adjustment Act amends prior inflation adjustment Acts by substantially revising the method of calculating inflation adjustments. Prior inflation adjustment Acts required adjustments to civil penalties to be rounded significantly. For example, a penalty increase that was greater than $1,000, but less than or equal to $10,000, would be rounded to the nearest multiple of $1,000. While this allowed penalties to be kept at round numbers, it meant that agencies often would not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, this formula caused agency civil penalties to lose value relative to total inflation, thereby undermining Congress' original purpose in enacting statutory civil monetary penalties to be a deterrent and to promote compliance with the law. The Inflation Adjustment Act has removed these rounding rules. Penalties now are simply rounded to the nearest dollar. This rounding ensures that penalties will be increased each year to more effectively keep up with inflation.

The Inflation Adjustment Act required a ''catch-up'' adjustment that reset the inflation calculations by excluding prior inflationary adjustments under prior inflation adjustment Acts, and subsequent, annual adjustments to all civil penalties under the laws implemented by that agency. With this rule, the new statutory maximum penalty level listed in Table 1 will apply to all statutory civil penalties assessed on or after the effective date of this rule.

Calculation of ''Catch-Up'' Adjustment

OMB issued guidance on calculating the initial ''catch-up'' adjustment in February 2016. That guidance included a table of multipliers to adjust the penalty level based on the year that the penalty was established or last adjusted by statute or regulation (other than the Inflation Adjustment Act).

Table 1 shows the calculation of the initial catch-up adjustment based on the guidance provided by OMB. Column (1) contains the United States Code citations for the penalty statute. Column (2) contains the dollar amount most recently established by law (other than prior inflation adjustment Acts) for the civil monetary penalty under 33 U.S.C. 555. Column (3) sets out the year the Corps' civil monetary penalty was enacted or last adjusted by law (other than adjustments under the Inflation Adjustment Act). Column (4) sets out the factor determined by OMB to adjust for inflation from October of the corresponding year in column (3) to October 2015. Column (5) sets out the adjusted civil monetary penalty resulting from multiplying the dollar amount of the civil monetary penalty set out in Column (2) by the inflation factor in column (4). Column (6) sets out the civil monetary penalty that was in effect on November 2, 2015. Column (7) sets out the maximum catch-up penalty—an amount that is 250 percent of the 2015 penalty—which is calculated by multiplying the penalty amount in Column (6) by 2.5 (to achieve a 150 percent increase for a total of 250 percent of the 2015 penalty). Column (8) sets out the initial catch-up penalty amount, which is the lesser of the adjusted civil monetary penalty in Column (5) or the maximum civil monetary penalty in Column (7).

Calculation of 2017, 2018, and 2019 Annual Inflation Adjustments

The Office of Management and Budget (OMB) issued guidance on calculating the 2017 and 2018 annual inflation adjustments. See December 14, 2018, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, OMB, Subject: Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015; December 15, 2017, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, OMB, Subject: Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015; December 16, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, OMB, Subject: Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The OMB provided to agencies the cost-of-living adjustment multiplier for 2017, based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted, which is 1.01636. Likewise, the OMB provided to agencies the cost-of-living adjustment multiplier for 2018, based on the CPI–U for the month of October 2017, not seasonally adjusted, which is 1.02041. More recently, the OMB provided to agencies the cost-of-living adjustment multiplier for 2019, based on the CPI–U for the month of October 2018, not seasonally adjusted, which is 1.02522.

Agencies are to adjust ''the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.'' For 2017, agencies multiply each applicable penalty by the multiplier, 1.01636, and round to the nearest dollar. For 2018, agencies are similarly required to multiply each applicable penalty by the multiplier, 1.02041, and round to the nearest dollar. Lastly, for 2019, agencies are required to multiply each applicable penalty by the multiplier, 1.02522, and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.,* the one that includes the initial catch-up adjustment mandated by the Inflation Adjustment Act. Row (9) in Table 1 sets out the 2017 Inflation Adjustment Multiplier while row (10) sets out the 2018 Inflation Adjustment Multiplier. Row (11) sets out the new penalty level which takes effect 30 days after the date of publication in the **Federal Register**.

TABLE 1

1. Citation	Rivers and Harbors Appropriation Act of 1922, 33 U.S.C. 555.
2. Current civil monetary penalty (CMP) amount established by law	Maximum of $2,500 per violation.
3. Year CMP enacted or last adjusted by law	1986.
4. Inflation factor for year in row (3)	2.15628.
5. Adjusted CMP—& amount in row (2) × factor in row (4)	Maximum of $5,391 per violation.
6. CMP amount as of Nov. 2, 2015	Maximum of $2,500 per violation.
7. CMP Cap—2.5 × amount in row (6)	Maximum of $6,250 per violation.
8. Catch-up CMP—lesser of row (5) or (7)	Maximum of $5,391 per violation.
2017 Inflation adjustment multiplier	1.01636.
2018 Inflation adjustment multiplier	1.02041.
2019 Inflation adjustment multiplier	1.02522.
CMP Amount as of the Effective Date of this Rule	Maximum of $5,732 per violation.

In sum, under this final rule, the maximum penalty for violations under 33 U.S.C. 555 will increase from $2,500 per violation to $5,732.

This rule will not result in any additional costs to implement the Corps Navigation Program because the civil penalty in 33 U.S.C. 555 has been in effect since 1986 when Congress amended Section 11 of the Rivers and Harbors Appropriation Act of 1922 to provide for the assessment of civil penalties. This rule merely adjusts the value of a current statutory civil penalty to reflect and keep pace with the levels originally set by Congress when the statute was amended, as required by the Inflation Adjustment Act. This rule will result in additional costs to the person or entity receiving remuneration for the movement of vessels or for the transportation of goods or passengers on the navigable waters who do not comply with the statement and reporting requirements under 33 U.S.C. 555 and 33 CFR 207.800, because it increases the maximum penalty amount to $5,732 for each violation. The benefit of this rule will be to improve the effectiveness of Corps civil monetary penalties by maintaining their deterrent effect and promoting compliance with the law.

Administrative Requirements

Plain Language

In compliance with the principles in the President's Memorandum of June 1, 1998, regarding plain language, this preamble is written using plain language. The use of ''we'' in this notice refers to the Corps and the use of ''you'' refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Paperwork Reduction Act

This final rule will not impose any new information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This action merely increases the level of a statutory civil penalty that could be imposed in the context of a Federal civil administrative enforcement action or civil judicial case for violations of a Corps-administered statute and its implementing regulations.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. For the Corps navigation program, the collection of commercial statistics pertaining to rivers, harbors and waterways, and annual reports thereof to Congress, are required by the River and Harbor Act of June 23, 1866 (14 Stat. 70), the act of February 21, 1891 (26 Stat. 766), the River and Harbor Act of June 13, 1902 (32 Stat. 376), the River and Harbor Act of July 25, 1912 (937 Stat. 201), the River and Harbor Act of September 22, 1922 (42 Sta.1043), and Public Law 16, February 10, 1932 (47 Stat. 42).2, the current OMB approval number for information requirements is maintained by the Corps of Engineers (OMB approval number 0710–0006). However, there are no new approval or application processes required as a result of this rulemaking that necessitate a new Information Collection Request (ICR). The regulation would not impose reporting or recordkeeping requirements. Therefore, this action is not subject to the Paperwork Reduction Act.

Executive Order 12866 and Executive Order 13563, ''Improving Regulation and Regulatory Review''

The OMB has not designated this final rule a ''significant regulatory action'' under Executive Order 12866. Accordingly, OMB has not reviewed this rule. Moreover, this final rule makes a nondiscretionary adjustment to an existing civil monetary penalty in accordance with the Inflation Adjustment Act and OMB guidance. The Corps, therefore, did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this rule increases a civil monetary penalty, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

This rule is not significant under E.O. 12866, therefore, it is not subject to the requirements of E.O. 13771.

Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the Corps to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The phrase ''policies that have Federalism implications'' is defined in the Executive Order to include 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.''

This rule does not have federalism implications. This nondiscretionary action is required by the Inflation Adjustment Act and will have no substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, Executive Order 13132 does not apply to this rule.

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

The Regulatory Flexibility Act applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act, 5 U.S.C. 553, or any other statute. See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule because a notice-and-comment rulemaking process is not required for the reasons stated above.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the Corps to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Before the Corps establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, they must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this final rule does not impose new substantive requirements and therefore does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA. For the same reasons, we have determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, this final rule is not subject to the requirements of Section 203 of UMRA. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives.

This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The phrase ''policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. The rule imposes no new substantive obligations on tribal governments but instead merely adjusts the value of a current statutory civil monetary penalty to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Therefore, Executive Order 13175 does not apply to this rule.

Environmental Documentation

The Corps prepares appropriate environmental documentation, including Environmental Impact Statements when required, for all permit decisions. Therefore, environmental documentation under the National Environmental Policy Act is not required for this rule. This final rule does not constitute a major Federal action significantly affecting the quality of the human environment because it merely increases the value of statutory civil monetary penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended 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. We 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. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Executive Order 12898

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities. This rule relates solely to the adjustments to a civil penalty to account for inflation.

Executive Order 13211

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule relates only to the adjustments to civil penalties to account for inflation. This rule is consistent with current agency practice, does not impose new substantive requirements, and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, Waterways.

Dated: June 19, 2019.

Approved by:

R.D. James,

Assistant Secretary of the Army (Civil Works).

For the reasons set forth in the preamble, the Corps amends 33 CFR part 207 as follows:

PART 207—NAVIGATION REGULATIONS

■ 1. The authority citation for part 207 is revised to read as follows:

Authority: 33 U.S.C. 1; 33 U.S.C. 555; 28 U.S.C. 2461 note.

■ 2. Amend § 207.800 by revising paragraph (c)(2) to read as follows:

§ 207.800 Collection of navigation statistics.

* * * * *

(c) * * *

(2) *Civil penalties.* In addition, any person or entity that fails to provide timely, accurate, and complete statements or reports required to be submitted by the regulation in this section may also be assessed a civil penalty of up to $5,732 per violation under 33 U.S.C. 555, as amended.

* * * * *

[FR Doc. 2019–13467 Filed 7–1–19; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2, 7, and 11

[Docket No. PTO–T–2018–0021]

RIN 0651–AD30

Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) amends the Rules of Practice in Trademark Cases, the Rules of Practice in Filings Pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, and the rules regarding Representation of Others Before the United States Patent and Trademark Office to require applicants, registrants, or parties to a trademark proceeding whose domicile is not located within the United States (U.S.) or its territories (hereafter foreign applicants, registrants, or parties) to be represented by an attorney who is an active member in good standing of the bar of the highest court of a state in the U.S. (including the District of Columbia or any Commonwealth or territory of the U.S.). A requirement that such foreign applicants, registrants, or parties be represented by a qualified U.S. attorney will instill greater confidence in the public that U.S. trademark registrations that issue to foreign applicants are not subject to invalidation for reasons such as improper signatures and use claims and enable the USPTO to more effectively use available mechanisms to enforce foreign applicant compliance with statutory and regulatory requirements in trademark matters.

DATES: This rule is effective on August 3, 2019.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, *TMPolicy@uspto.gov,* (571) 272–8946.

SUPPLEMENTARY INFORMATION: The USPTO revises the rules in parts 2, 7, and 11 of title 37 of the Code of Federal Regulations to require foreign applicants, registrants, or parties to a proceeding to be represented by an attorney, as defined in § 11.1, 37 CFR 11.1, that is, an attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any Commonwealth or territory of the U.S.) and who is qualified under § 11.14(a), 37 CFR 11.14(a), to represent others before the Office in trademark matters. A requirement that such foreign applicants, registrants, or parties be represented by a qualified U.S. attorney will (1) instill greater confidence in the public that U.S. registrations that issue to foreign applicants are not subject to invalidation for reasons such as improper signatures and use claims and (2) enable the USPTO to more effectively use available mechanisms to enforce foreign applicant compliance with statutory and regulatory requirements in trademark matters.

I. Integrity of the U.S. Trademark Register

The trademark register must accurately reflect marks that are actually in use in commerce in the U.S. for the goods/services identified in the registrations. By registering trademarks, the USPTO has a significant role in protecting consumers, as well as providing important benefits to U.S. commerce by allowing businesses to strengthen and safeguard their brands and related investments.

The public relies on the register to determine whether a chosen mark is available for use or registration. When a person's search of the register discloses a potentially confusingly similar mark, that person may incur a variety of resulting costs and burdens, such as those associated with investigating the actual use of the disclosed mark to assess any conflict, initiating proceedings to cancel the registration or oppose the application of the disclosed mark, engaging in civil litigation to resolve a dispute over the mark, or choosing a different mark and changing business plans regarding its mark. In addition, such persons may incur costs and burdens unnecessarily if the disclosed registered mark is not actually in use in U.S. commerce, or is not in use in commerce in connection with all the goods/services identified in the registration. An accurate and reliable trademark register helps avoid such needless costs and burdens.

A valid claim of use made as to a registered mark likewise benefits the registrant. Fraudulent or inaccurate claims of use jeopardize the validity of any resulting registration and may render it vulnerable to cancellation. Furthermore, trademark documents submitted in support of registration require statutorily prescribed averments and must be signed in accordance with § 2.193(e)(1), 37 CFR 2.193(e)(1). If signed by a person determined to be an unauthorized signatory, a resulting registration may be invalid.

Therefore, the USPTO anticipates that implementation of this rule will have the benefit of generally reducing costs to applicants, registrants, and other parties and providing greater value to consumers who rely on registered marks.

As discussed below, in the past few years, the USPTO has seen many instances of unauthorized practice of law (UPL) where foreign parties who are not authorized to represent trademark applicants are improperly representing foreign applicants before the USPTO. As a result, increasing numbers of foreign applicants are likely receiving inaccurate or no information about the legal requirements for trademark registration in the U.S., such as the standards for use of a mark in commerce, who can properly aver to matters and sign for the mark owner, or even who the true owner of a mark is under U.S. law. This practice raises legitimate concerns that affected applications and any resulting registrations are potentially invalid, and thus negatively impacts the integrity of the trademark register.

II. Enforce Compliance With U.S. Statutory and Regulatory Requirements

The requirement for representation by a qualified U.S. attorney is also necessary to enforce compliance by all foreign applicants, registrants, and parties with U.S. statutory and regulatory requirements in trademark matters. It will not only aid the USPTO in its efforts to improve and preserve the integrity of the U.S. trademark register, but will also ensure that foreign applicants, registrants, and parties are assisted only by authorized practitioners who are subject to the USPTO's disciplinary rules.

The USPTO is implementing the requirement for representation by a qualified U.S. attorney in response to the increasing problem of foreign trademark applicants who purportedly are pro se (*i.e.,* one who does not retain a lawyer and appears for himself or herself) and who are filing inaccurate and possibly fraudulent submissions that violate the Trademark Act (Act) and/or the USPTO's rules. For example, such foreign applicants file applications claiming use of a mark in commerce, but frequently support the use claim with mocked-up or digitally altered specimens that indicate the mark may not actually be in use. Many appear to be doing so on the advice, or with the assistance, of foreign individuals and entities who are not authorized to represent trademark applicants before the USPTO. This practice undermines the accuracy and integrity of the U.S. trademark register and its utility as a means for the public to reliably determine whether a chosen mark is available for use or registration, and places a significant burden on the trademark examining operation.

Current Mechanisms and Sanctions are Inadequate

(1) *Show-Cause Authority:* Under 35 U.S.C. 3(b)(2)(A), the Commissioner for Trademarks (Commissioner) possesses the authority to manage and direct all aspects of the activities of the USPTO that affect the administration of trademark operations. The Commissioner may use that authority to investigate and issue an order requiring an applicant to show cause why the applicant's representative, or the applicant itself, should not be sanctioned under § 11.18(c), 37 CFR 11.18(c), for presenting a paper to the USPTO in violation of § 11.18(b), 37 CFR 11.18(b). However, given the location of foreign applicants and those acting on their behalf, as well as potential language barriers, the show-cause authority has rarely been successful in resolving the underlying issues. Although all those who sign documents in trademark matters before the USPTO do so subject to criminal penalties for knowing and willful false statements made to a government agency under 18 U.S.C. 1001, the criminal perjury prosecution option under 18 U.S.C. 1001 is similarly difficult to enforce against those who are not subject, or are not easily subject, to U.S. jurisdiction. Further, proof to support such sanctions under § 11.18 is often difficult to obtain. For these primary reasons, when a foreign applicant fails to comply with statutory and regulatory requirements in ex parte examination, it has been challenging and, in some cases, impossible for the Commissioner to use her show-cause authority to impose the sanctions available under § 11.18(c).

(2) *USPTO Disciplinary Authority Under 35 U.S.C. 32:* Requiring foreign applicants, registrants, and parties to retain U.S. counsel in all trademark matters before the USPTO will likely reduce the instances of UPL and misconduct. In addition, when UPL and/or misconduct does occur, requiring foreign applicants, registrants, and parties to retain U.S. counsel will enable the Office of Enrollment and Discipline (OED) to more effectively pursue those who are engaged in UPL and/or misconduct. OED's disciplinary jurisdiction extends to a ''Practitioner,'' as that term is defined in § 11.1, 37 CFR 11.1, or a non-practitioner who offers legal services to people seeking to register trademarks with the USPTO. For practitioners, OED may investigate and institute formal disciplinary proceedings, which can result in discipline of the practitioner, including: (1) Exclusion from practice before the Office; (2) suspension from practice before the Office; (3) reprimand or censure; or (4) probation.

When formal discipline is issued against a U.S. practitioner, OED may also notify other federal agencies and the U.S. state bar(s) where the practitioner is licensed and/or authorized to practice law, as appropriate. A number of states have criminal statutes penalizing UPL. Depending on the state, the state bar, consumer-protection arm of the state's attorney office, and/or state consumer-protection agency may investigate UPL and take action to protect the public. Additionally, consumer-protection organizations and law-enforcement agencies can investigate possible civil or criminal fraud at the federal and state level. OED's ability to refer a disciplinary matter to a state bar for further action or to a federal or state consumer-protection agency, or law-enforcement agency, thus effectively deters disciplined practitioners from violating the terms of their disciplinary orders.

However, the threat of a claim of UPL has not been equally effective with foreign applicants and the unqualified foreign individuals, attorneys, or firms advising them. Although the USPTO investigates possible UPL by such foreign parties, because these parties are not practitioners authorized to practice before the USPTO, the absence of any realistic threat of disciplinary action has impeded the USPTO's efforts to deter foreign parties from engaging in UPL or violating a USPTO exclusion order. In addition, while the USPTO can send a letter to a foreign government regarding the USPTO's exclusion order, foreign government officials have great discretion regarding whether to pursue further sanctions against their own citizens. Further, since foreign parties are representing foreign applicants, there may be few U.S. stakeholders directly affected by UPL by the foreign party. There is little incentive for a state or federal law-enforcement or consumer-protection agency to take action against a foreign party engaged in UPL to protect U.S. interests, or to pursue further action with consumer-protection agencies in other countries where the foreign national does business. Moreover, the threat of criminal perjury prosecution in U.S. courtrooms does not have the same deterrent effect for foreign nationals as it does for U.S. nationals and domiciles.

As a practical matter, even if U.S. law enforcement is able to devote resources toward prosecution of a foreign national for a violation of 18 U.S.C. 1001, exerting jurisdiction over such a party is not always possible. Furthermore, many foreign unauthorized parties acting on behalf of foreign applicants and registrants who have been excluded by a Commissioner's order typically continue to engage in UPL before the USPTO, often increasing the scale of their efforts and employing tactics intended to circumvent the USPTO's rules.

Under this rule, submissions must be made by practitioners subject to the disciplinary jurisdiction of OED, making it less likely that they will be signed by an unauthorized party or contain statements that are inaccurate, particularly as to any averment of use of the mark in U.S. commerce or intention to use the mark. Further, because it will result in a more accurate and reliable trademark register, fewer U.S. applicants, registrants, and parties will incur the costs associated with investigating the actual use of a mark to assess any conflict, initiating proceedings to cancel a registration or oppose an application, engaging in civil litigation to resolve a dispute over a mark, or changing business plans to avoid use of a chosen mark.

Surge in Foreign Filings

Contributing to concerns regarding UPL, in recent years the USPTO has experienced a significant surge in foreign filings, with the number of trademark applications from foreign applicants increasing as a percentage of total filings, as shown in the following table. The numbers in parentheses indicate the number of applications represented by each percentage:

Filings from foreign or U.S. applicants as a percentage of total filings *	FY15	FY16	FY17
Foreign	19% (70,853)	22% (87,706)	26% (115,402)

Filings from foreign or U.S. applicants as a percentage of total filings *	FY15	FY16	FY17
U.S	81% (301,098)	78% (306,281)	74% (320,885)

* Data as of 12/10/2018.

The USPTO predicts that the number of foreign trademark filings will continue to rise based on a variety of economic factors, including the strength of the U.S. economy. This growth is coupled with a significant growth in the number of filings by foreign pro se applicants in FY15 through FY17, especially as compared with filings by U.S. pro se applicants. The information shown below reflects the representation status at the time the USPTO electronic record was searched to obtain the data. Representation status may change over the course of prosecution. However, system limitations only permit the USPTO to retrieve representation status at the time a search is done.

Filings from foreign or U.S. applicants—representation status *	FY15	FY16	FY17
U.S.—Pro Se	25.3% (76,140)	27.2% (83,161)	28.5% (91,593).
U.S.—Represented	74.7% (224,958)	72.8% (223,120)	71.5% (229,292).
Foreign—Pro Se	25.4% (17,967)	35.9% (31,475)	44.0% (50,742).
Foreign—Represented	74.6% (52,886)	64.1% (56,231)	56.0% (64,660).

* Data as of 12/10/2018.

The USPTO continues to address numerous instances of UPL by foreign parties who engage in tactics designed to circumvent USPTO rules. When the USPTO identifies UPL by foreign parties in an application, the USPTO sends information to the applicant's address of record informing the applicant that its appointed representative has been ''excluded'' from practice before the USPTO and cannot represent the applicant in the matter. In addition, the USPTO publishes the orders excluding foreign unauthorized individuals and entities on its website and suggests that applicants review all application submissions previously submitted on their behalf. However, in many applications, the address information for the applicant is not legitimate (*i.e.,* the address is for the unauthorized individual or entity representing the applicant) or is incomplete or inaccurate, and the USPTO cannot be sure that the affected applicants receive the information regarding the excluded representative. This fact raises concerns that the affected applications are potentially invalid because they were signed by an unauthorized party or contain statements that are inaccurate, particularly as to any averment of use of the mark in U.S. commerce or intention to use the mark, which forms the underlying statutory basis for federal registration.

Efforts to educate foreign applicants about UPL or to impose effective sanctions against the foreign unauthorized individuals or entities have proved ineffective. The problem of foreign applicants who violate U.S. legal and regulatory requirements in trademark matters and do so largely on the advice of foreign unauthorized individuals or entities grows each month. Within the last few years, the scale of the problem has become massive, with the estimated number of total tainted applications now in the tens of thousands. It also is becoming increasingly difficult for the USPTO, with its limited resources, to identify and prove misconduct and UPL, particularly as tactics and technology to mask the misconduct evolve.

III. Rule Changes

(1) *Requirement for Representation.* Under this rule, § 2.11 is amended to require applicants, registrants, or parties to a trademark proceeding whose domicile is not located within the U.S. or its territories to be represented by an attorney who is an active member in good standing of the bar of the highest court of any of the 50 states of the U.S., the District of Columbia, or any Commonwealth or territory of the U.S.

In this final rule, the USPTO has further revised § 2.11 to add paragraph (f), which limits an applicant's or registrant's remedy to a petition to the Director in the situation when the USPTO issues an Office action that maintains only a requirement under paragraphs (a), (b), and/or (c) of this section, or maintains the requirement for the processing fee under § 2.22(c) in addition to one or all of those requirements. These requirements are purely procedural in nature and thus are appropriate subject matter for a petition to the Director. They also raise narrow issues that can be more efficiently reviewed and resolved by the Director on petition than by the Trademark Trial and Appeal Board on appeal. Therefore, the USPTO believes that it will streamline examination and expedite resolution of challenges to an Office action that maintains only these requirements by requiring that such challenge be made by a petition to the Director.

To ensure clarity regarding who is subject to the requirements of § 2.11, § 2.2 is amended to define ''domicile'' and ''principal place of business.'' Although it was not in the proposed rule, the USPTO also amends § 7.1(f) to clarify that the other definitions in § 2.2 apply to part 7. The requirement is similar to the requirement that currently exists in many other countries. The majority of countries with a similar requirement condition the requirement on domicile and the USPTO is following this practice. Moreover, requiring a qualified attorney to represent applicants, registrants, and parties whose domicile is not located within the U.S. or its territories is an effective tool for combatting the growing problem of foreign individuals, entities, and applicants failing to comply with U.S. law. For consistency with this requirement, the USPTO has clarified that the address required in §§ 2.22(a)(1) and 2.32(a)(2) is the domicile address. Further, to authorize the USPTO to require an applicant or registrant to provide and maintain a current domicile address, the USPTO codifies a new regulatory section at 37 CFR 2.189.

An affected applicant is required to obtain U.S. counsel to prosecute the application. Therefore, when the USPTO receives a trademark application filed by a foreign domiciliary, with a filing basis under section 1 and/or section 44 of the Act, 15 U.S.C. 1051, 1126, that does not comply with the requirements of § 2.11(a), the applicant will be informed in an Office action that appointment of a qualified U.S. attorney is required. The applicant will have the current usual period of six months to respond to an Office action including the requirement, and failure to comply will result in abandonment of the application. *See* 37 CFR 2.63, 2.65(a).

Foreign-domiciled applicants who submit an application based on section 66(a) of the Act (Madrid application), 15 U.S.C. 1141f, are also subject to the requirement to appoint a qualified U.S. attorney. Madrid applications are initially filed with the International Bureau (IB) of the World Intellectual Property Organization and subsequently transmitted to the USPTO. There is currently no provision for designating a U.S. or any other local attorney in an application submitted to the IB. Therefore, the USPTO will waive the requirement to appoint a qualified U.S. practitioner prior to publication for the small subset of Madrid applications (2.9% of all Madrid applications in fiscal year 2017) submitted with all formalities and statutory requirements already satisfied and in condition for publication upon first action until the Madrid system is updated to allow for the designation of a U.S. attorney.

(2) *Recognition of representatives and requirement for bar information.* Under § 2.32(a)(4), a recognized representative must provide his or her bar information as a requirement for a complete trademark application. For consistency with requiring this information as to pending applications, the requirement is added to § 2.17(b)(3) to make clear that the requirement for attorney bar information for recognized representatives also applies in post-registration maintenance documents, submissions in Madrid applications, and TTAB proceedings. Also, § 2.17(b)(1)(iii) and (b)(2) is amended to clarify the previous wording ''in person'' and ''personal appearance'' regarding how a qualified practitioner is recognized as a representative. Section 2.17(e) is revised to clarify that recognition of all foreign attorneys and agents, not just those from Canada, is governed by § 11.14(c). The change to § 2.17(g) was made in response to a commenter who requested that the USPTO clarify how long representation continues. Prior to implementation of this rule, § 2.17(g) referred to the duration of a power of attorney. However, under § 2.17(b), a representative may be recognized by methods other than the filing of a power of attorney. Therefore, in order to respond to the commenter's inquiry and to clarify when recognition ends, regardless of the how the representative was recognized, the USPTO felt it was necessary to amend § 2.17(g) to make clear that it refers to the duration of recognition, not just to the duration of a power of attorney. However, no changes were made to the current length of representation. Conforming amendments are also made to § 2.22, for filing a TEAS Plus application.

(3) *Reciprocal recognition.* Under this rule, § 11.14 is amended to clarify that only registered and active foreign attorneys or agents who are in good standing before the trademark office of the country in which the attorney or agent resides and practices may be recognized for the limited purpose of representing parties located in such country, provided the trademark office of such country and the USPTO have reached an official understanding to allow substantially reciprocal privileges. This rule also requires that in any trademark matter where an authorized foreign attorney or agent is representing an applicant, registrant, or party to a proceeding, a qualified U.S. attorney must also be appointed pursuant to § 2.17(b) and (c) as the representative who will file documents with the Office and with whom the Office will correspond.

Currently, only Canadian attorneys and agents are reciprocally recognized under § 11.14(c). This rule removes from the regulations at § 11.14(c) the authorization for reciprocally recognized Canadian patent agents to practice before the USPTO in trademark matters, but continues to allow reciprocal recognition of Canadian trademark attorneys and agents in trademark matters. Those Canadian patent agents already recognized to practice in U.S. trademark matters continue to be authorized to practice in pending trademark matters on behalf of Canadian parties only (1) so long as the patent agent remains registered and in good standing in Canada and (2) in connection with an application or post-registration maintenance filing pending before the Office on the effective date of this rule for which the recognized patent agent is the representative. Recognized Canadian trademark attorneys and agents continue to be authorized to represent Canadian parties in U.S. trademark matters.

IV. Cost To Retain U.S. Counsel

The following tables estimate the costs for complying with this rule, using FY17 filing numbers for pro se applicants and registrants with a domicile outside the U.S. or its territories and for Madrid applicants and registrants. The professional rates shown below are the median charges for legal services in connection with filing and prosecuting an application, or filing a post-registration maintenance document, as reported in the 2017 Report on the Economic Survey, published by the American Intellectual Property Law Association.

As noted above, applicants subject to this rule are required to retain U.S. counsel to prosecute an application and to handle post-registration maintenance requirements and proceedings before the Trademark Trial and Appeal Board (TTAB). The tables below reflect two sets of aggregate costs—those for applicants who filed pro se in FY17 and would have retained counsel prior to filing and those who would have retained counsel after filing. As discussed above, the information shown below reflects the representation status at the time the USPTO electronic record was searched to obtain the data. Representation status may change over the course of prosecution and after registration. The USPTO does not collect information or statistics on applicants who file pro se but subsequently retain counsel during the prosecution of their application. The USPTO recognizes that there may have been a higher number of pro se applicants at filing than is reflected below because some of those applicants subsequently retained counsel prior to the date the search report was generated. Therefore, although it is possible that a higher number of pro se applicants may incur the cost of having counsel prepare and file an application, some applicants would have already incurred the additional cost for prosecution of the application.

The following table sets out the estimated costs, based on filing basis, if pro se applicants in FY17 with a domicile outside the U.S. or its territories retained counsel prior to filing their applications. A filing basis is the statutory basis for filing an application for registration of a mark in the U.S. An applicant must specify and meet the requirements of one or more bases in a trademark or service mark application. 37 CFR 2.32(a)(5). There are five filing bases: (1) Use of a mark in commerce under section 1(a) of the Act; (2) bona fide intention to use a mark in commerce under section 1(b) of the Act; (3) a claim of priority, based on an earlier-filed foreign application under section 44(d) of the Act; (4) ownership of a registration of the mark in the applicant's country of origin under section 44(e) of the Act; and (5) extension of protection of an international registration to the U.S. under section 66(a) of the Act. 15 U.S.C. 1051(a)–(b), 1126(d)–(e), 1141f(a). The number of applicants shown within each filing-basis category in the tables below reflects the basis status at the time the USPTO electronic record was searched to obtain the representation status.

Although the USPTO believes that applicants who are subject to the requirement should retain U.S. counsel prior to filing an application, the USPTO recognizes that not all will do so. Therefore, the USPTO expects that the total estimated costs reflected in the table below would be reduced by the number of applicants within each filing-basis category who file an application without retaining U.S. counsel.

FY 17 PRO SE APPLICATIONS BY BASIS (EXCLUDING MADRID)—COST IF COUNSEL RETAINED BEFORE FILING *

Activity performed by counsel	Median charge	1(a) ‡ 35,506	1(b) 4,010	1(a)/1(b) 69	44 1,142	44/1(b) 137	Total cost
Filing foreign origin registration application received ready for filing.	$600	N/A	N/A	N/A	§ $603,000	N/A	$603,000
Preparing and filing application	775	$27,517,150	$3,107,750	$53,475	N/A	$106,175	30,784,550
Prosecution, including amendments and interviews but not appeals.	1,000	35,506,000	4,010,000	69,000	1,142,000	Included in 44 applications.	40,727,000
Statement of use †	400	N/A	1,604,000	27,600	N/A	54,800	1,686,400
Total		63,023,150	8,721,750	150,075	1,745,000	160,975	73,800,950

* Data as of 12/10/2018. In addition to the number of applications shown for each filing basis, an additional 62 applications did not indicate a basis on the date of filing and currently have no filing basis, either because the application abandoned or because the applicant had not yet responded to the requirement to indicate a basis.

† If an application is filed under section 1(b) of the Act, the applicant must file a statement of use prior to registration.

‡ The numbers underneath the filing basis indicate the number of applications filed for that basis.

§ The cost shown is for 1,005 section 44 applications, which is the total number of section 44 applications minus the subset that also includes a section 1(b) filing basis.

Alternatively, the table below sets out the estimated costs, based on filing basis, if pro se applicants in FY17 with a domicile outside the U.S. or its territories retained counsel after filing their applications. As in the situation described above, the USPTO anticipates that a certain number of these applicants would retain U.S. counsel prior to filing an application. Therefore, the USPTO expects that the total estimated costs reflected in the table below would be increased by the number of applicants within each filing-basis category who chose to do so.

FY17 PRO SE APPLICATIONS BY BASIS (EXCLUDING MADRID)—COST IF COUNSEL RETAINED AFTER FILING *

Activity performed by counsel	Median charge	1(a) 35,506 ‡	1(b) 4,010	1(a)/1(b) 69	44 1,142	44/1(b) § 137	Total cost
Filing foreign origin registration application received ready for filing.	$600	N/A	N/A	N/A	N/A	N/A.	
Preparing and filing application	775	N/A	N/A	N/A	N/A	N/A.	
Prosecution, including amendments and interviews but not appeals.	1,000	$35,506,000	$4,010,000	$69,000	$1,142,000	Included in prior column	$40,727,000
Statement of use †	400	N/A	1,604,000	27,600	N/A	$54,800	1,686,400
Total		35,506,000	5,614,000	96,600	1,142,000	54,800	42,413,400

* Data as of 12/10/2018. In addition to the number of applications shown for each filing basis, an additional 62 applications did not indicate a basis on the date of filing and currently have no filing basis, either because the application abandoned or because the applicant had not yet responded to the requirement to indicate a basis.

† If an application is filed under section 1(b) of the Act, the applicant must file a statement of use prior to registration.

‡ The numbers underneath the filing basis indicate the number of applications filed for that basis.

§ This column represents the subset of section 44 applications that also includes a section 1(b) filing basis.

As discussed above, Madrid applications are initially filed with the IB and subsequently transmitted to the USPTO. In FY17, the USPTO received 24,418 Madrid applications in which the applicant had an address outside the U.S. or its territories, and thus would be subject to the requirement to retain U.S. counsel. There is currently no provision for designating a U.S. attorney in an application submitted to the IB. Therefore, the USPTO presumes that none of the Madrid applicants subject to the requirement retained U.S. counsel prior to filing. However, USPTO records indicate that at some point after filing, 14,602 of those FY17 Madrid applicants were represented by counsel. Therefore, only the remaining 9,816 Madrid applicants would be subject to the requirement to retain U.S. counsel to prosecute their applications, as shown in the following table:

FY17 MADRID APPLICATIONS—COST IF COUNSEL RETAINED AFTER FILING *

Activity performed by counsel	FY17	Median charge	Total charge
Prosecution, including amendments and interviews but not appeals	9,816	$1,000	$9,816,000
Total			9,816,000

* Data as of 12/10/2018.

The following table sets out the estimated costs to FY17 pro se registrants who would be subject to § 2.11(a) when filing a post-registration maintenance document.

FY17 PRO SE POST-REGISTRATION FILINGS—COST IF COUNSEL RETAINED BEFORE FILING *

Activity performed by counsel	FY17	Median charge	Total charge
Section 8 and 15 †	976	$500	$488,000
Renewal ‡	405	500	202,500
Section 71 §	522	500	261,000
Madrid Renewal ‖	134	500	67,000
Total			1,018,500

* Data as of 12/10/2018.

† Under section 8 of the Act, 15 U.S.C. 1058, an affidavit or declaration of continued use is required during the sixth year after the date of registration for registrations issued under section 1 or section 44 of the Act. Section 15 of the Act, 15 U.S.C. 1065, provides a procedure by which the exclusive right to use a registered mark in commerce on or in connection with the goods or services covered by the registration can become "incontestable," if the owner of the registration files an affidavit or declaration stating, among other criteria, that the mark has been in continuous use in commerce for a period of five years after the date of registration.

‡ Section 9 of the Act, 15 U.S.C. 1059, requires that registrations resulting from applications based on section 1 or section 44 be renewed at the end of each successive 10-year period following the date of registration.

§ Under section 71 of the Act, 15 U.S.C. 1141k, an affidavit or declaration of use is required during the sixth year after the date of registration for registered extensions of protection of international registrations to the U.S.

‖ The term of an international registration is ten years, and it may be renewed for ten years upon payment of the renewal fee. Articles 6(1) and 7(1) of the Common Regulations Under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to That Agreement.

For applicants, registrants, and parties not subject to the requirement to retain U.S. counsel, the USPTO anticipates that implementation of this rule will result in a more accurate and reliable trademark register, which will have the benefit of generally reducing costs to applicants, registrants, and parties and providing greater value to consumers who rely on registered marks. Under this rule, submissions will be made by practitioners subject to the disciplinary jurisdiction of OED, making it less likely that they will be signed by an unauthorized party or contain statements that are inaccurate, particularly as to any averment of use of the mark in U.S. commerce or intention to use the mark. Because it will result in a more accurate and reliable trademark register, fewer U.S. applicants, registrants, and parties will incur the costs associated with investigating the actual use of a mark to assess any conflict, initiating proceedings to cancel a registration or oppose an application, engaging in civil litigation to resolve a dispute over a mark, or changing business plans to avoid use of a chosen mark.

Proposed Rule: Comments and Responses

The USPTO published a notice of proposed rulemaking (NPRM) on February 15, 2019, at 84 FR 4393, soliciting comments on the proposed amendments. In response, the USPTO received comments from five groups and thirty-three commenters representing law firms, organizations, individuals, and other interested parties. The majority (74%) expressed support for the proposed requirement, with several noting that it was long overdue. Other commenters objected to the proposed requirement and suggested alternatives. In addition, some commenters raised concerns regarding discrimination against foreign-domiciled applicants and registrants while others were worried that applicants and registrants would find ways to bypass the requirement. Similar or related comments are grouped together and summarized below, followed by the USPTO's responses. All comments are posted on the USPTO's website at *https://www.uspto.gov/trademark/trademark-updates-and-announcements/comments-proposed-rulemaking-require-foreign-domiciled*.

Comment: One commenter inquired about the ''international considerations'' taken into account in drafting the rule to require U.S. counsel for a complete application but not as a condition to obtain a filing date.

Response: Two such considerations for not making the requirement for U.S. counsel a filing date requirement are Article 5 (''Filing Date'') of both the World Intellectual Property Organization's Singapore Treaty on the Law of Trademarks (2006) and the Trademark Law Treaty (1994). The U.S. is a contracting party to both treaties.

Comment: In response to the USPTO's invitation to submit comments regarding whether the USPTO should defer full examination of an application until the applicant complies with the requirement to appoint U.S. counsel or should conduct a complete examination and issue an Office action that includes the requirement along with other applicable refusals and requirements, four commenters supported the first option and two commenters supported the second. One commenter also noted that the proposed rule was unclear on the effective date and how the proposed rules would be implemented not only with regard to newly filed trademark applications, but also as to pending applications and existing registrations, pending proceedings before the TTAB, petitions, and letters of protest.

Response: The USPTO is sympathetic to the comments submitted by those who support deferred examination of an application filed by a foreign applicant who is not represented by U.S. counsel and thus has not complied with the requirements of § 2.11. Having an application reviewed by a U.S. licensed attorney prior to examination on the merits would help ensure that the application was signed by an authorized party and that all statements made in the application are accurate, particularly as to any averment that the mark is in use or intended to be used in U.S. commerce. However, the USPTO's internal electronic systems currently are not designed to accommodate a deferred examination workflow, and our current understanding is that implementing changes to those systems would require substantial investment and take at least a year or more to complete. The USPTO is currently exploring ways in which it may be able to update its electronic systems to accommodate deferred examination.

Therefore, upon the effective date of this rule and until such time as the USPTO's electronic systems may be updated to accommodate deferred examination, the USPTO will examine all newly filed applications for compliance with this rule in accordance with current examination guidelines by, in most cases, conducting a complete review of the application and issuing an Office action that includes the requirement for U.S. counsel and for domicile, when appropriate, as well as any other refusals and/or requirements. The USPTO retains its discretion to defer substantive examination and examine only for this or other requirements in appropriate circumstances. Similarly, upon the effective date of this final rule, the USPTO will examine all newly filed post-registration maintenance documents for compliance with this rule in accordance with current examination guidelines.

Furthermore, the USPTO believes it is likely that most applicants who would be subject to the requirement to appoint U.S. counsel will make the appointment in their initial application filing. Most pro se foreign applicants have historically filed their applications using TEAS Plus, which is the lowest-cost filing option, requires a complete application, and usually results in a quicker approval for publication and registration. The revisions to § 2.22(a) enacted herein require foreign applicants who file using the TEAS Plus option to designate a U.S. attorney as the applicant's representative in order to submit the application. Assuming that these applicants continue to avail themselves of this attractive lower-cost option, the USPTO will not need to issue an Office action requiring the appointment of a U.S. counsel for TEAS Plus applicants because the application will necessarily include the required designation at filing in order to be able to successfully file with TEAS Plus. If a foreign applicant does not designate a U.S. attorney as the applicant's representative on the TEAS Plus application, the applicant will be unable to validate and file the application.

The USPTO will also implement the following procedures regarding application and registration documents filed prior to the effective date of this rule. If a document submitted by a foreign applicant or registrant prior to the effective date of this rule requires no further action by the applicant or registrant, the USPTO will not require appointment of U.S. counsel as to that filing. For example, if a foreign applicant submits a new application that is in condition for approval for publication or issuance of a registration on first action, the examining attorney will approve the application for publication or issuance of the registration. Similarly, if a response to an Office action that was filed prior to the effective date of the rule satisfies all outstanding requirements or overcomes all outstanding refusals, the examining attorney will approve the application for publication or issuance of a registration. However, if a further Office action must be issued, the Office action will include the requirement for appointment of U.S. counsel and for domicile, when appropriate.

The same procedure will be followed for post-registration maintenance documents. If a post-registration maintenance document filed before the effective date of this rule is acceptable as filed, the USPTO will not require appointment of U.S. counsel as to that document. If a post-registration Office action must be issued, however, the Office action will include the requirement for appointment of U.S. counsel. The same procedures will be followed for petitions submitted prior to the effective date of this rule. Note that third-parties who submit letters of protest regarding pending applications, pursuant to section 1715 of the Trademark Manual of Examining Procedure, are not applicants, registrants, or parties to a proceeding. Therefore, they are not subject to the requirement of this rule to appoint U.S. counsel.

The TTAB generally will apply this rule to all proceedings filed on or after the effective date of this rule, and to all proceedings pending on the effective date of this rule in which the parties must take further action. If it is necessary to require a foreign party to obtain U.S. counsel, the TTAB will suspend the proceedings and inform the party of the time frame within which it must obtain U.S. counsel.

Comment: The USPTO received five comments that raised concerns about the rule discriminating against foreign-domiciled applicants and registrants.

Response: The USPTO disagrees that the requirement for foreign-domiciled applicants and registrants to retain U.S. counsel discriminates against foreign-domiciled applicants and registrants. This rule is necessary to ensure compliance with U.S. trademark law and USPTO regulations. In order to maintain the integrity of the federal trademark register, for the benefit of all its users, the USPTO must have the appropriate tools to enforce compliance by all applicants and registrants. As discussed in the NPRM and in the preamble, while the USPTO has effective mechanisms to sanction U.S.-domiciled applicants and registrants, the currently available mechanisms for the USPTO to sanction foreign-domiciled applicants and registrants for violations have proven to be ineffective. As the NPRM and preamble also note, a significant number of trademark offices around the world require foreign-domiciled applicants and registrants to obtain local counsel as a condition for filing papers with those trademark offices.

Comment: One commenter did not agree with the proposal to waive the requirement to appoint a qualified U.S. practitioner prior to publication for the small subset of Madrid applications submitted with all formalities and statutory requirements satisfied and in condition for publication upon first action until the Madrid system is updated to allow for the designation of a U.S. attorney. The commenter suggested that Madrid applicants be subject to the requirement for U.S. counsel to ensure compliance with the requirement for a bona fide intention to use the mark in U.S. commerce in connection with the goods or services identified in the application.

Response: The USPTO appreciates the concern raised by the commenter and has given it careful consideration. However, there is currently no mechanism for the USPTO to require a U.S. attorney to be appointed as a condition for a foreign national to file an international application under the Madrid Protocol that includes a request for extension of protection into the U.S. Moreover, the subset of Madrid applications that would not be subject to this rule is very small and, in the interests of the Madrid System, the USPTO will waive the requirement for U.S. counsel in this limited situation. Additionally, there are existing mechanisms to challenge the bona fide intention to use of an applicant filing via section 66 or section 44 of the Act.

Comment: Some commenters noted that the proposed rule may increase costs for foreign applicants.

Response: The USPTO acknowledges that the costs to comply with this rule will be incurred by foreign applicants, registrants, and parties. However, the USPTO also agrees with the commenter who stated that ''the costs created by misuse of our existing system is [sic] borne by all good faith trademark users regardless of where they live or whether or not they are represented.'' This rule provides qualitative value to all applicants and registrants, as well as to consumers, because it will result in a more accurate and reliable trademark register. As noted above, fraudulent or inaccurate claims of use jeopardize the validity of any registration and may render it vulnerable to cancellation. Under this rule, submissions will be made by practitioners subject to the disciplinary jurisdiction of OED, making it less likely that they will be signed by an unauthorized party or contain statements that are inaccurate, particularly as to any averment of use of the mark in U.S. commerce or intention to use the mark in U.S. commerce. Because it will result in a more accurate and reliable trademark register, fewer applicants, registrants, and parties will incur the costs associated with changing business plans to avoid use of a chosen mark. As noted by one commenter, ''[b]eing forced to adopt a different mark because a first choice is blocked by a bad faith application or registration significantly adds to the cost of adopting a new trademark. The cost of delaying a brand launch for years pending the outcome of an opposition or cancellation action, however, is much greater and, in most cases, not feasible.''

Comment: Some commenters suggested that the USPTO allow trademark agents to represent others in trademark matters before the USPTO.

Response: Part 11 of title 37 of the Code of Federal Regulations governs the practice of trademark law before the USPTO. Under § 11.14(a), 37 CFR 11.14(a), only an attorney, as defined in § 11.1, may represent others before the USPTO in trademark matters. Under § 11.1, an attorney is defined as an individual who is an active member in good standing of the bar of the highest court of any State, which is defined as any of the 50 states of the U.S., the District of Columbia, and any Commonwealth or territory of the U.S. The only exception is § 11.14(c), which is amended under this rule to clarify that only registered and active foreign attorneys or agents who are in good standing before the trademark office of the country in which the attorney or agent resides and practices may be recognized for the limited purpose of representing parties located in such country, provided the trademark office of such country and the USPTO have reached an official understanding to allow substantially reciprocal privileges. This rule also requires that in any trademark matter where an authorized foreign attorney or agent is representing an applicant, registrant, or party to a proceeding, a qualified U.S. attorney must also be appointed pursuant to § 2.17(b) and (c) as the representative who will file documents with the USPTO and with whom the Office will correspond. As noted above, currently, only Canadian attorneys and agents are reciprocally recognized under § 11.14(c).

Revising the USPTO's current rules to allow representation by other trademark agents would not provide a solution to the ever-growing problem of UPL in trademark matters.

Comment: One commenter suggested that the USPTO consider instituting a secondary bar certification, as is required for patent attorneys, in order for an attorney to provide trademark representation. Another commenter expressed concern that the USPTO might require such certification.

Response: Although the USPTO appreciates the first commenter's rationale that a secondary bar certification would help to ensure that practitioners who represent parties in trademark matters are knowledgeable in this area of practice, the USPTO does not plan at this time to require such certification. However, the USPTO will continue to review such suggestions in light of the statutory framework set forth in the Administrative Procedure Act. See 5 U.S.C. 500.

Comment: Some commenters expressed concerns regarding efforts by foreign applicants and registrants to circumvent the proposed requirement by using temporary or fraudulent U.S. addresses or by fraudulently using the address and contact information of U.S. attorneys. One commenter suggested that the USPTO train employees to identify suspicious domicile, attorney, and email addresses and several others suggested that the USPTO set up a secure system, similar to that used for patent applications, for filing and prosecuting trademark applications.

Response: The USPTO appreciates the concerns expressed by the commenters regarding efforts to circumvent this rule. The USPTO does not have the resources to investigate each U.S. domicile address provided by a non-U.S. citizen to determine whether it legitimately identifies a permanent legal residence or a principal place of business. However, the USPTO will train examining attorneys on identifying characteristics of applicant information that would warrant inquiry as to whether the applicant is subject to the requirement. Further, if the USPTO becomes aware of a potentially fictitious or false domicile address or attorney information, the USPTO can, under § 2.61(b), require the applicant, registrant, or party to provide proof of the validity of the domicile address or attorney information.

Currently, under § 11.18(b), any party who signs, files, or submits a paper to the USPTO is certifying that all statements made of the party's own knowledge are true, or made on information and belief are believed to be true and that the paper is not being presented for an improper purpose. Under § 2.189 of this rule, each applicant and registrant must provide and keep current the address of its domicile. Further, under § 2.11(e) of this rule, a foreign applicant, registrant, or party who attempts to circumvent the requirements of § 2.11(a) of this rule by providing false, fictitious, or fraudulent information regarding its domicile address or its attorney will be subject to the sanctions in § 11.18(c), which includes terminating the proceedings before the USPTO, for example, abandoning an application or cancelling a registration.

The USPTO is also in the process of updating its electronic systems to make them more secure, including to require login to take action in trademark files.

Comment: One commenter stated that ''U.S. licensed attorneys are not required to independently verify the validity of specimens submitted by their clients when prosecuting a trademark application and may rely on the sworn statements and specimens provided by their clients.'' Another commenter inquired as to the due-diligence requirements of U.S.-licensed attorneys to ensure that use claims are valid in all of the trademark applications they file, not just those of foreign applicants.

Response: Under USPTO rules, attorneys must conduct a reasonable inquiry, before submitting any filing, to determine that the filing is not being presented for any improper purpose and that the facts have evidentiary support. 37 CFR 11.18. Thus, attorneys have an independent obligation to ensure to the best of their knowledge, information, and belief that the requirements for use in U.S. commerce are met in the filings they sign or submit to the Office on behalf of their clients and it is the responsibility of the applicant and the applicant's attorney to determine whether an assertion of use in commerce has a basis in existing law and is supported by the relevant facts, including that the specimen of use is valid. 37 CFR 11.18; TMEP section 901.04.

Sanctions for violating these rules could include striking the filing, terminating the proceedings, and referring the attorney to OED for appropriate action. In addition, attorneys could be disciplined for such violations, including exclusion or suspension from practice before the USPTO, reprimand, censure, or probation. Attorneys disciplined by the USPTO also may be disciplined by their state bar.

Comment: Some commenters recommended that the USPTO amend the application form to reference the rule requirements in several languages, to include a section for the attorney bar information, and to mask the bar information.

Response: The USPTO has no plans to update the application form to reference required information in languages other than English. Under § 2.21(a), which sets out the requirements for receiving a filing date, an application under section 1 or section 44 of the Act must be in the English language. Regarding bar information, on the effective date of this rule, the application form will include specific fields to enter attorney address and bar information, including attorney bar numbers for those jurisdictions that provide them.

Attorney address and bar information is publicly available from multiple sources such as firm websites, state boards of bar overseers, and various bar associations. Because such information is so widely available to the public, it appears unnecessary to mask the information in the USPTO's publicly available records. However, because the USPTO appreciates the concern that attorney bar information may be misused by bad actors in trademark filings, the USPTO intends to mask in the public database bar information that is entered in the dedicated fields for such information on a Trademark Electronic Application System (TEAS) form.

Comment: One commenter requested that the USPTO clarify whether, under this rule, representation by U.S. counsel continues after registration and through any TTAB proceedings unless properly withdrawn under §§ 2.19 and 11.116.

Response: Prior to implementation of this rule. § 2.17(g) referred to the duration of a power of attorney. However, under § 2.17(b), a representative may be recognized by methods other than the filing of a power of attorney. Therefore, in order to respond to the commenter's inquiry and to clarify when recognition ends, regardless of the how the representative was recognized, the USPTO felt it was necessary to amend § 2.17(g) to make clear that it refers to the duration of recognition, not just to the duration of a power of attorney. However, no changes were made to the current length of representation. Under § 2.17(g), representation during the pendency of an application ends when the mark registers, when ownership changes, or when the application is abandoned. Representation by a practitioner recognized after registration ends when the mark is cancelled or expired, when ownership changes, or when an affidavit under section 8, 12(c), 15, or 71 of the Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act, is accepted or finally rejected. Representation in TTAB proceedings may end when a written revocation of the authority to represent a party is filed with the TTAB or when the TTAB grants permission for the practitioner to withdraw. The USPTO notes that even after representation is considered to have ended under these rules, if the attorney does not formally withdraw as representative, the USPTO's systems may still reflect the attorney's information and the USPTO may send courtesy reminders of post-registration filing deadlines to the attorney.

Comment: One commenter stated that it supports the USPTO's proposal to seek more reciprocal agreements with other countries, but requested information regarding how the USPTO identifies, negotiates, and implements reciprocal agreements. Another commenter indicated that he was in favor of the rule because it ''adds reciprocity.''

Response: The USPTO notes that the NPRM did not include a proposal to seek or add additional reciprocal agreements.

Discussion of Regulatory Changes

The USPTO revises § 2.2 to add § 2.2(o), defining ''domicile'' and § 2.2(p), defining ''principal place of business.''

The USPTO revises § 2.11 to change the heading to ''Requirement for representation,'' deletes the first sentence, includes the remaining sentence in new § 2.11(a) and adds § 2.11(b)–(f), which set out the requirements regarding representation of applicants, registrants, or parties to a proceeding whose domicile is not located within the U.S. or its territories.

The USPTO revises § 2.17(b)(1)(iii) and (b)(2) to clarify how a qualified practitioner is recognized and authorized as a representative. The USPTO adds § 2.17(b)(3) to require the bar information of recognized representatives. The USPTO revises § 2.17(e) to change the word ''Canadian'' in the heading to ''Foreign,'' to state that recognition of foreign attorneys and agents is governed by § 11.14(c) of this chapter, and to delete current § 2.17(e)(1) and (2). The USPTO also revises § 2.17(g) to change the heading to ''Duration of recognition'' and to amend paragraphs (g)(1) and (2) to clarify when recognition of a representative ends.

The USPTO revises § 2.22(a)(1) to require the applicant's domicile address and adds § 2.22(a)(21) to require representation by a U.S. attorney for applicants, registrants, or parties to a proceeding whose domicile is not located within the U.S. or its territories as well as the attorney's name, postal address, email address, and bar information.

The USPTO revises § 2.32(a)(2) to include the requirement for the domicile address of each applicant and § 2.32(a)(4) to delete the current text and to indicate that when the applicant is, or must be, represented by an attorney, the attorney's name, postal address, email address, and bar information are required.

The USPTO adds § 2.189 to require applicants and registrants to provide and keep current their domicile addresses.

The USPTO revises § 7.1(f) to indicate that all definitions in § 2.2 apply to part 7 and not just paragraphs (k) and (n) in § 2.2.

The USPTO redesignates current § 11.14(c) as § 11.14(c)(1) and clarifies the requirements for reciprocal recognition in revised paragraph (c)(1). The USPTO also adds § 11.14(c)(2) to require that in any trademark matter where an authorized foreign attorney or agent is representing an applicant, registrant, or party to a proceeding, a qualified U.S. attorney must also be appointed pursuant to § 2.17(b) and (c) as the representative who will file documents with the Office and with whom the Office will correspond. The USPTO revises § 11.14(e) to add the heading ''Appearance,'' and the prefatory phrase ''Except as specified in § 2.11(a) of this chapter'' and the wording ''or on behalf of'' to the second sentence, and deletes the third sentence. The USPTO also deletes the wording ''if such firm, partnership, corporation, or association is a party to a trademark proceeding pending before the Office'' from § 11.14(e)(3).

Rulemaking Requirements

A. Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (Interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers.'' (citation and internal quotation marks omitted)); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (DC Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). However, the Office has chosen to seek public comment before implementing the rule to benefit from the public's input.

B. Final Regulatory Flexibility Analysis: The USPTO publishes this Final Regulatory Flexibility Analysis (FRFA) as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) to examine the impact of the Office's changes to require U.S. counsel for foreign-domiciled applicants, registrants, and parties to a proceeding. Under the RFA, whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking (NPRM), the agency must prepare and make available for public comment a FRFA, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605. The USPTO published an Initial Flexibility Analysis (IRFA), along with the NPRM, on February 15, 2019 (84 FR 4393). The USPTO received no comments from the public directly applicable to the IFRA, as stated below in Item 2.

Items 1–6 below discuss the six items specified in 5 U.S.C. 604(a)(1)–(6) to be addressed in a FRFA. Item 6 below discusses alternatives considered by the Office.

1. Succinct statement of the need for, and objectives of, the rule:

This rule requires applicants, registrants, or parties to a proceeding whose domicile is not located within the U.S. or its territories to be represented by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any Commonwealth or territory of the U.S.) and who is qualified to represent others before the Office in trademark matters.

The requirement for representation by a qualified U.S. attorney is in response to the increasing problem of foreign trademark applicants who purportedly are pro se and who are filing what appear to be inaccurate and even fraudulent submissions that violate the Act and/or the USPTO's rules. In the past few years, the USPTO has seen many instances of UPL where foreign parties who are not authorized to represent trademark applicants are improperly representing foreign applicants before the USPTO. As a result, increasing numbers of foreign applicants are likely receiving inaccurate or no information about the legal requirements for trademark registration in the U.S., such as the standards for use of a mark in commerce, who can properly aver to matters and sign for the mark owner, or even who the true owner of a mark is under U.S. law. This practice raises legitimate concerns that affected applications and any resulting registrations are potentially invalid, particularly as to averments of use of the mark in U.S. commerce or intention to use the mark, and thus negatively impacts the integrity of the federal trademark register.

The requirement is also necessary to enforce compliance by all foreign applicants, registrants, and parties with U.S. statutory and regulatory requirements in trademark matters. Thus, it will not only aid the USPTO in its efforts to improve and preserve the integrity of the U.S. trademark register, but will also ensure that foreign applicants, registrants, and parties are assisted only by authorized practitioners who are subject to the USPTO's disciplinary rules.

The policy objectives of this rule are to: (1) Instill greater confidence in the public that U.S. registrations that issue to foreign applicants are not subject to invalidation for reasons such as improper signatures and use claims and (2) enable the USPTO to more effectively use available mechanisms to enforce foreign applicant compliance with statutory and regulatory requirements in trademark matters. As to the legal basis for this rule, section 41 of the Act, 15 U.S.C. 1123, as well as 35 U.S.C. 2, provide the authority for the Director to make rules and regulations for the conduct of proceedings in the Office.

2. A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the Agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments:

The USPTO did not receive any public comments in response to the IRFA. However, the Office received comments about the proposed requirement for U.S. counsel, which are discussed in the preamble.

3. The response of the Agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments:

The USPTO did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

4. Description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:

To comply with this rule, foreign applicants, registrants, or parties are required to be represented by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any Commonwealth or territory of the U.S.). Applicants for a trademark are not industry specific and may consist of individuals, small businesses, non-profit organizations, and large corporations. The USPTO does not collect or maintain statistics on small- versus large-entity applicants, registrants, or parties, and this information would be required in order to determine the number of small entities that would be affected by the proposed rule.

5. Description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:

There are no recordkeeping requirements imposed by this rule. The reporting requirement of this rule consists of entering the attorney name, address, and bar information in the required fields on the USPTO's electronic forms or providing the information on documents submitted to the USPTO by other methods. There are no professional skills necessary for the reporting of the attorney name, address, and bar information.

To comply with this rule, applicants, registrants, and parties to a proceeding whose domicile is not located within the U.S. must hire an attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any Commonwealth or territory of the U.S.) and who is qualified under § 11.14(a), 37 CFR 11.14(a), to represent them before the Office in trademark matters.

6. Description of the steps the Agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the Agency which affect the impact on small entities was rejected:

The USPTO considered three alternatives before recommending that foreign applicants, registrants, or parties be represented by a qualified U.S. attorney. The USPTO chose the alternative herein because it will enable the Office to achieve its goals effectively and efficiently. Those goals are to (1) instill greater confidence in the public that U.S. registrations that issue to foreign applicants are not subject to invalidation for reasons such as improper signatures and use claims and (2) enable the USPTO to more effectively use available mechanisms to enforce foreign applicant compliance with statutory and regulatory requirements in trademark matters.

Due to the difficulty in quantifying the intangible benefits associated with the preferred alternative, the Office provides below a discussion of the qualitative benefits to trademark applicants and registrants. One of the primary benefits of the preferred alternative is ensuring the accuracy of the trademark register. The accuracy of the trademark register as a reflection of marks that are actually in use in commerce in the U.S. for the goods/services identified in the registrations listed therein serves a critical purpose for the public and for all registrants. By registering trademarks, the USPTO has a significant role in protecting consumers, as well as providing important benefits to American businesses, by allowing them to strengthen and safeguard their brands and related investments. Such benefits would be especially valuable for small entities for the following reasons. The public relies on the register to determine whether a chosen mark is available for use or registration. When a person's search of the register discloses a potentially confusingly similar mark, that person may incur a variety of resulting costs and burdens, such as those associated with investigating the actual use of the disclosed mark to assess any conflict, initiating proceedings to cancel the registration or oppose the application of the disclosed mark, engaging in civil litigation to resolve a dispute over the mark, or changing business plans to avoid use of the party's chosen mark. In addition, such persons may incur costs and burdens unnecessarily if a registered mark is not actually in use in commerce in the U.S., or is not in use in commerce in connection with all the goods/services identified in the registration. An accurate and reliable trademark register helps avoid such needless costs and burdens. A valid claim of use made as to a registered mark likewise benefits the registrant. Fraudulent or inaccurate claims of use jeopardize the validity of any resulting registration and may subject it to attack and render it vulnerable to cancellation.

The chosen alternative also addresses the increasing problem of foreign trademark applicants who purportedly are pro se and who are filing what appear to be inaccurate and possibly even fraudulent submissions that violate the Act and/or the USPTO's rules. Requiring foreign applicants, registrants, and parties to retain U.S. counsel in all trademark matters before the USPTO will likely reduce the instances of UPL and misconduct and, when misconduct does occur, it will enable OED to more effectively pursue those who are engaged in UPL and/or misconduct. The threat of a claim of UPL has not been effective with foreign applicants and the unqualified foreign individuals, attorneys, or firms advising them.

The USPTO estimated the costs for complying with the rule using FY17 filing numbers for pro se applicants and registrants with a domicile outside the U.S. or its territories, and for Madrid applicants and registrants. As discussed in the preamble, the cost estimates reflect the representation status at the time the USPTO electronic record was searched to obtain the data.

Applicants under section 1 or section 44 of the Act who are subject to this rule are required to retain U.S. counsel to meet the requirements for a complete application under § 2.32(a)(4). Based on FY17 filing numbers, if such applicants did not retain counsel prior to filing an application, the USPTO estimates that the cost for representation would be $42,413,400. The estimated cost if such applicants had retained counsel prior to filing their applications would be $73,800,950. Madrid applications, which are based on section 66(a) of the Act, are initially filed with the IB and subsequently transmitted to the USPTO. In FY17, the USPTO received 24,418 Madrid applications in which the applicant had an address outside the U.S. or its territories, and thus would be subject to the requirement. There is currently no provision for designating a U.S. attorney in an application submitted to the IB. Therefore, the USPTO presumes that none of the Madrid applicants subject to the requirement would have retained U.S. counsel prior to filing. However, USPTO records indicate that at some point after filing, 14,602 of those FY17 Madrid applicants were represented by counsel. Therefore, only the remaining 9,816 Madrid applicants would be subject to the requirement to retain U.S. counsel to prosecute their applications. Therefore, the USPTO estimates the cost to all FY17 Madrid applicants to retain counsel after filing their applications as $9,816,000. The estimated costs to FY17 pro se registrants who registered under section 1, section 44, or section 66(a) of the Act and who would be subject to the requirement to retain U.S. counsel when filing a post-registration maintenance document is $1,018,500.

The costs to comply with this rule would be incurred by foreign applicants, registrants, and parties. This rule does not impact individuals or large or small entities with a domicile within the U.S. Moreover, this rule provides qualitative value to all applicants and registrants, as well as to consumers, because it will result in a more accurate and reliable trademark register. Under this rule, submissions will be made by practitioners subject to the disciplinary jurisdiction of OED, making it less likely that they will be signed by an unauthorized party or contain statements that are inaccurate, particularly as to any averment of use of the mark in U.S. commerce or intention to use the mark. Because it will result in a more accurate and reliable trademark register, fewer applicants, registrants, and parties will incur the costs associated with investigating the actual use of a mark to assess any conflict, initiating proceedings to cancel a registration or oppose an application, engaging in civil litigation to resolve a dispute over a mark, or changing business plans to avoid use of a chosen mark.

The second alternative considered would be to take no action at this time. This alternative was rejected because the Office has determined that the requirement is needed to accomplish the stated objectives of instilling greater confidence in the public that U.S. registrations that issue to foreign applicants are not subject to invalidation for reasons such as improper signatures and use claims and enabling the USPTO to more effectively use available mechanisms to enforce foreign applicant compliance with statutory and regulatory requirements in trademark matters.

A third alternative considered was to propose a revision to § 2.22 that would require foreign applicants to retain U.S.

counsel in order to obtain a filing date for an application under section 1 and/ or section 44 of the Act. This alternative was rejected due to international considerations. Thus, when the USPTO receives an application filed by a foreign domiciliary, with a filing basis under section 1 and/or section 44 of the Act that does not comply with the requirements of § 2.11(a), the USPTO must inform the applicant that appointment of a qualified U.S. attorney is required. Although this places an additional burden on the USPTO, it minimizes the impact of this rule on small entities. Although such entities may choose to incur the cost of retaining counsel to prepare and file an application, they would not be required to do so.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This rule is not subject to the requirements of Executive Order 13771 (Jan. 30, 2017) because it is expected to result in no more than *de minimis* costs to citizens and residents of the United States.

F. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act: This rulemaking involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this rule has been reviewed and previously approved by OMB under control numbers 0651–0009, 0651–0050, 0651–0051, 0651–0054, 0651–0055, 0651–0056, and 0651–0061. We estimate that 41,000 applications will have an additional burden of 5 minutes due to this rulemaking, adding in 3,000 burden hours across all trademark collections.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

37 CFR Part 7

Administrative practice and procedure, International registration, Trademarks.

37 CFR Part 11

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements, Trademarks.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office amends parts 2, 7, and 11 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123 and 35 U.S.C. 2 unless otherwise noted. Sec. 2.99 also issued under secs. 16, 17, 60 Stat. 434; 15 U.S.C. 1066, 1067.

■ 2. Amend § 2.2 by adding paragraphs (o) and (p) to read as follows:

§ 2.2 Definitions.

* * * * *

(o) The term *domicile* as used in this part means the permanent legal place of residence of a natural person or the principal place of business of a juristic entity.

(p) The term *principal place of business* as used in this part means the location of a juristic entity's headquarters where the entity's senior executives or officers ordinarily direct and control the entity's activities and is usually the center from where other locations are controlled.

■ 3. Revise § 2.11 to read as follows:

§ 2.11 Requirement for representation.

(a) An applicant, registrant, or party to a proceeding whose domicile is not located within the United States or its territories must be represented by an attorney, as defined in § 11.1 of this chapter, who is qualified to practice under § 11.14 of this chapter. The Office cannot aid in the selection of an attorney.

(b) The Office may require an applicant, registrant, or party to a proceeding to furnish such information or declarations as may be reasonably necessary to the proper determination of whether the applicant, registrant, or party is subject to the requirement in paragraph (a) of this section.

(c) An applicant, registrant, or party to a proceeding may be required to state whether assistance within the scope of § 11.5(b)(2) of this chapter was received in a trademark matter before the Office and, if so, to disclose the name(s) of the person(s) providing such assistance and whether any compensation was given or charged.

(d) Failure to respond to requirements issued pursuant to paragraphs (a) through (c) of this section is governed by § 2.65.

(e) Providing false, fictitious, or fraudulent information in connection with the requirements of paragraphs (a) through (c) of this section shall be deemed submitting a paper for an improper purpose, in violation of § 11.18(b) of this chapter, and subject to the sanctions and actions provided in § 11.18(c).

(f) Notwithstanding § 2.63(b)(2)(ii), if an Office action maintains only requirements under paragraphs (a), (b), and/or (c) of this section, or only requirements under paragraphs (a), (b), and/or (c) of this section and the requirement for a processing fee under § 2.22(c), the requirements may be reviewed only by filing a petition to the Director under § 2.146.

■ 4. Revise § 2.17 to read as follows:

§ 2.17 Recognition for representation.

(a) *Authority to practice in trademark cases.* Only an individual qualified to practice under § 11.14 of this chapter may represent an applicant, registrant, or party to a proceeding before the Office in a trademark case.

(b)(1) *Recognition of practitioner as representative.* To be recognized as a representative in a trademark case, a practitioner qualified under § 11.14 of this chapter may:

(i) File a power of attorney that meets the requirements of paragraph (c) of this section;

(ii) Sign a document on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a practitioner qualified under § 11.14 of this chapter from a different firm; or

(iii) Appear by being identified as the representative in a document submitted to the Office on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a practitioner qualified under § 11.14 of this chapter from a different firm.

(2) *Authorization to represent.* When a practitioner qualified under § 11.14 of this chapter signs a document or appears pursuant to paragraph (b) of this section, his or her signature or appearance shall constitute a representation to the Office that he or she is authorized to represent the person or entity on whose behalf he or she acts. The Office may require further proof of authority to act in a representative capacity.

(3) *Bar information required.* A practitioner qualified under § 11.14(a) of this chapter will be required to provide the name of a State, as defined in § 11.1 of this chapter, in which he or she is an active member in good standing, the date of admission to the bar of the named State, and the bar license number, if one is issued by the named State. The practitioner may be required to provide evidence that he or she is an active member in good standing of the bar of the specified State.

(c) *Requirements for power of attorney.* A power of attorney must:

(1) Designate by name at least one practitioner meeting the requirements of § 11.14 of this chapter; and

(2) Be signed by the individual applicant, registrant, or party to a proceeding pending before the Office, or by someone with legal authority to bind the applicant, registrant, or party (*e.g.,* a corporate officer or general partner of a partnership). In the case of joint applicants or joint registrants, all must sign. Once the applicant, registrant, or party has designated a practitioner(s) qualified to practice under § 11.14 of this chapter, that practitioner may sign an associate power of attorney appointing another qualified practitioner(s) as an additional person(s) authorized to represent the applicant, registrant, or party. If the applicant, registrant, or party revokes the original power of attorney (§ 2.19(a)), the revocation discharges any associate power signed by the practitioner whose power has been revoked. If the practitioner who signed an associate power withdraws (§ 2.19(b)), the withdrawal discharges any associate power signed by the withdrawing practitioner upon acceptance of the request for withdrawal by the Office.

(d) *Power of attorney relating to multiple applications or registrations.* (1) The owner of an application or registration may appoint a practitioner(s) qualified to practice under § 11.14 of this chapter to represent the owner for all existing applications or registrations that have the identical owner name and attorney through TEAS.

(2) The owner of an application or registration may file a power of attorney that relates to more than one trademark application or registration, or to all existing and future applications and registrations of that owner, on paper. A person relying on such a power of attorney must:

(i) Include a copy of the previously filed power of attorney; or

(ii) Refer to the power of attorney, specifying the filing date of the previously filed power of attorney; the application serial number (if known), registration number, or inter partes proceeding number for which the original power of attorney was filed; and the name of the person who signed the power of attorney; or, if the application serial number is not known, submit a copy of the application or a copy of the mark, and specify the filing date.

(e) *Foreign attorneys and agents.* Recognition to practice before the Office in trademark matters is governed by § 11.14(c) of this chapter.

(f) *Non-lawyers.* A non-lawyer may not act as a representative except in the limited circumstances set forth in § 11.14(b) of this chapter. Before any non-lawyer who meets the requirements of § 11.14(b) of this chapter may take action of any kind with respect to an application, registration or proceeding, a written authorization must be filed, signed by the applicant, registrant, or party to the proceeding, or by someone with legal authority to bind the applicant, registrant, or party (*e.g.,* a corporate officer or general partner of a partnership).

(g) *Duration of recognition.* (1) The Office considers recognition as to a pending application to end when the mark registers, when ownership changes, or when the application is abandoned.

(2) The Office considers recognition obtained after registration to end when the mark is cancelled or expired, or when ownership changes. If a practitioner was recognized as the representative in connection with an affidavit under section 8, 12(c), 15, or 71 of the Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act, recognition is deemed to end upon acceptance or final rejection of the filing.

■ 5. Amend § 2.22 by revising paragraphs (a)(1), (19), and (20) and adding paragraph (a)(21) to read as follows:

§ 2.22 Requirements for a TEAS Plus application.

(a) * * *

(1) The applicant's name and domicile address;

* * * * *

(19) If the applicant owns one or more registrations for the same mark, and the owner(s) last listed in Office records of the prior registration(s) for the same mark differs from the owner(s) listed in the application, a claim of ownership of the registration(s) identified by the registration number(s), pursuant to § 2.36;

(20) If the application is a concurrent use application, compliance with § 2.42; and

(21) An applicant whose domicile is not located within the United States or its territories must designate an attorney as the applicant's representative, pursuant to § 2.11(a), and include the attorney's name, postal address, email address, and bar information.

* * * * *

■ 6. Amend § 2.32 by revising paragraphs (a)(2) and (4) to read as follows:

§ 2.32 Requirements for a complete trademark or service mark application.

(a) * * *

(2) The name and domicile address of each applicant;

* * * * *

(4) When the applicant is, or must be, represented by an attorney, as defined in § 11.1 of this chapter, who is qualified to practice under § 11.14 of this chapter, the attorney's name, postal address, email address, and bar information;

* * * * *

■ 7. Add § 2.189 to read as follows:

§ 2.189 Requirement to provide domicile address.

An applicant or registrant must provide and keep current the address of its domicile, as defined in § 2.2(o).

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

■ 8. The authority citation for 37 CFR part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 9. Amend § 7.1 by revising paragraph (f) to read as follows:

§ 7.1 Definitions of terms as used in this part.

* * * * *

(f) The definitions specified in § 2.2 of this chapter apply to this part.

PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

■ 10. The authority citation for 37 CFR part 11 continues to read as follows:

Authority: 5 U.S.C. 500, 15 U.S.C. 1123, 35 U.S.C. 2(b)(2), 32, 41; Sec. 1, Pub. L 113–227, 128 Stat. 2114.

■ 11. Amend § 11.14 by revising paragraphs (c) and (e) to read as follows:

§ 11.14 Individuals who may practice before the Office in trademark and other non-patent matters.

* * * * *

(c) *Foreigners.* (1) Any foreign attorney or agent not a resident of the United States who shall file a written application for reciprocal recognition under paragraph (f) of this section and prove to the satisfaction of the OED Director that he or she is a registered and active member in good standing before the trademark office of the country in which he or she resides and practices and possesses good moral character and reputation, may be recognized for the limited purpose of representing parties located in such country before the Office in the presentation and prosecution of trademark matters, provided: The trademark office of such country and the USPTO have reached an official understanding to allow substantially reciprocal privileges to those permitted to practice in trademark matters before the Office. Recognition under this paragraph (c) shall continue only during the period that the conditions specified in this paragraph (c) obtain.

(2) In any trademark matter where a foreign attorney or agent authorized under paragraph (c)(1) of this section is representing an applicant, registrant, or party to a proceeding, an attorney, as defined in § 11.1 and qualified to practice under paragraph (a) of this section, must also be appointed pursuant to § 2.17(b) and (c) of this chapter as the representative who will file documents with the Office and with whom the Office will correspond.

* * * * *

(e) *Appearance.* No individual other than those specified in paragraphs (a), (b), and (c) of this section will be permitted to practice before the Office in trademark matters on behalf of a client. Except as specified in § 2.11(a) of this chapter, an individual may appear in a trademark or other non-patent matter in his or her own behalf or on behalf of:

(1) A firm of which he or she is a member;

(2) A partnership of which he or she is a partner; or

(3) A corporation or association of which he or she is an officer and which he or she is authorized to represent.

* * * * *

Dated: June 27, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–14087 Filed 7–1–19; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 222, 223, 224, 228 and 229

[FRL–9995–28–OW]

RIN 2040–AF91

Marine Protection, Research, and Sanctuaries Act (MPRSA) Regulations and Disposal Sites Designated Under the MPRSA; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to correct technical inaccuracies in its ocean dumping regulations that have been identified since the original publication. The EPA does not intend to alter the interpretation of existing rules or subsequent revisions, but merely to make ministerial corrections and updates to the Code of Federal Regulations (CFR).

DATES: This rule is effective on August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Brittany Bennett, Oceans, Wetlands, and Communities Division, Freshwater and Marine Regulatory Branch (4504T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–1896; fax number: 202–566–1546; email address: *bennett.brittany@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Why is the EPA taking this action?

The EPA is publishing this rule to correct inaccurate text in the CFR that has been identified since the original publication. This action will prevent confusion regarding dumping at designated ocean dumping sites and ensure that the regulations contain the correct information. Specifically, the EPA intends to eliminate confusion regarding the applicable coordinate datum for ocean dumping sites, to correct formatting of coordinates for ocean dumping sites, to clarify the name of one ocean dumping site, to correctly specify the size of one ocean dumping site, to update several out-of-date addresses and names of EPA organizational units, and to correct a typographical error. In addition, the EPA is explaining the circumstances when email is an acceptable method for MPRSA reporting.

II. What is the EPA's authority for taking this action?

The EPA is taking this action to implement the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, sometimes referred to as the Ocean Dumping Act. The MPRSA section 108, 33 U.S.C. 1418, authorizes the EPA to issues such regulations to carry out its responsibilities conferred under the MPRSA. The MPRSA regulates the disposition of any material into ocean waters, unless expressly excluded under the MPRSA. Section 101 of the MPRSA (33 U.S.C. 1411) generally prohibits the transportation of any material for the purpose of dumping, except as authorized by a permit. Under the MPRSA, no permit may be issued for ocean dumping where such dumping will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. Most material disposed of in the ocean today is dredged material (*i.e.,* sediments) removed from the bottom of waterways to maintain navigation channels and berthing areas. Other materials that are currently disposed of in the ocean include fish wastes, human remains, marine mammal carcasses, ice piers in Antarctica, and vessels. Ocean dumping cannot occur except pursuant to a permit under the MPRSA and its implementing regulations.

Under the MPRSA, the EPA is responsible for establishing criteria for reviewing and evaluating permit applications and for designating ocean dumping sites. The EPA is the permitting authority for ocean dumping of all materials except dredged material. The U.S. Army Corps of Engineers (USACE) is the permitting authority for ocean dumping of dredged material. The USACE applies EPA's ocean dumping criteria to determine whether to authorize ocean disposal of dredged material under MPRSA permits (or, in the case of federal projects, under an administrative equivalent of a permit). The MPRSA permits for, and federal projects involving, ocean disposal of dredged material are subject to EPA review and concurrence. The EPA also is responsible for designating recommended ocean dumping sites for all types of materials, including dredged material.

The EPA's ocean dumping regulations at 40 CFR parts 220 through 228 establish criteria and procedures for ocean dumping permitting and designation and management of ocean disposal sites. The ocean dumping regulations at 40 CFR part 229 contain three general permits issued under the MPRSA.

The regulations also contain the locations and requirements for use of all EPA-designated ocean dumping sites by EPA Region (40 CFR 228.15). The regulations at 40 CFR 228.15(a)(3) note that all ocean dumping site coordinates in 40 CFR 228.15 are based upon North American Datum of 1927 (NAD27) unless specifically noted. Over time, however, as new ocean dumping sites were designated, the applicable datum for some sites had not been specifically noted even though the EPA had identified the site coordinates based on the newer, more accurate geodetic datum, North American Datum of 1983 (NAD83), which has since replaced the NAD27 datum for widespread use. This action revises the regulation to specify that the coordinate datum for all sites are based on NAD83 unless specifically noted as NAD27. This action also specifies the datum as NAD27 for those sites previously not specified as such, based on the EPA's confirmation that NAD27 were used. Additionally, this rule revises incorrect formatting of site coordinates at 40 CFR 228.15, including adding zero placeholders and correcting misplaced coordinate punctuation to correspond to the relevant North American Datum. None of these revisions reflect any substantive change to the location coordinates used by persons disposing dredged materials at the respective sites.

This action further clarifies the name of one ocean dumping site at 40 CFR 228.15(j)(21) from ''Atchafalaya River and Bayous Chene, Boeuf, and Black, LA'' to ''Atchafalaya River and Bayous Chene, Boeuf, and Black, LA (ODMDS East),'' to reflect the name commonly used to describe the site.

This action also revises an incorrectly specified size of one site at 40 CFR 228.15(l)(3)(ii), but does not enlarge the site nor change the previously designated coordinates. This change revises the previously incorrectly calculated site area from 6.5 square nautical miles (22 square kilometers) to its correct size, 7.85 square nautical miles (27 square kilometers).

Various portions of the ocean dumping regulations require notification of certain other federal agencies when specified actions are taken under the regulations. This rule updates the out-of-date addresses provided in the regulations for two of these agencies at 40 CFR parts 223, 224, and 229. These addresses have changed since the rule was promulgated in 1977. These changes do not alter application or interpretation of the rules, nor change the federal agencies to be notified.

Additionally, 40 CFR 222.6 and 223.4(d) reference three EPA divisions that no longer exist due to subsequent reorganizations within the EPA: The Water Programs Division, the Surveillance and Analysis Division, and the Enforcement Division. These changes do not alter operation of the rule, but instead describe the relevant underlying functions performed so that the regulation is no longer tied to the names of EPA organizational components.

The ocean dumping regulations specify that when emergency dumping occurs, the EPA Administrator, EPA Regional Administrator, or the nearest Coast Guard district be notified by radio, telephone, or telegraph. The rule updates 40 CFR 224.2(b) to allow notification of emergency dumping by email, in addition to radio, telephone, or telegraph. There are no other reporting obligations in the MPRSA regulations where the notification format is specified.

This rule corrects a typographical error in 40 CFR 222.12(a)(1), which describes procedures applicable to actions on ocean dumping permit applications under Section 102 of the MPRSA. The pre-existing text read ''. . . When an appeal or motion *to* referred to the Administrator . . .'' This action corrects the typographical error to instead read ''. . . When an appeal or motion *is* referred to the Administrator. . .'' The rule also corrects a typographical error in 40 CFR 228.6(b), which describes specific criteria for site selection under Section 102 of the MPRSA. The pre-existing text read ''The results of a disposal site evaluation and/or designation study based on the criteria stated in paragraphs (*b*)(1) through (11) of this section . . .'' This action corrects the typographical error to instead read ''The results of a disposal site evaluation and/or designation study based on the criteria stated in paragraphs (*a*)(1) through (11) of this section . . .''

These changes act to correct the text of existing regulations to conform to the underlying support for the EPA's action and appropriate current practice, organization, or procedure. This rule will help to prevent confusion regarding ocean dumping at designated ocean dumping sites and ensure that the regulations contain the correct information.

III. Does this action apply to me?

Generally, ocean dumping sites and permits are used by persons seeking to dispose of dredged material or other materials in ocean waters. However, there are no regulated entities potentially affected by this action, because this action does not make any substantive changes to the EPA's ocean dumping regulations. This is a housekeeping measure intended only to eliminate confusion by specifying the applicable coordinate datum for ocean dumping sites, to correct formatting of coordinates for ocean dumping sites, to clarify the name of one ocean dumping site, to correctly specify the size of one ocean dumping site, to update several out-of-date addresses and names of EPA organizational units, and to correct a typographical error.

IV. Statutory and Executive Order Reviews

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), agencies generally are required to publish a notice of proposed rulemaking and provide an opportunity for the public to comment on any substantive rulemaking action. However, the APA provides exceptions from this requirement for the promulgation of agency rules of organization, procedure, or practice, and when an agency for good cause finds that notice and public procedure is unnecessary. *See* 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(b)(B).

The EPA finds that this action, in part, constitutes a rule of organization, procedure, or practice that is excepted from notice and public comment. This action updates the regulations to identify the successor EPA divisions or offices referenced at 40 CFR 222.6 and 223.4(d). In addition, the rule specifies email as an acceptable form of MPRSA reporting. Neither of these changes alters operation of the underlying rule.

Further, the APA provides an exception from the requirement to publish a notice of proposed rulemaking and opportunity for public comment when the agency for good cause finds (and incorporates the finding and a brief statement of reasons in the rules issued) that a notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(B).

The EPA finds good cause to publish a final rule without prior notice and comment because notice and public procedure is unnecessary. This action does not alter the jurisdiction or authority of the EPA or the entities regulated under the MPRSA. This final rule does not modify any location, size, or limitations of designated ocean disposal sites, nor does it change any procedures described by the regulations. The revisions are technical corrections that do not substantively change the EPA's ocean dumping regulations nor application or operation of the regulations. This action is non-significant because it does not involve any new science, economics, or novel legal or policy issues. The EPA does not anticipate any costs or burdens associated with this action. This rule does not establish any new requirements, mandates, or procedures. This is a housekeeping measure intended only to eliminate confusion by specifying the applicable coordinate datum for ocean dumping sites, to correct formatting of coordinates for ocean dumping sites, to clarify the name of one ocean dumping site, to correctly specify the size of one ocean dumping site, to update several out-of-date addresses and names of EPA organizational units, and to correct a typographical error.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the provisions of the PRA (44 U.S.C. 3501 *et seq.*), (burden is defined at 5 CFR 1320.3(b)), because it merely corrects the published regulatory text, as explained above. It does not establish or modify any information reporting or recordkeeping requirements, and therefore is not subject to the requirements of the Paperwork Reduction Act.

C. Other Statutes and Executive Orders

This rule does not establish any new requirements, mandates, or procedures. As explained previously, this final action merely specifies the applicable coordinate datum for ocean dumping sites, corrects formatting of coordinates for ocean dumping sites, clarifies the name of one ocean dumping site, specifies the size of one ocean dumping site, updates several out-of-date addresses and names of EPA organizational units, and corrects a typographical error. This rule is a housekeeping measure and does not result in any additional or new regulatory requirements. Accordingly, it has been determined that this action is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore was not submitted to the Office of Management and Budget (OMB) for review. In addition, this action does not contain any unfunded mandate, as described in the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. 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 as specified by Executive Order 13132 (64 FR 43255, August 4, 1999). This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this action. The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994), because it does not establish an environmental health or safety standard, as it is a correction to a previously promulgated regulatory action and does not have any impact on human health or the environment. This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because this action is not subject to notice-and-comment requirements under the APA or any other statute, and because it does not impose any new requirements on small entities, this action is not subject to the Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612). The RFA applies to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553. The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that the 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. This rule does not involve technical standards and is therefore not subject to the National Technology Transfer and Advancement Act of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This action is subject to the Congressional Review Act (CRA) (5 U.S.C. 801–808), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in Section IV.A. in this preamble, including the basis for that finding.

List of Subjects

40 CFR Part 222

Environmental protection, Administrative practice and procedure, Water pollution control.

40 CFR Part 223

Environmental protection, Administrative practice and procedure, Water pollution control.

40 CFR Part 224

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 228

Environmental protection, Water pollution control.

40 CFR Part 229

Environmental protection, Vessels, Water pollution control.

Dated: June 7, 2019.

David P. Ross,

Assistant Administrator, Office of Water.

For the reasons set forth in the preamble, 40 CFR parts 222, 223, 224, 228, and 229 is amended as follows:

PART 222—ACTION ON OCEAN DUMPING PERMIT APPLICATIONS UNDER SECTION 102 OF THE ACT

■ 1. The authority citation for 40 CFR part 222 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Amend § 222.3 by revising paragraph (h) to read as follows:

§ 222.3 Notice of applications.

* * * * *

(h) *Copies of notice sent to Food and Drug Administration.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to Food and Drug Administration, Shellfish Sanitation Branch, 5001 Campus Dr., College Park, MD 20740.

* * * * *

■ 3. Revise § 222.6 to read as follows:

§ 222.6 Presiding Officer.

A hearing convened pursuant to this subchapter shall be conducted by a Presiding Officer. The Administrator or Regional Administrator, as the case may be, may designate a Presiding Officer. For adjudicatory hearings held pursuant to § 222.11, the Presiding Officer shall be an EPA employee who has had no prior connection with the permit application in question, including without limitation, the performance of investigative or prosecuting functions with respect to the proposed ocean dumping.

■ 4. Amend § 222.12 by revising the last sentence of paragraph (a)(1) to read as follows:

§ 222.12 Appeal to Administrator.

(a)(1) * * * When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this section referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

PART 223—CONTENTS OF PERMITS; REVISION, REVOCATION OR LIMITATION OF OCEAN DUMPING PERMITS UNDER SECTION 104(d) OF THE ACT

■ 5. The authority citation for 40 CFR part 223 continues to read as follows:

Authority: Secs. 102, 104, 107, 108, Marine Protection Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412, 1414, 1417, 1418).

■ 6. Amend § 223.4 by revising paragraph (d) to read as follows:

§ 223.4 Request for, scheduling and conduct of public hearing; determination.

* * * * *

(d) *Presiding Officer.* Any hearing convened pursuant to this part shall be conducted by a Presiding Officer, who shall be either a Regional Judicial Officer or a person having the qualifications of the members of the Environmental Appeals Board (described in 40 CFR 1.25(e)) if assigned by the Administrator or the qualifications of a Regional Judicial Officer if assigned by the Regional Administrator, as appropriate. Such person shall be an attorney who is a permanent or temporary employee of the Agency, who is not employed by the Region's or Headquarters' enforcement offices, and who has had no connection with the preparation or presentation of evidence for any hearing in which he participates as Judicial Officer.

* * * * *

PART 224—RECORDS AND REPORTS REQUIRED OF OCEAN DUMPING PERMITTEES UNDER SECTION 102 OF THE ACT

■ 7. The authority citation for 40 CFR part 224 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 8. Amend § 224.2 by revising paragraph (b) to read as follows:

§ 224.2 Reports.

* * * * *

(b) *Reports of emergency dumping.* If material is dumped without a permit pursuant to 40 CFR 220.1(c)(4), the owner or operator of the vessel or aircraft from which such dumping occurs shall as soon as feasible inform the Administrator, Regional Administrator, or the nearest Coast Guard district of the incident by radio, telephone, telegraph, or email and shall within 10 days file a written report with the Administrator or Regional Administrator containing the information required under § 224.1 and a complete description of the circumstances under which the dumping occurred. Such description shall explain how human life at sea was in danger and how the emergency dumping reduced that danger. If the material dumped included containers, the vessel owner or operator shall immediately request the U.S. Coast Guard to publish in the local Notice to Mariners the dumping location, the type of containers, and whether the contents are toxic or explosive. Notification shall also be given to the Food and Drug Administration, Shellfish Sanitation Branch, 5001 Campus Dr., College Park, MD 20740, as soon as possible.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 9. The authority citation for 40 CFR part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 10. Amend § 228.6 by revising the first sentence of paragraph (b) to read as follows:

§ 228.6 Specific criteria for site selection.

* * * * *

(b) The results of a disposal site evaluation and/or designation study based on the criteria stated in paragraphs (a)(1) through (11) of this section will be presented in support of the site designation promulgation as an environmental assessment of the impact of the use of the site for disposal, and will be used in preparation of environmental impact statement for each site where such a statement is required by EPA policy. * * *

■ 11. Amend § 228.15 by:

■ a. Revising paragraphs (a)(3), (d)(1)(i), (d)(2)(i), (d)(3)(i), (d)(4)(i), (d)(5)(i), (d)(7)(i), (d)(8)(i), (d)(9)(i), (d)(10)(i), (d)(11)(i), (d)(12)(i), (d)(13)(i), (d)(14)(i), (h)(1)(i), (h)(2)(i), (h)(3)(i), (h)(6)(i), (h)(7)(i), (h)(8)(i), (h)(11)(i) and (vi), (h)(12)(i), (h)(14)(i), and (h)(15)(i);

■ b. Removing the undesignated paragraph following paragraph (h)(15)(i);

■ c. Revising paragraphs (h)(16)(i), (h)(17)(i), and (h)(19)(i);

■ d. Removing the undesignated paragraph following paragraph (h)(19)(i);

■ e. Revising paragraphs (h)(20)(i), (j)(3)(i), (j)(5)(i), (j)(6)(i), (j)(7)(i), (j)(8)(i), (j)(9)(i), (j)(10)(i), (j)(11)(i), (j)(12)(i), (j)(13)(i), (j)(14)(i), (j)(15)(i), (j)(16)(i), (j)(17)(i), (j)(18)(i), (j)(19)(i), (j)(20)(i), (j)(21) introductory text, (j)(21)(i), (l)(3)(ii), (l)(4)(i), (m)(1)(i), (n)(2)(i), (n)(4)(i), and (n)(5)(i);

■ d. Removing the undesignated paragraph following paragraph (n)(5)(i);

■ e. Revising paragraphs (n)(11)(i), (n)(12)(i), and (n)(13)(i).

The revisions read as follows:

§ 228.15 Dumping sites designated on a final basis.

(a) * * *

(3) Unless otherwise specifically noted, all ocean dumping site coordinates are based upon the North American Datum of 1983 (NAD83). Further, note that the coordinates for each ocean disposal site may include either sexagesimal units (degrees, minutes, seconds) or decimal units (degrees, decimal minutes).

* * * * *

(d) * * *

(1) * * *

(i) *Location:* 40°36′49″ N, 73°23′50″ W; 40°37′12″ N, 73°21′30″ W; 40°36′41″ N, 73°21′20″ W; 40°36′10″ N, 3°23′40″ W (NAD27).

* * * * *

(2) * * *

(i) *Location:* 40°34′32″ N, 73°39′14″ W; 40°34′32″ N, 73°37′06″ W; 40°33′48″ N, 73°37′06″ W; 40°33′48″ N, 73°39′14″ W (NAD27).

* * * * *

(3) * * *

(i) *Location:* 40°34′36″ N, 73°49′00″ W; 40°35′06″ N, 73°47′06″ W; 40°34′10″ N, 73°48′06″ W; 40°34′12″ N, 73°47′17″ W (NAD27).

* * * * *

(4) * * *

(i) *Location:* 40°32′30″ N, 73°55′00″ W; 40°32′30″ N, 73°54′00W″; 40°32′00″ N, 73°54′00″ W; 40°32′00″ N, 73°55′00″ W (NAD27).

* * * * *

(5) * * *

(i) *Location:* 40°12′48″ N, 73°59′45″ W; 40°12′44″ N, 73°59′06″ W; 40°11′36″ N, 73°59′28″ W; 40°11′42″ N, 74°00′12″ W (NAD27).

* * * * *

(7) * * *

(i) *Location:* 40°06′36″ N, 74°01′34″ W; 40°06′19″ N, 74°01′39″ W; 40°06′18″ N, 74°01′53″ W; 40°06′41″ N, 74°01′51″ W (NAD27).

* * * * *

(8) * * *

(i) *Location:* 39°20′39″ N, 74°18′43″ W; 39°20′30″ N, 74°18′25″ W; 39°20′03″ N, 74°18′43″ W; 39°20′12″ N, 74°19′01″ W (NAD27).

* * * * *

(9) * * *

(i) *Location:* 38°55′52″ N, 74°53′04″ W; 38°55′37″ N, 74°52′55″ W; 38°55′23″ N, 74°53′27″ W; 38°55′36″ N, 74°53′36″ W (NAD27).

* * * * *

(10) * * *

(i) *Location:* 18°30′10″ N, 66°09′31″ W; 18°30′10″ N, 66°08′29″ W; 18°31′10″ N, 66°08′29″ W; 18°31′10″ N, 66°09′31″ W (NAD27).

* * * * *

(11) * * *

(i) *Location:* 18°31′00″ N, 66°43′47″ W; 18°31′00″ N, 66°42′45″ W; 18°30′00″ N, 66°42′45″ W; 18°30′00″ N, 66°43′47″ W (NAD27).

* * * * *

(12) * * *

(i) *Location:* 18°15′30″ N, 67°16′13″ W; 18°15′30″ N, 67°15′11″ W; 18°14′30″ N, 67°15′11″ W; 18°14′30″ N, 67°16′13″ W (NAD27).

* * * * *

(13) * * *

(i) *Location:* 17°54′00″ N, 66°37′43″ W; 17°54′00″ N, 66°36′41″ W; 17°53′00″ N, 66°36′41″ W; 17°53′00″ N, 66°37′43″ W (NAD27).

* * * * *

(14) * * *

(i) *Location:* 18°03′42″ N, 65°42′49″ W; 18°03′42″ N, 65°41′47″ W; 18°02′42″ N, 65°41′47″ W; 18°02′42″ N, 65°42′49″ W (NAD27).

* * * * *

(h) * * *

(1) * * *

(i) *Location:* 34°38′30″ N, 76°45′00″ W; 34°38′30″ N, 76°41′42″ W; 34°38′09″ N, 76°41′00″ W; 34°36′00″ N, 76°41′00″ W; 34°36′00″ N, 76°45′00″ W (NAD27).

* * * * *

(2) * * *

(i) *Location:* 33°49′30″ N, 78°03′06″ W; 33°48′18″ N, 78°01′39″ W; 33°47′19″ N, 78°02′48″ W; 33°48′30″ N, 78°04′16″ W (NAD27).

* * * * *

(3) * * *

(i) *Location:* 33°11′18″ N, 79°07′20″ W; 33°11′18″ N, 79°05′23″ W; 33°10′38″ N, 79°05′24″ W; 33°10′38″ N, 79°07′21″ W (NAD27).

* * * * *

(6) * * *

(i) *Location:* 31°55′53″ N, 80°44′20″ W; 31°57′55″ N, 80°46′48″ W; 31°57′55″

N, 80°44′20″ W; 31°55′53″ N, 80°46′48″ W (NAD27).

* * * * *

(7) * * *

(i) *Location:* 31°02′35″ N, 81°17′40″ W; 31°02′35″ N, 81°16′30″ W; 31°00′30″ N, 81°16′30″ W; 31°00′30″ N, 81°17′42″ W (NAD27).

* * * * *

(8) * * *

(i) *Location:* 30°33′00″ N, 81°16′52″ W; 30°31′00″ N, 81°16′52″ W; 30°31′00″ N, 81°19′08″ W; 30°33′00″ N, 81°19′08″ W (NAD27).

* * * * *

(11) * * *

(i) *Location:* 27°28′00″ N, 80°12′33″ W; 27°28′00″ N, 80°11′27″ W; 27°27′00″ N, 80°11′27″ W; and 27°27′00″ N, 80°12′33″ W (NAD27).

* * * * *

(vi) *Restrictions:* Disposal shall be limited to suitable dredged material from the greater Fort Pierce Harbor vicinity. All dredged material consisting of greater than 10% fine grained material (grain size of less than 0.047mm) by weight shall be limited to that part of the site east of 80°12′00″ W and south of 27°27′20″ N (NAD27).

* * * * *

(12) * * *

(i) *Location:* 30°17′24″ N, 87°18′30″ W; 30°17′00″ N, 87°19′50″ W; 30°15′36″ N, 87°17′48″ W; 30°15′15″ N, 87°19′18″ W (NAD27).

* * * * *

(14) * * *

(i) *Location:* 30°10′00″ N, 88°07′42″ W; 30°10′24″ N, 88°05′12″ W; 30°09′24″ N, 88°04′42″ W; 30°08′30″ N, 88°05′12″ W; 30°08′30″ N, 88°08′12″ W (NAD27).

* * * * *

(15) * * *

(i) *Location:* 30°12′06″ N, 88°44′30″ W; 30°11′42″ N, 88°33′24″ W; 30°08′30″ N, 88°37′00″ W; and 30°08′18″ N, 88°41′54″ W Center coordinates: 30°10′09″ N, 88°39′12″ W (NAD27).

* * * * *

(16) * * *

(i) *Location:* 30°11′10″ N, 88°58′24″ W; 30°11′12″ N, 88°57′30″ W; 30°07′36″ N, 88°54′24″ W; 30°07′24″ N, 88°54′48″ W (NAD27).

* * * * *

(17) * * *

(i) *Location:* 30°12′00″ N, 89°00′30″ W; 30°12′00″ N, 88°59′30″ W; 30°11′00″ N, 89°00′00″ W; 30°07′00″ N, 88°56′30″ W; 30°06′36″ N, 88°57′00″ W; 30°10′30″ N, 89°00′36″ W (NAD27).

* * * * *

(19) * * *

(i) *Location:* 25°45′30″ N; 80°03′54″ W; 25°45′30″ N; 80°02′50″ W; 25°44′30″ N; 80°03′54″ W; 25°44′30″ N; 80°02′50″ W (NAD27). Center coordinates are 25°45′00″ N and 80°03′22″ W (NAD27).

* * * * *

(20) * * *

(i) *Location:* 33°46′ N, 78°02.5′ W; 33°46′ N, 78°01′ W; 33°41′ N, 78°01′ W; 33°41′ N, 78°04′ W (NAD27).

* * * * *

(j) * * *

(3) * * *

(i) *Location:* 29°16′10″ N, 89°56′20″ W; 29°14′19″ N, 89°53′16″ W; 29°14′00″ N, 89°53′36″ W; 29°16′29″ N, 89°55′59″ W (NAD27).

* * * * *

(5) * * *

(i) *Location:* 29°45′39″ N, 93°19′36″ W; 29°42′42″ N, 93°19′06″ W; 29°42′36″ N, 93°19′48″ W; 29°44′42″ N, 93°20′12″ W; 29°44′42″ N, 93°20′24″ W; 29°45′27″ N, 93°20′33″ W (NAD27).

* * * * *

(6) * * *

(i) *Location:* 29°44′31″ N, 93°20′43″ W; 29°39′45″ N, 93°19′56″ W; 29°39′34″ N, 93°20′46″ W; 29°44′25″ N, 93°21′33″ W (NAD27).

(7) * * *

(i) *Location:* 29°37′50″ N, 93°19′37″ W; 29°37′25″ N, 93°19′33″ W; 29°33′55″ N, 93°16′23″ W; 29°33′49″ N, 93°16′25″ W; 29°30′59″ N, 93°13′51″ W; 29°29′10″ N, 93°13′49″ W; 29°29′05″ N, 93°14′23″ W; 29°30′49″ N, 93°14′25″ W; 29°37′26″ N, 93°20′24″ W; 29°37′44″ N, 93°20′27″ W (NAD27).

* * * * *

(8) * * *

(i) *Location:* 29°28′03″ N, 93°41′14″ W; 29°26′11″ N, 93°41′14″ W; 29°26′11″ N, 93°44′11″ W (NAD27).

* * * * *

(9) * * *

(i) *Location:* 29°30′41″ N, 93°43′49″ W; 29°28′42″ N, 93°41′33″ W; 29°28′42″ N, 93°44′49″ W; 29°30′08″ N, 93°46′27″ W (NAD27).

* * * * *

(10) * * *

(i) *Location:* 29°34′24″ N, 93°48′13″ W; 29°32′47″ N, 93°46′16″ W; 29°32′06″ N, 93°46′29″ W; 29°31′42″ N, 93°48′16″ W; 29°32′59″ N, 93°49′48″ W (NAD27).

* * * * *

(11) * * *

(i) *Location:* 29°38′09″ N, 93°49′23″ W; 29°35′53″ N, 93°48′18″ W; 29°35′06″ N, 93°50′24″ W; 29°36′37″ N, 93°51′09″ W; 29°37′00″ N, 93°50′06″ W; 29°37′46″ N, 93°50′26″ W (NAD27).

* * * * *

(12) * * *

(i) *Location:* 29°18′00″ N, 94°39′30″ W; 29°15′54″ N, 94°37′06″ W; 29°14′24″ N, 94°38′42″ W; 29°16′54″ N, 94°41′30″ W (NAD27).

* * * * *

(13) * * *

(i) *Location:* 28°50″51″ N, 95°13′54″ W; 28°51′44″ N, 95°14′49″ W; 28°50′15″ N, 95°16′40″ W; 28°49′22″ N, 95°15′45″ W (NAD27).

* * * * *

(14) * * *

(i) *Location:* 28°54′00″ N, 95°15′49″ W; 28°53′28″ N, 95°15′16″ W; 28°52′00″ N, 95°16′59″ W; 28°52′32″ N, 95°17′32″ W (NAD27).

* * * * *

(15) * * *

(i) *Location:* 28°23′48″ N, 96°18′00″ W; 28°23′21″ N, 96°18′31″ W; 28°22′43″ N, 96°17′52″ W; 28°23′11″ N, 96°17′22″ W (NAD27).

* * * * *

(16) * * *

(i) *Location:* 27°47′42″ N, 97°00′12″ W; 27°47′15″ N, 96°59′25″ W; 27°46′17″ N, 97°01′12″ W; 27°45′49″ N, 97°00′25″ W (NAD27).

* * * * *

(17) * * *

(i) *Location:* 27°49′10″ N, 97°01′09″ W; 27°48′42″ N, 97°00′21″ W; 27°48′06″ N, 97°00′48″ W; 27°48′33″ N, 97°01′36″ W (NAD27).

* * * * *

(18) * * *

(i) *Location:* 26°34′24″ N, 97°15′15″ W; 26°34′26″ N, 97°14′17″ W; 26°33′57″ N, 97°14′17″ W; 26°33′55″ N, 97°15′15″ W (NAD27).

* * * * *

(19) * * *

(i) *Location:* 26°04′32″ N, 97°07′26″ W; 26°04′32″ N, 97°06′30″ W; 26°04′02″ N, 97°06′30″ W; 26°04′02″ N, 97°07′26″ W (NAD27).

* * * * *

(20) * * *

(i) *Location:* 26°04′47″ N, 97°05′07″ W; 26°05′16″ N, 97°05′04″ W; 26°05′10″ N, 97°04′06″ W; 26°04′42″ N, 97°04′09″ W (NAD27).

* * * * *

(21) Atchafalaya River and Bayous Chene, Boeuf, and Black, LA (ODMDS—East).

(i) *Location:* 29°20′59.92″ N, 91°23′33.23″ W; 29°20′43.94″ N, 91°23′09.73″ W; 29°08′15.46″ N, 91°34′51.02″ W, and 29°07′59.43″ N, 91°34′27.51″ W

* * * * *

(l) * * *

(3) * * *

(ii) *Size:* 7.85 square nautical miles (27 square kilometers).

* * * * *

(4) * * *

(i) *Location:* 37°44′55″ N, 122°37′18″ W; 37°45′45″ N, 122°34′24″ W; 37°44′24″ N, 122°37′06″ W; 37°45′15″ N, 122°34′12″ W (NAD27).

* * * * *

(m) * * *

(1) * * *

(i) *Location:* 14°24.00′ S., 170°38.30′ W (NAD27) with a 1.5 nautical mile radius.

* * * * *

(n) * * *

(2) * * *

(i) *Location:* 43°21′59″ N, 124°22′45″ W;43°21′48″ N, 124°21′59″ W; 43°21′35″ N, 124°22′05″ W; 43°21′46″ N, 124°22′51″ W (NAD27).

* * * * *

(4) * * *

(i) *Location:* 43°23′53″ N, 124°22′48″ W; 43°23′42″ N, 124°23′01″ W; 43°24′16″ N, 124°23′26″ W; 43°24′05″ N, 124°23′38″ W (NAD27).

* * * * *

(5) * * *

(i) *Location:* 43°08′26″ N, 124°26′44″ W; 43°08′03″ N, 124°26′08″ W; 43°08′13″ N, 124°27′00″ W; 43°07′50″ N, 124°26′23″ W Centroid: 43°08′08″ N, 124°26′34″ W (NAD27).

* * * * *

(11) * * *

(i) *Location:* 46°52.94′ N, 124°13.81′ W; 46°52.17′ N, 124°12.96′ W; 46°51.15′ N, 124°14.19′ W; 46°51.92′ N, 124°14.95′ W (NAD27).

* * * * *

(12) * * *

(i) *Location:* 64°29′54″ N, 165°24′41″ W; 64°29′45″ N, 165°23′27″ W; 64°28′57″ N, 165°23′29″ W; 64°29′07″ N, 165°24′25″. (NAD27).

* * * * *

(13) * * *

(i) *Location:* 64°30′04″ N, 165°25′52″ W; 64°29′18″ N, 165°26′04″ W; 64°29′13″ N, 165°25′22″ W; 64°29′54″ N, 165°24′45″ W (NAD27).

* * * * *

PART 229—GENERAL PERMITS

■ 11. The authority citation for 40 CFR part 229 continues to read as follows

Authority: 33 U.S.C. 1412 and 1418.

■ 12. Amend § 229.3 by revising paragraph (a)(9) and adding a reserved paragraph (b) to read as follows:

§ 229.3 Transportation and disposal of vessels.

(a) * * *

(9) The National Ocean Service, NOAA, Nautical Data Branch, N/CS26, Station 7308, 1315 East-West Highway, Silver Spring, MD 20910, shall be notified in writing, within one week, of the exact coordinates of the disposal site so that it may be marked on appropriate charts.

(b) [Reserved]

[FR Doc. 2019–13493 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XH079

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of non-Community Development Quota (CDQ) sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2019 non-CDQ sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 29, 2019, through 2400 hours, A.l.t., December 31, 2019.

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

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

The 2019 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 633 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2019 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, NMFS is requiring that non-CDQ sablefish caught with vessels using trawl gear in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

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 prohibited retention of non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as June 26, 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 679.21 and is exempt from review under Executive Order 12866.

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

Dated: June 27, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–14088 Filed 6–27–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 84, No. 127

Tuesday, July 2, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

[NRC–2019–0114]

State of Vermont: NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Vermont

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed state agreement; request for comment.

SUMMARY: By letter dated April 11, 2019, Governor Philip Scott of the State of Vermont requested that the U.S. Nuclear Regulatory Commission (NRC or Commission) enter into an Agreement with the State of Vermont as authorized by Section 274b. of the Atomic Energy Act of 1954, as amended (AEA).

Under the proposed Agreement, the Commission would discontinue, and the State of Vermont would assume, regulatory authority over certain types of byproduct materials as defined in the AEA, source material, and special nuclear material in quantities not sufficient to form a critical mass.

As required by Section 274e. of the AEA, the NRC is publishing the proposed Agreement for public comment. The NRC is also publishing the summary of a draft assessment by the NRC staff of the State of Vermont's regulatory program. Comments are requested on the proposed Agreement and its effect on public health and safety. Comments are also requested on the draft staff assessment, the adequacy of the State of Vermont's program, and the State's program staff, as discussed in this document.

DATES: Submit comments by July 25, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by the following method:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0114. Address questions about NRC dockets in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Duncan White, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–2598, email: *Duncan.White@nrc.gov* of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0114 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0114.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. The final application for an AEA Section 274 Agreement from the State of Vermont, the draft assessment of the proposed Vermont program, and additional related correspondence between the NRC and the State for the regulation of agreement materials are available in ADAMS under Accession Nos. ML19107A432, ML19114A092, ML19115A214, ML19102A130 and ML19113A279.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0114 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information on Agreements Entered Under Section 274 of the AEA

Under the proposed Agreement, the NRC would discontinue its authority over 36 licenses and would transfer its regulatory authority over those licenses to the State of Vermont. The NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e. of the AEA requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This document is being published in fulfillment of that requirement.

III. Proposed Agreement With the State of Vermont

Background

(a) Section 274b. of the AEA provides the mechanism for a State to assume regulatory authority from the NRC over certain radioactive materials and activities that involve use of these materials. The radioactive materials, sometimes referred to as ''Agreement materials,'' are byproduct materials as defined in Sections 11e.(1), 11e.(2), 11e.(3), and 11e.(4) of the AEA; source material as defined in Section 11z. of the AEA; and special nuclear material as defined in Section 11aa. of the AEA, restricted to quantities not sufficient to form a critical mass.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') that the State of Vermont requests authority over are:

1. The possession and use of byproduct material as defined in Section 11e.(1) of the Act;

2. The possession and use of byproduct material as defined in Section 11e.(3) of the Act;

3. The possession and use of byproduct material as defined in Section 11e.(4) of the Act;

4. The possession and use of source material; and

5. The possession and use of special nuclear material, in quantities not sufficient to form a critical mass.

(b) The proposed Agreement contains articles that:

(i) Specify the materials and activities over which authority is transferred;

(ii) Specify the materials and activities over which the Commission will retain regulatory authority;

(iii) Continue the authority of the Commission to safeguard special nuclear material, protect restricted data, and protect common defense and security;

(iv) Commit the State of Vermont and the NRC to exchange information as necessary to maintain coordinated and compatible programs;

(v) Provide for the reciprocal recognition of licenses;

(vi) Provide for the suspension or termination of the Agreement; and

(vii) Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the proposed Agreement, with the effective date, will be published after the Agreement is approved by the Commission and signed by the NRC Chairman and the Governor of Vermont.

(c) The regulatory program is authorized by law under the Vermont Statutes Annotated (VT. STAT. ANN.) title 18, sections 1651 through 1657, which provides the Governor with the authority to enter into an Agreement with the Commission. The State of Vermont law contains provisions for the orderly transfer of regulatory authority over affected licenses from the NRC to the State. In a letter dated April 11, 2019, Governor Scott certified that the State of Vermont has a program for the control of radiation hazards that is adequate to protect public health and safety within the State of Vermont for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities (ADAMS Accession No. ML19116A227). After the effective date of the Agreement, licenses issued by the NRC would continue in effect as State of Vermont licenses until the licenses expire or are replaced by State-issued licenses.

(d) The draft staff assessment finds that the Vermont Department of Health's Radioactive Materials Program is adequate to protect public health and safety and is compatible with the NRC's regulatory program for the regulation of Agreement materials. However, the NRC staff identified several sections of the Vermont Radioactive Materials regulations that were either not compatible or needed additional editorial changes. By letter dated May 10, 2019, the NRC staff described these compatibility and editorial issues, and requested that the Vermont Department of Health reply within 60 days with a commitment to make the described regulatory changes as soon as practicable (ADAMS Accession No. ML19102A160). The resolution of these comments does not interfere with the NRC staff's processing of Vermont's Agreement State Application. On June 6, 2019, the NRC received a letter from the Vermont Department of Health committing to making these compatibility and editorial changes (ADAMS Accession No. ML19161A133). Therefore, the State of Vermont has committed to adopting an adequate and compatible set of radiation protection regulations that apply to byproduct, source, and special nuclear materials in quantities not sufficient to form a critical mass.

Summary of the Draft NRC Staff Assessment of the State of Vermont's Program for the Regulation of Agreement Materials

The NRC staff has examined the State of Vermont's request for an Agreement with respect to the ability of the State's radiation control program to regulate Agreement materials. The examination was based on the Commission's Policy Statement, ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,'' (46 FR 7540, January 23, 1981, as amended by Policy Statements published at 46 FR 36969, July 16, 1981, and at 48 FR 33376, July 21, 1983) (Policy Statement), and the Office of Nuclear Material Safety and Safeguards Procedure SA-700, ''Processing an Agreement'' (available at *https://scp.nrc.gov/procedures/sa700.pdf* and *https://scp.nrc.gov/procedures/sa700_hb.pdf*). The Policy Statement has 28 criteria that serve as the basis for the NRC staff's assessment of the State of Vermont's request for an Agreement. The following section will reference the appropriate criteria numbers from the Policy Statement that apply to each section.

(a) Organization and Personnel. The NRC staff reviewed these areas under Criteria 1, 2, 20, and 24 in the draft staff assessment. The State of Vermont's proposed Agreement materials program for the regulation of radioactive materials is called the ''Radioactive Materials Program,'' and will be located within the existing Office of Radiological Health of the Vermont Department of Health.

The educational requirements for the Radioactive Materials Program staff are specified in the State of Vermont's personnel position descriptions and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold a Master's Degree in either environmental science or radiologic and imaging sciences. All have training and work experience in radiation protection. Supervisory level staff have at least 20 years of working experience in radiation protection.

The State of Vermont performed an analysis of the expected workload under the proposed Agreement. Based on the NRC staff review of the State of Vermont's analysis, the State has an adequate number of staff to regulate radioactive materials under the terms of the proposed Agreement. The State of Vermont will employ the equivalent of 1.25 full-time equivalent professional and technical staff to support the Radioactive Materials Program.

The State of Vermont has indicated that the Radioactive Materials Program has an adequate number of trained and qualified staff in place. The State of Vermont has developed qualification procedures for license reviewers and inspectors that are similar to the NRC's procedures. The Radioactive Materials Program staff has accompanied the NRC staff on inspections of NRC licensees in Vermont and participated in licensing training at NRC's Region I with Division of Nuclear Materials Safety staff. The

Radioactive Materials Program staff is also actively supplementing its experience through direct meetings, discussions, and facility visits with the NRC licensees in the State of Vermont and through self-study, in-house training, and formal training.

Overall, the NRC staff concluded that the Radioactive Materials Program staff identified by the State of Vermont to participate in the Agreement materials program has sufficient knowledge and experience in radiation protection, the use of radioactive materials, the standards for the evaluation of applications for licensing, and the techniques of inspecting licensed users of Agreement materials.

(b) Legislation and Regulations. The NRC staff reviewed these areas under Criteria 1–15, 17, 19, and 21–28 in the draft staff assessment. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, sections 1651 through 1657 provide the authority to enter into the Agreement and establish the Vermont Department of Health as the lead agency for the State's Radioactive Materials Program. The Department has the requisite authority to promulgate regulations under the Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, section 1653(b)(1) for protection against radiation. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, sections 1651 through 1657 also provide the Radioactive Materials Program the authority to issue licenses and orders; conduct inspections; and enforce compliance with regulations, license conditions, and orders. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, section 1654 requires licensees to provide access to inspectors.

The NRC staff verified that the State of Vermont adopted by reference the relevant NRC regulations in parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR) into the Vermont Radioactive Materials Rule, Chapter 6, Subchapter 5. During its review, the NRC staff identified several sections of the final Vermont Radioactive Materials regulations that are not compatible or need editorial changes. By letter dated May 10, 2019, the NRC staff described these compatibility and editorial issues, and requested that the Vermont Department of Health reply within 60 days with a commitment to make the described regulatory changes as soon as practicable. The resolution of these comments does not interfere with the NRC staff's processing of Vermont's Agreement State Application. On June 6, 2019, the NRC staff received a letter from the Vermont Department of Health committing to making these compatibility and editorial changes. Therefore, the State of Vermont has committed to adopting an adequate and compatible set of radiation protection regulations that apply to byproduct materials, source material and special nuclear material in quantities not sufficient to form a critical mass. The NRC staff also verified that the State of Vermont will not attempt to enforce regulatory matters reserved to the Commission.

(c) Storage and Disposal. The NRC staff reviewed these areas under Criteria 8, 9a, and 11 in the draft staff assessment. The State of Vermont has adopted NRC compatible requirements for the handling and storage of radioactive material, including regulations equivalent to the applicable standards contained in 10 CFR part 20, which address the general requirements for waste disposal, and part 61, which addresses waste classification and form. These regulations are applicable to all licensees covered under this proposed Agreement.

(d) Transportation of Radioactive Material. The NRC staff reviewed this area under Criteria 10 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the NRC regulations in 10 CFR part 71. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials.

(e) Recordkeeping and Incident Reporting. The NRC staff reviewed this area under Criteria 1 and 11 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the sections of the NRC regulations that specify requirements for licensees to keep records and to report incidents or accidents involving the State's regulated Agreement materials.

(f) Evaluation of License Applications. The NRC staff reviewed this area under Criteria 1, 7, 8, 9a, 13, 14, 15, 20, 23, and 25 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the NRC regulations that specify the requirements to obtain a license to possess or use radioactive materials. The State of Vermont has also developed licensing procedures and adopted NRC licensing guides for specific uses of radioactive material for use by the program staff when evaluating license applications.

(g) Inspections and Enforcement. The NRC staff reviewed these areas under Criteria 1, 16, 18, 19, and 23 in the draft staff assessment. The State of Vermont has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by the NRC. The State of Vermont's Radioactive Materials Program has adopted procedures for the conduct of inspections, reporting of inspection findings, and reporting inspection results to the licensees. Additionally, the State of Vermont has also adopted procedures for the enforcement of regulatory requirements.

(h) Regulatory Administration. The NRC staff reviewed this area under Criterion 23 in the draft staff assessment. The State of Vermont is bound by requirements specified in its State law for rulemaking, issuing licenses, and taking enforcement actions. The State of Vermont has also adopted administrative procedures to assure fair and impartial treatment of license applicants. The State of Vermont law prescribes standards of ethical conduct for State employees.

(i) Cooperation with Other Agencies. The NRC staff reviewed this area under Criteria 25, 26, and 27 in the draft staff assessment. The State of Vermont law provides for the recognition of existing NRC and Agreement State licenses and the State has a process in place for the transition of active NRC licenses. Upon the effective date of the Agreement, all active NRC radioactive materials licenses issued to facilities in the State of Vermont will be recognized as Vermont Department of Health licenses.

The State of Vermont also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision.

The State of Vermont regulations, in Vermont Radioactive Materials Rule Chapter 6, Subchapter 5, provide exemptions from the State's requirements for the NRC and the U.S. Department of Energy contractors or subcontractors; the exemptions must be authorized by law and determined not to endanger life or property and to otherwise be in the public interest. The proposed Agreement commits the State of Vermont to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation, and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of Agreement materials. The proposed Agreement specifies the desirability of reciprocal recognition of licenses, and commits the Commission and the State of Vermont to use their best efforts to accord such reciprocity. The State of Vermont would be able to recognize the licenses of other jurisdictions by general license.

Staff Conclusion

Section 274d. of the AEA provides that the Commission shall enter into an Agreement under Section 274b. with any State if:

(a) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the Agreement materials within the State, and that the State desires to assume regulatory responsibility for the Agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o. and in all other respects compatible with the Commission's program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed Agreement.

The NRC staff has reviewed the proposed Agreement, the certification of Vermont Governor Scott, and the supporting information provided by the Radioactive Materials Program of the Vermont Department of Health. Based upon this review, the NRC staff concludes that the State of Vermont Radioactive Materials Program satisfies the Section 274d. criteria as well as the criteria in the Commission's Policy Statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.'' The NRC staff also concludes that the proposed State of Vermont program to regulate Agreement materials, as comprised of statutes, regulations, procedures, and staffing, is compatible with the Commission's program and is adequate to protect the public health and safety with respect to the materials covered by the proposed Agreement. Therefore, the proposed Agreement meets the requirements of Section 274 of the AEA.

Dated at Rockville, Maryland, this 20th day of June 2019.

For the Nuclear Regulatory Commission.

Andrea L. Kock,

Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards.

Note: The following appendix will not appear in the Code of Federal Regulations.

APPENDIX A

AN AGREEMENT BETWEEN THE UNITED STATES NUCLEAR REGULATORY COMMISSION AND THE STATE OF VERMONT FOR THE DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as ''the Commission'') is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 *et seq.* (hereinafter referred to as ''the Act''), to enter into agreements with the Governor of the State of Vermont (hereinafter referred to as ''the State'') providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1), (3), and (4) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

WHEREAS, The Governor of the State of Vermont is authorized under VT. STAT. ANN. tit. 18, § 1653 to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the State of Vermont certified on April 11, 2019, that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on [date] that the program of the State of Vermont for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and,

WHEREAS, The State of Vermont and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the State of Vermont recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the provisions of the Act;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of Vermont acting on behalf of the State as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7 and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct material as defined in Section 11e.(1) of the Act;
2. Byproduct material as defined in Section 11e.(3) of the Act;
3. Byproduct materials as defined in Section 11e.(4) of the Act;
4. Source materials; and
5. Special nuclear materials, in quantities not sufficient to form a critical mass.

ARTICLE II

This Agreement does not provide for the discontinuance of any authority, and the Commission shall retain authority and responsibility, with respect to:

A. The regulation of byproduct material as defined in Section 11e.(2) of the Act;

B. The regulation of the land disposal of byproduct, source, or special nuclear material received from other persons;

C. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;

D. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;

E. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

F. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear material waste as defined in regulations or orders of the Commission;

G. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission; and

H. The regulation of activities not exempt from Commission regulation as stated in 10 CFR part 150.

ARTICLE III

With the exception of those activities identified in Article II, paragraphs D. through H., this Agreement may be amended, upon application by the State and approval by the Commission to include one or more of the additional activities specified in Article II, paragraphs A. through C., whereby the State may then exert regulatory authority and responsibility with respect to those activities.

ARTICLE IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption for licensing issued by the Commission.

ARTICLE V

This Agreement shall not affect the authority of the Commission under Subsection 161b. or 161i. of the Act to issue rules, regulations, or orders to promote the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

ARTICLE VI

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and State programs for protection against the hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against the hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

ARTICLE VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State or upon request of the Governor of Vermont, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act.

Pursuant to Section 274j. of the Act, the Commission may, after notifying the Governor, temporarily suspend all or part of this Agreement without notice or hearing if, in the judgment of the Commission, an emergency situation exists with respect to any material covered by this agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside of the State and the State has failed to take steps necessary to contain or eliminate the cause of danger within a reasonable time after the situation arose. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect the public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

ARTICLE IX

This Agreement shall become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [location] this [date] day of [month], 2019.

For the Nuclear Regulatory Commission.

Kristine L. Svinicki,
Chairman.

Done at [location] this [date] day of [month], 2019.

For the State of Vermont.

Philip B. Scott,
Governor.

[FR Doc. 2019–13453 Filed 7–1–19; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2019–0470; Notice No. 25–19–10–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVII Series Airplane; Electro-Hydraulically Actuated Seats Equipped With Backup Power Supply

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Gulfstream Aerospace Corporation (Gulfstream) Model GVII series airplane. These airplanes, as modified by Gulfstream, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is electro-hydraulically actuated seats equipped with backup power supply. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before August 1, 2019.

ADDRESSES: Send comments identified by Docket No. FAA–2019–0470 using any of the following methods:

- *Federal eRegulations 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: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

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 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:

Alan Sinclair, AIR–675, Airframe and Cabin Safety Section, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3215; email *alan.sinclair@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On October 12, 2018, Gulfstream applied for a supplemental type certificate for electro-hydraulically actuated seats equipped with backup power supply in the Model GVII series airplane. The Gulfstream Model GVII series airplane, currently approved under Type Certificate No. T00021AT, is twin-engine, transport-category airplane with seating for 19 passengers and a maximum takeoff weight of 79,600 pounds.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Gulfstream must show that the Model GVII series airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. T00021AT or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVII series airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVII series airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Gulfstream Model GVII series airplane will incorporate the following novel or unusual design features:

Hydraulically actuated components on airplane seats, including hydraulic reservoir, pump, actuators, and backup power systems.

Discussion

Hydraulically actuated components and backup power systems on airplane seats are considered novel or unusual by the FAA. Therefore, we developed special conditions that contain the additional standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

The FAA has considered the installation of seats with these features to have four primary safety concerns:

1. Reliability of the backup power supply;
2. Safety hazards to the occupants from the hydraulically actuated components of the seat;
3. Structural integrity of the hydraulic components; and
4. Flammability.

Emergency exits must be accessible to the passengers, and the effectiveness of evacuation must be maintained. Typical airplane seats can be positioned manually to the lateral (track) and directional (swivel) taxi, takeoff, and landing (TT&L) position by mechanical means, so that the seats can be positioned accordingly in the event of a loss of cabin power. For this electro-hydraulically operated seat design, in lieu of a manual means to re-position the hydraulically operated seat features (backrest, seat pan, and leg-rest deployment) for TT&L, a backup power supply (BPS) temporarily powers the hydraulic system in the event of loss of cabin power. The BPS is deployed, and intended only for use, in the event of a loss of cabin power. If the seats are installed in the path of the emergency over-wing exits, failure to return the seat to a TT&L position may have an adverse effect on evacuation. Substantiation of 14 CFR 25.809(b) and 25.813(c)(2)(ii) must be shown with the seats in their most adverse positions.

It must be shown that the hydraulically actuated components of the seat pose no safety hazard to the occupants or airplane. This includes injuries caused by crushing of airplane occupants who are between the hydraulically actuated components and any part of the passenger cabin when seat features (*e.g.,* leg rest or backrest) are actuated. Additionally, the risk of loss of function of a control or proximity switch, resulting in the pump motor commanded to remain pumping after the hydraulic actuator(s) have reached their minimum or maximum limit, must not cause the overloaded motor to overheat, a condition that could result in fire.

The FAA has also considered the emergency-landing dynamic conditions for the installation of electro-hydraulically actuated seats. The applicant must show that the hydraulic system (actuators, reservoir, lines, etc.) remains intact and free from leakage under the conditions specified in § 25.562. Testing of each seat's hydraulic system per § 25.1435(c) may be conducted off of the airplane.

Flammability of hydraulic fluid used in the seat-movement mechanism must be considered. If the fluid is flammable, it could contribute to a post-crash or in-flight fire. Any failure modes that would result in release of the flammable hydraulic fluid during a post-crash or in-flight fire, causing such fluid to materially increase an existing fire, must be examined. Examples of this could be flex lines burning through and releasing the flammable hydraulic fluid, or the fluid reservoir could be heated in a fire, resulting in a boiling-liquid, expanding-vapor explosion. The potential for spontaneous ignition of the fluid coming into contact with hot surfaces or other ignition sources should also be addressed. The applicant should examine any possible failure mode in which the flammable hydraulic fluid could be absorbed into materials, such as the seat foam and fabric, carpeting, etc. The applicant must show that any fluid-soaked seat parts remain self-extinguishing. The applicant must also show that flammability of dry residue, which may be present from a slow leak or fluid seepage, does not degrade the flammability characteristics of any materials the fluid contacts, to a level below the requirements specified in § 25.853.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these proposed special conditions are applicable to the Gulfstream Model GVII series airplane. Should Gulfstream apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00021AT to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Model GVII series airplanes modified by Gulfstream Aerospace Corporation.

1. It must be shown that the probability of failure of the backup power supply to return seat components to the required taxi, takeoff, and landing position is no greater than 10^{-5} per flight hour.

2. It must be shown that the hydraulically actuated components of the seat pose no safety hazard to the occupants. Hazards to be considered, per the latest revision of Advisory Circular 25.1309–1, at a minimum are:

a. Injuries caused by crushing of airplane occupants who are between the hydraulically actuated components and any part of the passenger cabin when the leg rest or backrest is actuated.

b. The risk of loss of function of a control or proximity switch resulting in the pump motor being commanded to stay on after the hydraulic actuator(s) have reached their minimum or maximum limit, creating potential for motor overheating or fire.

c. The potential for a significant contribution to a fire in the event fluid comes into contact with hot surfaces or other ignition sources, and the potential for release of toxic or flammable vapors and gasses.

3. It must be shown that the hydraulic system (actuators, reservoir, lines, etc.) remains intact and free from leakage under the conditions specified in § 25.562. Testing of each seat's hydraulic system per § 25.1435(c) may be conducted off of the airplane.

4. Section 25.863 requires consideration of any effects the hydraulic fluid, including the fluid as a dry residue, could have on combustible or absorbing materials. The characteristics of such flammable fluid in these conditions must be tested to the requirements of § 25.853(a) and (c), or the materials must be shielded in a manner that prevents contact by the fluid. However, as an alternative to such testing or shielding, the applicant may provide, in accordance with § 25.863(c), a quick-acting means that alerts the crew that hydraulic fluid has leaked.

Issued in Des Moines, Washington, on June 21, 2019.

Christopher R. Parker,

Acting Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–14010 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0520; Product Identifier 2019–NM–046–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. This proposed AD was prompted by reports of loose and irregular fasteners at the forward end of the nacelle upper longeron, where the bulkhead frame and struts are attached to the engine mounting structure (EMS). This proposed AD would require modification of the EMS and structural attachments. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 16, 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 Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; phone: +46 13 18 5591; fax:

+46 13 18 4874; email: *saab2000.techsupport@saabgroup.com*; internet: *http://www.saabgroup.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–2019–0520; 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 is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0520; Product Identifier 2019–NM–046–AD'' at the beginning of your comments. The agency specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The agency will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0054, dated March 18, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The MCAI states:

> Occurrences have been reported where, during maintenance, loose and irregular fasteners were found at the forward end of the nacelle upper longeron, where the bulkhead frame and struts are attached to the engine mounting structure (EMS). Investigation results indicate a potential risk for significant reduction of the safety margins.
>
> This condition, if not corrected, could cause development of cracks in the EMS, leading to failure of the affected engine mount-to-aeroplane structural connection, possibly resulting in significant airframe vibrations and detrimental effects on the surrounding pylon/nacelle structure, compromising its integrity.
>
> To address this potential unsafe condition, SAAB designed a repair and issued the SB [Saab Service Bulletin 2000–54–036, Revision 02, dated January 18, 2019] to provide instructions to install that repair as preventive modification.
>
> For the reason described above, this [EASA] AD requires modification of the EMS and attachments.

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–2019–0520.

Related Service Information Under 1 CFR Part 51

Saab has issued Service Bulletin 2000–54–036, Revision 02, dated January 18, 2019. This service information describes procedures for modification of the EMS and structural attachments. 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, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The agency is 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

The FAA estimates that this proposed AD affects 11 airplanes of U.S. registry. The agency estimates 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
256 work-hours × $85 per hour = $21,760	$2,500	$24,260	$266,860

The FAA has received no definitive data that would enable us to provide cost estimates for the on-condition repairs 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.

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

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

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Docket No. FAA–2019–0520; Product Identifier 2019–NM–046–AD.

(a) Comments Due Date

We must receive comments by August 16, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems) Model SAAB 2000 airplanes, certificated in any category, all serial numbers, except serial numbers 006, 043, 056, and 061.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by reports of loose and irregular fasteners at the forward end of the nacelle upper longeron, where the bulkhead frame and struts are attached to the engine mounting structure (EMS). The FAA is issuing this AD to address loose and irregular fasteners of the EMS which could cause development of cracks in the EMS, leading to failure of the affected engine mount-to-airplane structural connection, possibly resulting in significant airframe vibrations and detrimental effects on the surrounding pylon/nacelle structure, and loss of structural integrity.

(f) Compliance

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

(g) Modification of the EMS

Within 3,000 flight hours or 24 months, whichever occurs first after the effective date of this AD, modify the EMS and structural attachments, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–54–036, Revision 02, dated January 18, 2019. Where Saab Service Bulletin 2000–54–036, Revision 02, dated January 18, 2019, specifies to contact Saab for appropriate action: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (i)(2) of this AD.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Saab Service Bulletin 2000–54–036, dated November 6, 2018; or Saab Service Bulletin 2000–54–036, Revision 01, dated January 7, 2019.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0054, dated March 18, 2019, 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–2019–0520.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; phone: +46 13 18 5591; fax: +46 13 18 4874; email: *saab2000.techsupport@saabgroup.com*; internet: *http://www.saabgroup.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 June 21, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–13889 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0442; Product Identifier 2018–NM–171–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–15–04, which applies to certain The Boeing Company Model 787–8 and 787–9 airplanes. AD 2017–15–04 requires replacement of affected electromechanical actuators (EMAs). Since AD 2017–15–04 was issued, the FAA has determined that discrepant EMAs may have been installed on airplanes outside the original applicability of AD 2017–15–04. This proposed AD would retain the

requirements of AD 2017–15–04, expand the applicability to include all The Boeing Company Model 787 series airplanes, and add a new requirement to identify, for certain airplanes, the part number of EMAs and replace affected EMAs. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 16, 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 Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0442.

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–2019–0442; 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 is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3548; email: *douglas.tsuji@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0442; Product Identifier 2018–NM–171–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The agency will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the agency receives about this proposed AD.

Discussion

The FAA issued AD 2017–15–04, Amendment 39–18964 (82 FR 33785, July 21, 2017) (''AD 2017–15–04''), for certain The Boeing Company Model 787–8 and 787–9 airplanes. AD 2017–15–04 requires replacement of affected EMAs. AD 2017–15–04 resulted from a report of wire harness chafing on the EMAs for certain spoilers due to insufficient separation with adjacent structure. The FAA issued AD 2017–15–04 to address chafing and consequent wire damage that could result in a potential source of ignition in the flammable leakage zone—an area of the airplane where flammable fluids have the potential to accumulate—and a consequent fire or explosion.

Actions Since AD 2017–15–04 Was Issued

Since the FAA issued AD 2017–15–04, the agency has determined that, because the affected EMAs are rotable parts, these affected EMAs could be installed on airplanes that did not fall within the applicability of AD 2017–15–04, thereby subjecting those airplanes to the unsafe condition. In addition, Boeing issued Boeing Service Bulletin B787–81205–SB270030–00, Issue 002, dated April 7, 2017, which removes two airplanes from the effectivity, includes minor editorial changes, and does not require additional work for airplanes on which the actions required by AD 2017–15–04 were accomplished.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Service Bulletin B787–81205–SB270030–00, Issue 002, dated April 7, 2017. The service information describes procedures for replacing affected EMAs with new EMAs.

This proposed AD would also require Boeing Service Bulletin B787–81205–SB270030–00, Issue 001, dated October 22, 2015, which the Director of the Federal Register approved for incorporation by reference as of August 25, 2017 (82 FR 33785, July 21, 2017).

These documents are distinct since they apply to different airplanes. 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

The FAA is proposing this AD because the agency has evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2017–15–04, and expand the applicability to include all The Boeing Company Model 787 series airplanes. This proposed AD would also require an inspection or records check to identify the part number of the EMA, and for airplanes with affected EMAs, accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0442.

Differences Between This Proposed AD and the Service Information

The effectivity of Boeing Service Bulletin B787–81205–SB270030–00, Issue 002, dated April 7, 2017, is limited to certain The Boeing Company Model 787–8 and 787–9 airplanes. However, the applicability of this proposed AD includes all The Boeing Company Model 787 series airplanes. Because the affected EMAs are rotable parts, the FAA has determined that these parts could be installed on airplanes that were initially delivered with acceptable

EMAs, thereby subjecting those airplanes to the unsafe condition.

Costs of Compliance

The FAA estimates that this proposed AD would affect 93 airplanes of U.S. registry. The agency estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
EMA replacement (retained actions from AD 2017-15-04).	32 work-hours × $85 per hour = $2,720 per EMA replacement.	*	$2,720 *	Up to $252,960 *
Inspection/records check	1 work-hour × $85 per hour = $85	$0	$85 per inspection cycle.	$7,905

* Parts cost is not included in the service information, but Boeing has indicated that existing parts can be modified to become the new parts.

Authority for This Rulemaking

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

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

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

The FAA has 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 that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–15–04, Amendment 39–18964 (82 FR 33785, July 21, 2017), and adding the following new AD:

The Boeing Company: Docket No. FAA–2019–0442; Product Identifier 2018–NM–171–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 16, 2019.

(b) Affected ADs

This AD replaces AD 2017–15–04, Amendment 39–18964 (82 FR 33785, July 21, 2017) ("AD 2017–15–04").

(c) Applicability

This AD applies to all The Boeing Company Model 787 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by wire harness chafing on the electro-mechanical actuators (EMAs) for certain spoilers due to insufficient separation with adjacent structure. The FAA is issuing this AD to address chafing and consequent wire damage that could result in a potential source of ignition in the flammable leakage zone and a consequent fire or explosion.

(f) Compliance

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

(g) Retained EMA Replacement, With Revised Compliance Language

This paragraph restates the requirements of paragraph (g) of AD 2017–15–04 with revised compliance language. For airplanes identified in Boeing Service Bulletin B787–81205–SB270030–00, Issue 001, dated October 22, 2015: Within 40 months after August 25, 2017 (the effective date of AD 2017–15–04), replace the EMAs with new EMAs, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB270030–00, Issue 001, dated October 22, 2015; or Boeing Service Bulletin B787–81205–SB270030–00, Issue 002, dated April 7, 2017.

(h) New Definition

For the purpose of this AD, an "affected part" is an EMA for spoiler 4, 5, 10, or 11 having part number C99144–004 or C99144–005.

(i) New EMA Identification and Replacement

For airplanes not identified in paragraph (g) of this AD with an original airworthiness certificate or an original export certificate of airworthiness dated before or on the effective date of this AD, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Within 40 months after the effective date of this AD, perform a general visual inspection of the EMAs for spoilers 4, 5, 10, and 11 to determine the part number. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the EMA can be conclusively determined from that review.

(2) If the EMA is an affected part: Within 40 months after the effective date of this AD, replace the EMA in accordance with the Accomplishment Instructions of Boeing

Service Bulletin B787–81205–SB270030–00, Issue 002, dated April 7, 2017.

(j) Parts Installation Prohibition

As of the effective date of this AD, do not install on any airplane an EMA having part number (P/N) C99144–004 or C99144–005.

(k) Credit for Previous Actions

This paragraph provides credit for the action specified in paragraph (i)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin B787–81205–SB270030–00, Issue 001, dated October 22, 2015.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2017–15–04 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(5) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (l)(5)(i) and (l)(5)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(m) Related Information

(1) For more information about this AD, contact Douglas Tsuji, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3548; email: *douglas.tsuji@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 14, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–13673 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 224

RIN 1076–AF47

[192D0102DR/DS5A300000/DR.5A311.IA000118]

Tribal Energy Resource Agreements

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to amend its regulations governing Tribal Energy Resource Agreements (TERAs) between the Secretary of the Interior (Secretary) and Indian Tribes. Tribes, at their discretion, may apply for TERAs. TERAs allow Tribes to enter into leases, business agreements, and rights-of-way for energy resource development on Tribal land without the Secretary's review and approval. This proposed rule would update the regulations to incorporate changes recently made by Congress to the Act authorizing TERAs. This proposed rule would also establish how Tribal Energy Development Organizations (TEDOs) may obtain certification, as an alternative to a TERA.

DATES: Please submit comments by September 3, 2019. Please see ''III. Tribal Consultation'' of this preamble for dates of Tribal consultation sessions on this proposed rule.

ADDRESSES: You may send comments, identified by number 1076–AF47, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov*. Follow the instructions for sending comments.

—*Email: consultation@bia.gov*. Include the number 1076–AF47 in the subject line of the message.

—*Mail or hand-delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW, MIB–4660–MS, Washington, DC 20240. Include the number 1076–AF47 in the subject line of the message.

Instructions: All submissions received must include ''Bureau of Indian Affairs'' and ''1076–AF47.'' All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered.

Comments on the information collections contained in this proposed regulation (see ''Paperwork Reduction Act'' section, below) are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_DOCKET@omb.eop.gov*. Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Please see ''III. Tribal Consultation'' of this preamble for addresses of Tribal consultation sessions on this proposed rule.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary is issuing these regulations under the authority of the Indian Tribal Energy Development and Self-Determination Act of 2005 as amended by the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017, 25 U.S.C. 3501–3504, Public Law 115–325, and 25 U.S.C. 2 and 9.

In 2005, Congress passed a law authorizing Tribes, at their discretion, to apply for and enter into TERAs with the Secretary. *See* the Indian Tribal Energy Development and Self-Determination Act of 2005, Title XXVI, Section 2604 of the Energy Policy Act (Pub. L. 109–58). Upon Secretarial approval of a TERA, the Tribe may enter into energy-related leases, business agreements, and rights-of-way on Tribal lands without the Secretary's review and approval. The BIA finalized regulations to implement this authority in 2008. *See* 73 FR 12807 (March 10, 2008).

TERAs further the Federal Government's policy of providing enhanced self-determination and economic development opportunities for Indian Tribes by promoting Tribal oversight and management of energy resource development on tribal lands. TERAs provide another avenue, in addition to the Indian Minerals Development Act and the Indian Mineral Leasing Act, under which Tribes may develop their mineral resources. TERAs also support the national energy policy of increasing utilization of domestic energy resources.

Congress updated provisions authorizing TERAs in the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017. The Act's amendments update the procedures and conditions for the Secretary's approval of TERAs, authorize Tribes to enter into leases and business agreements that pool a tribe's energy resources with other energy resources and, among other things, establishes that energy-related leases, business agreements, and rights-of-way between a Tribe and certified TEDO do not require the Secretary's approval.

II. Summary of This Proposed Rule

This proposed rule would address the requirements of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017 (2017 Amendments). Wherever possible, BIA has attempted to interpret these statutory changes in a manner that will impose the least burden on Tribes. As described in more detail, below, the proposed rule would: (1) Reduce the information Tribes must provide in TERA applications; (2) impose timelines on the Secretary for review and approval of TERAs; (3) limit the grounds on which the Secretary may disapprove a TERA and require an explanation of each of the grounds; (4) establish a process for amending a TERA; (5) narrow who may be considered an interested party and procedures for petitioning and for the Secretary's handling of interested party petitions; (6) address how BIA will provide unexpended funds to Tribes; (7) establish a process and criteria for certifying TEDOs ; and (8) make various technical nomenclature and other technical edits.

A. Information Required in Applications for TERAs

The 2017 Amendments deleted a requirement for the Secretary to consider the capacity (experience in managing natural, financial and administrative resources) of a Tribal applicant to carry out a TERA. *See* Section 103(a) of the 2017 Amendments. To reflect this deletion, the proposed rule would delete several TERA application items and several required TERA provisions.

B. Timelines

The proposed rule would incorporate timelines established by the 2017 Amendments to ensure that the TERA application process moves forward in a timely manner. Specifically, the proposed rule would:

- Require the Secretary to do the following within 30 days of a Tribe submitting a TERA:
  - o Notify the Indian tribe as to whether the agreement is complete or incomplete;
  - o If the agreement is incomplete, notify the Indian tribe of what information or documentation is needed to complete the submission; and
  - o Identify and notify the Indian tribe of the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in the implementation of the tribal energy resource agreement, including the environmental review of individual projects.
- Establish that a TERA takes effect 271 days after the Secretary receives the TERA, unless the Secretary disapproves it.
- Establish that a revised TERA takes effect 91 days after the Secretary receives the TERA, unless the Secretary disapproves it.

The proposed rule would also incorporate statutory requirements that the TERA remains in effect to the extent any provision is consistent with applicable Federal law (including regulations), unless the Secretary reassumes the authority by necessity to protect the physical trust asset or the Tribe voluntarily rescinds the TERA pursuant to the regulations.

C. Grounds for Disapproval of a TERA

The proposed rule would promote certainty in the TERA application process by limiting the grounds upon which the Secretary may disapprove a TERA. Specifically, the proposed rule would establish that the Secretary may disapprove a TERA only if:

- The Tribe does not meet the definition of a ''qualified Tribe;''
- A provision of the TERA violates applicable Federal law, regulations, or a treaty; or
- The TERA fails to include certain provisions.

In addition, the proposed rule would provide that, where the Secretary does disapprove a TERA application, the Secretary must provide the Tribe with a detailed, written explanation of each reason for a disapproval, specify the revisions or changes to the TERA necessary to address each reason, and offer the Tribe an opportunity to revise and resubmit the TERA.

D. Amendments to TERAs

The proposed rule provides more flexibility to the Tribe, in that it would establish a process to amend an approved TERA to assume authority for approving leases, business agreements, or rights-of-way for development of another energy resource that is not already covered, without requiring the Tribe to apply for a new TERA.

E. Petitions by Interested Parties

The proposed rule would update the existing current regulatory process for ensuring that the public is informed of, and has reasonable opportunity to comment on, environmental impacts by:

- Limiting who is considered an interested party to those able to demonstrate their interest with substantial evidence;
- Requiring exhaustion of any remedies provided under Tribal law before an interested party may submit to the Secretary a petition to review Tribal compliance with the TERA;
- Requiring the Secretary to determine whether the petitioner is an interested party and whether the Tribe

is not in compliance with the TERA as alleged in the petition;

• Limiting the Secretary to taking only such action as the Secretary determines is necessary to address the noncompliance claims; and

• Requiring the Secretary to dismiss a petition if the Tribe and interested party who filed the petition reach a resolution of the petition's claims.

F. Unexpended Amounts

The proposed rule would broadly set out the manner in which the Secretary will provide to a requesting Tribe the amounts that the Secretary would have spent carrying out activities the Tribe carries out in the TERA (unexpended amounts), and will provide the Tribe with an accounting of those unexpended amounts.

G. Certification of TEDOs

The proposed rule would establish a process for the Tribal Energy Development Organizations (TEDOs) to obtain certification from the Secretary so that they may enter into leases, business agreements, and rights-of-way with Tribes on Tribal land without Secretarial approval. *See* Section 103(b) of the 2017 Amendments.

H. Nomenclature and Technical Changes

The proposed rule would also make changes to:

• Capitalize ''Tribe'' consistent with the Government Printing Office Manual;

• Add reference to the annual list of federally recognized Tribes in the definition of ''Tribe;''

• Replace ''Director'' of the Office of Indian Energy & Economic Development (IEED) with ''Secretary'' to indicate the Secretary of the Interior and maintain delegation flexibility, except where necessary to provide for administrative appeal options;

• Add an address for receipt of TERA applications and requests for TEDO certifications.

I. Table of Proposed Changes

The following table summarizes revisions to part 224, by showing where the substance of each section of the current rule is in the proposed rule and describing the changes. The table does include sections for which there was no substantive change, including those sections where the only changes were to capitalize ''Tribe'' or replace ''Director'' with ''Secretary.''

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of proposed change
224.30	What definitions apply to this part?	224.30	In definition of "Act," adds reference to the 2017 Amendments; adds new definitions for "qualified Tribe" and "Tribal energy development organization" and updates the definition of "Tribe" to refer to the list of federally recognized Tribes.
224.53	What must an application for a TERA contain?	224.53	Deletes provisions require descriptions of the Tribe's expertise and capabilities and adds a provision requiring documentation that the tribe is a "qualified Tribe"
224.54	How must a tribe submit an application?	224.54	Adds an email and physical address for submitting a TERA application.
224.56	What is the effect of the Director's receipt of a tribe's complete application?	224.56	Adds that the TERA takes effect on the 271st day after the Secretary receives a complete application, unless the Tribe consents to an extension.
224.57	What must the Director do upon receipt of an application?	224.57	Adds that the Secretary must identify in the written notice any financial assistance available from the Secretary to assist in implementing the TERA.
224.63	What provisions must a TERA contain?	224.63	Deletes provisions requiring that the environmental review process identifies and evaluates all significant environmental effects and proposed mitigation measures and provisions requiring mechanisms for obtaining qualifications of third parties and for securing technical information. Adds provision for the Tribe to identify functions the Tribe intends to conduct to authorize operational or development activities.
224.64	How may a tribe assume management of development of different types of energy resources?	224.64	Adds provisions allowing amendments to TERAs. Deletes provision requiring application for a new TERA and determination of the Tribe's capacity.
224.65	How may a tribe assume additional activities under a TERA?	224.65	Deletes provision that the Secretary will determine whether the Tribe has sufficient capacity.
224.71	What standards will the Secretary use to decide to approve a final proposed TERA?	224.71	Revises to provide that the Secretary must approve the TERA unless the Tribe is not a qualified Tribe, a TERA provision violates law or a treaty applicable to the Tribe, or the TERA fails to include required provisions.
224.72	How will the Secretary determine whether a tribe has demonstrated sufficient capacity?	224.72	Deletes the text of this section and reserves the section number to maintain numbering.
224.73	How will the scope of energy resource development affect the Secretary's determination of the tribe's capacity?	224.73	Deletes the text of this section and reserves the section number to maintain numbering.
224.74	When must the Secretary approve or disapprove a final proposed TERA?	224.74	Adds that if the Secretary fails to approve or disapprove a final proposed TERA, the TERA takes effect on the 271st day after receipt.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of proposed change
224.75	What must the Secretary do upon approval or disapproval of a final proposed TERA?	224.75	Adds that the Secretary must provide a detailed, written explanation of each reason for the disapproval, the changes required to address each reason, and the opportunity to revise and resubmit the TERA.
224.76	Upon notification of disapproval, may a tribe resubmit a revised final proposed TERA?	224.76	Adds that if the Secretary fails to approve or disapprove a revised final proposed TERA, it takes effect on the 91st day after receipt.
		224.78	New section to address how long a TERA remains in effect. Adds that a TERA remains in effect until the Secretary reassumes activities under Subpart G or the Tribe rescinds the TERA under Subpart H.
		224.79	New section to address how the Secretary will make non-expended amounts available to the Tribe.
224.80	Under what authority will a tribe perform activities for energy resource development?	224.80	Clarifies that the Tribe will perform activities under "Federal" authorities provided in the approved TERA.
224.84	When may a tribe grant a right-of-way?	224.84	Revises this section to clarify that the right-of-way may serve any of the listed purposes.
224.85	When may a tribe enter into a lease or business agreement?	224.85	Adds additional purposes, listed in the 2017 Amendments, for which the Tribe may enter into a lease or business agreement.
224.101	Who is an interested party?	224.101	Clarifies that the Secretary must determine that the person or entity has demonstrated their interest with substantial evidence.
224.107	What must a petitioner do before filing a petition with the Secretary?	224.107	Clarifies that the petitioner must have exhausted all tribal remedies available under laws, regulations, or procedures of the Tribe.
224.115	When in the petition process must the Director investigate a tribe's compliance with a TERA?	224.115	Adds that the Secretary must make a threshold determination that the petitioner is an interested party.
224.116	What is the time period in which the Director must investigate a tribe's compliance with a TERA?	224.116	Adds that the Secretary must determine whether the petitioner is an interested party and, if so, that the Secretary must determine whether the Tribe is out of compliance with the TERA for the reason alleged in the petition.
224.119	What must the Director do when making a decision on a petition?	224.119	Adds that the Secretary must limit findings and conclusions to the claims made in the petition, and that the Secretary will dismiss a petition if the interested party and Tribe have reached a resolution.
224.120	What action may the Director take to ensure compliance with a TERA?	224.120	Limits the Secretary to taking such action as necessary to address the noncompliance identified in petition.
		224.200	New section to address the purpose of Tribal energy development organization (TEDOs) as an alternative to a TERA.
		224.201	New section to address what an application for certification as a TEDO must include.
		224.202	New section to establish an email and physical address for submission of an application for certification.
		224.203	New section to address that the Secretary will approve or disapprove an application for certification within 90 days.
		224.204	New section to establish the criteria by which a Secretary will determine whether to certify a TEDO.
		224.205	New section to establish what the Secretary will do upon approving a certification.
		224.206	New section to establish the effect of certification to allow a Tribe and the TEDO to enter into leases, business agreements, and rights-of-way without Secretarial approval and without a TERA.

III. Tribal Consultation

We will be hosting several Tribal consultation sessions at targeted locations throughout the country to discuss this proposed rule. The dates and locations for the consultation sessions are as follows:

Date	Time	Location	Venue
Monday, June 24, 2019, (Listening session).	1 p.m.–4 p.m., (Local Time).	Sparks, NV	(In association with National Congress of American Indians Mid-Year Conference) Nugget Casino & Resort, 1100 Nugget Ave., Sparks, NV 89431, Room: Southern Pacific B.
Thursday, July 11, 2019	9 a.m.–12 p.m. (Local time).	Tulsa, Oklahoma	Hard Rock Hotel & Casino, 777 W. Cherokee Street, Catoosa, OK 74015.
Tuesday, July 16, 2019	9 a.m.–12 p.m. (Local time).	Ignacio, Colorado	Sky Ute Casino Resort, 14324 Highway 172 North, Ignacio, CO 81137.
Thursday, July 18, 2019	9 a.m.–12 p.m. (Local time).	New Town, North Dakota	MHA Nation TERO/Energy Building, 305 4th Avenue, New Town, ND 58763.
Tuesday, July 23, 2019	1 p.m.–4 p.m. Eastern Time.	Teleconference	Call-in number: 888–810–4791, Passcode: 8466506.

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. 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. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations.

E.O. 13771 of January 30, 2017, directs Federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. OIRA has determined that this rule is deregulatory because the updates will reduce the requirements and annual burden hours imposed on Tribes seeking to enter into a TERA.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this 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.*).

C. Small Business Regulatory Enforcement Fairness Act

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

(a) Does not have an annual effect on the economy of $100 million or more because it merely codifies eligibility requirements that were already established by past practice and a Federal District Court ruling.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions because this rule affects only individuals' eligibility for certain education contracts.

(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 because this rule affects agreements between Tribes and the Department to allow Tribes to authorize individual leases, business agreements, and rights-of-way on Tribal land

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a monetarily significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable ''taking.'' A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement because the rule affects only agreements entered into by Tribes and the Department. A federalism summary impact statement is not required.

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

This rule complies with the requirements of Executive Order 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. 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 with Indian Tribes 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 Executive Order 13175 and have determined that it has substantial direct effects on federally recognized Indian Tribes because the rule affects the criteria, process, and effectiveness of agreements Tribes may enter into with the Department of the Interior to develop energy resources. The Department is hosting consultation sessions with Tribes (see ''III. Tribal Consultation'' above) and will be individually notifying each federally recognized Tribe of these opportunities to consult.

I. Paperwork Reduction Act

OMB Control No. 1076–0167 currently authorizes the collections of information contained in 25 CFR part 224, with an expiration of January 31, 2020. With this rulemaking, we are seeking to renew this information collection. The current authorization totaling an estimated 3,968 annual burden hours. If this proposed rule is finalized, the annual burden hours will decrease by an estimated 900 hours. This decrease is due to: (1) A decrease in the information requested as part of the TERA application process in §§ 224.53 and 224.63; and (2) the streamlined process for seeking an expansion of the scope of an existing TERA to cover additional Tribal land, energy resources, or categories of energy-related leases, business agreements, or rights-of-way in § 224.64. This change would require a revision to an approved information collection under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* for which the Department is requesting OMB approval.

OMB Control Number: 1076–0167.

Title: Tribal Energy Resource Agreements, 25 CFR 224.

Brief Description of Collection: Submission of this information is required for Federally Recognized Indian Tribes to apply for, implement, reassume, or rescind a TERA that has been entered into in accordance with 25 U.S.C. 3501 *et. seq.,* and 25 CFR 224. This collection also requires the Tribe to notify the public of certain actions and allows a petition from the public to be submitted to the Secretary of the Interior to inform of possible noncompliance with a TERA.

Type of Review: Revision of a currently approved collection.

Respondents: Federally recognized Indian Tribes and the public.

Number of Respondents: 1 on average (each year).

Number of Responses: 11 on average (each year).

Frequency of Response: On occasion.

Estimated Time per Response: Varies from 32 hours to 540 hours.

Estimated Total Annual Hour Burden: 3,068 hours.

Estimated Total Non-Hour Cost: $18,100

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

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

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), 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 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, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 224

Agreement, Appeals, Application, Business Agreements, Energy Development, Interested Party, Lease, Record keeping requirements, Reporting requirements, Right-of-Way, Tribal Energy Resource Agreements, Tribal capacity, Tribal lands, Trust, Trust asset.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend part 224 in Title 25 of the Code of Federal Regulations as follows:

PART 224—TRIBAL ENERGY RESOURCE AGREEMENTS UNDER THE INDIAN TRIBAL ENERGY DEVELOPMENT AND SELF DETERMINATION ACT

■ 1. Revise the authority citation for part 224 to read as follows:

Authority: 25 U.S.C. 2 and 9; 25 U.S.C. 3501–3504; Pub. L. 109–58; Pub. L. 115–325

■ 2. In part 224:

■ a. Throughout the part, remove the words ''tribe'', ''tribe's'', ''tribes'', and ''tribal'', wherever they appear, and add in their place the words ''Tribe'', ''Tribe's'', ''Tribes'', and ''Tribal''.

■ b. In subparts B through H, remove the words ''Director'' and ''Director's'' and add in their place the words ''Secretary'' and ''Secretary's'', respectively, wherever they appear.

■ 4. Amend § 224.30 by:

■ a. Revising the definitions of ''Act'', ''Decision Deadline'', and ''Designated Tribal Official'';

■ b. Adding in alphabetical order definitions for ''Qualified Tribe'' and ''Tribal energy development organization''; and

■ c. Revising the definition of ''Tribe''.

The revisions and additions read as follows:

§ 224.30 What definitions apply to this part?

Act means the Indian Tribal Energy Development and Self-Determination Act of 2005, as promulgated in Title V of the Energy Policy Act of 2005, Public Law 109–58, 25 U.S.C. 3501–3504, and as amended by the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017, Public Law 115–325.

* * * * *

Decision Deadline means the 120-day period within which the Secretary will make a decision about a petition submitted by an interested party under subpart E. The Secretary may extend this period for up to 120 days.

* * * * *

Designated Tribal Official means the official designated in a Tribe's pre-application consultation request, application, or agreement to assist in scheduling consultations or to receive communications from the Secretary to the Tribe regarding the status of a TERA or activities under a TERA.

* * * * *

Qualified Tribe means a Tribe with Tribal land that has—

(1) For a period of not less than 3 consecutive years ending on the date on which the Tribe submits the application, carried out a contract or compact relating to the management of tribal land or natural resources under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*) without material audit exception (or without any material audit exceptions that were not corrected within the 3-year period); or

(2) Substantial experience in the administration, review, or evaluation of energy resource leases or agreements or has otherwise substantially participated in the administration, management, or development of energy resources located on the tribal land of the Indian Tribe.

* * * * *

Tribal energy development organization or *TEDO* means:

(1) Any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the development of energy resources and is wholly owned by a Tribe, including but not limited to an organization incorporated under section 17 of the Indian Reorganization Act, 25 U.S.C. 5124 or section 3 of the Oklahoma Indian Welfare Act, 49 Stat, 1967, chapter 831; and

(2) Any organization of two or more entities, at least one of which is a Tribe, that has the written consent of the governing bodies of all Tribes participating in the organization, to apply for a grant, loan, or other assistance under 25 U.S.C. 2602 or to enter into a lease or business agreement with, or acquire a right-of-way from, a Tribe under 25 U.S.C. 2604(a)(2)(A)(ii) or (b)(2)(b).

* * * * *

Tribe means any Indian Tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, except a Native Corporation as defined in the Alaska Native Claims Settlement Act, 43 U.S.C. 1602, as evidenced by inclusion of the tribe on the list of recognized tribes published by the Secretary under 25 U.S.C. 5131.

§ 224.51 [Amended]

■ 5. In § 224.51, in paragraph (a), remove the words ‘‘Office of Indian Energy and Economic Development’’.

■ 6. Amend § 224.53 by:

■ a. Removing paragraphs (a)(7), (8), (10);

■ b. Adding a new paragraph (a)(7);

■ c. Redesignating paragraph (a)(9) as (a)(8) and removing the words ‘‘paragraph (e)’’ and adding the words ‘‘paragraph (d)’’ in their place;

■ d. Redesignating paragraphs (a)(11) and (12) as paragraphs (a)(9) and (10), respectively.

■ e. Removing paragraphs (d) and (f);

■ f. Redesignating paragraph (e) as paragraph (d) and removing the words ‘‘paragraph (a)(9)’’ and adding the words ‘‘paragraph (a)(8)’’ in their place;

■ g. Removing the phrase ‘‘in sufficient detail for the Secretary to determine the Tribe's capacity to administer and manage the regulatory activity(ies)’’ in newly redesignated paragraph (d)(1).

The revision reads as follows:

§ 224.53 What must an application for a TERA contain?

(a) * * *

(7) Documentation that the Tribe meets the definition of ‘‘qualified Tribe’’ in § 224.30;

* * * * *

■ 7. Revise § 224.54 to read as follows:

§ 224.54 How must a Tribe submit an application?

A Tribe must submit an application and all supporting documents in written and electronic forms to the Secretary at 1849 C Street NW, Washington, DC 20240, and *TERA@bia.gov*.

■ 8. Revise § 224.56 to read as follows:

§ 224.56 What is the effect of the Secretary's receipt of a qualified Tribe's complete application?

The Secretary's receipt of a qualified Tribe's complete application begins a 270-day statutorily mandated period during which the Secretary must approve or disapprove a proposed TERA. With the consent of the Tribe, the Secretary may extend the 270-day period for making a decision. The TERA takes effect upon the 271st day after the Secretary's receipt of a complete application from a qualified Tribe, unless the Secretary approves the TERA to take effect on an earlier date, the Tribe consents to extending the 270-day period, or the Secretary disapproves the application before that date.

■ 9. Amend § 224.57 by:

■ a. Redesignating paragraph (a)(3)(i)(B) as paragraph (a)(3)(i)(C); and

■ b. Adding a new paragraph (a)(3)(i)(B).

The additions read as follows:

§ 224.57 What must the Secretary do upon receipt of an application?

(a) * * *

(3) * * *

(i) * * *

(B) Identify in the written notice any financial assistance available from the Secretary to assist in implementing the TERA, including environmental review of individual projects; and

* * * * *

■ 10. Amend § 224.63 by:

■ a. Removing paragraphs (c)(1) and (2);

■ b. Redesignating paragraphs (c)(3) through (6) as (c)(1) through (4);

■ c. Removing paragraphs (d)(1) and (5);

■ d. Redesignating paragraphs (d)(2) through (4) as paragraphs (d)(1) through (3);

■ e. Redesignating paragraphs (d)(6) through (14) as paragraphs (d)(4) through (12); and

■ f. Adding paragraph (m).

The addition reads as follows:

§ 224.63 What provisions must a TERA contain?

* * * * *

(m) At the option of the Tribe, identify which functions, if any, the Tribe intends to conduct to authorize any operational or development activities pursuant to a lease, business agreement, or right-of-way approved by the Tribe.

■ 11. Revise § 224.64 to read as follows:

§ 224.64 How may a Tribe assume management of development of different types of energy resources?

(a) In order for a Tribe to assume authority for approving leases, business agreements, and rights-of-way for the development of another energy resource that is not included in the TERA, a Tribe must submit to the Secretary:

(1) An amendment to the TERA that specifies and describes the additional Tribal land, energy resources, or categories of energy-related leases, business agreements, or rights-of-way that the Tribe intends to include in the TERA; and

(2) A copy of the resolution or formal action of the Tribal governing body, or Tribal governing bodies if the land is held for the benefit of more than one Tribe, that approves submission of the TERA amendment.

(b) Submission of the documents in paragraph (a) of this section will trigger the public notice and opportunity for comment consistent with § 224.67.

(c) The Secretary will process the amendment in accordance with §§ 224.67 through 224.78.

(d) Each Tribal governing body that is party to the TERA must sign the TERA amendment upon approval.

§ 224.65 [Amended]

■ 12. In § 224.65, remove the last sentence.

■ 13. Revise § 224.71 to read as follows:

§ 224.71 What standards will the Secretary use to decide to approve a final proposed TERA?

The Secretary must approve a final proposed TERA unless:

(a) The Tribe does not meet the definition of a ''qualified Tribe'' in § 224.30;

(b) A provision of the TERA violates applicable Federal law (including regulations) or a treaty applicable to the Tribe; or

(c) The TERA fails to include the provisions required by § 224.63.

§§ 224.72 and 224.73 [Removed and Reserved]

■ 14. Remove and reserve §§ 224.72 and 224.73.

■ 15. Revise § 224.74 to read as follows:

§ 224.74 When must the Secretary approve or disapprove a final proposed TERA?

The Secretary must approve or disapprove a final proposed TERA within 270 days of the Secretary's receipt of a complete application for a TERA. With the consent of the Tribe, or as provided in § 224.62(b), the Secretary may extend the period for a decision. If the Secretary fails to approve or disapprove a final proposed TERA within 270 days and the Tribe does not consent to extend the 270-day period, the TERA takes effect on the 271st day after the Secretary's receipt of a complete application from a qualified Tribe.

■ 16. In § 224.75, revise paragraphs (b)(1) through (3) and add paragraph (b)(4) to read as follows:

§ 224.75 What must the Secretary do upon approval or disapproval of a final proposed TERA?

* * * * *

If the Secretary's decision is . . .	Then the Secretary will . . .
* *	* * *
(b) * * *	* * * *
	(1) A detailed written explanation of each reason for the disapproval;
	(2) The changes or other actions required to address each reason for the Secretary's disapproval;
	(3) An opportunity to revise and resubmit the TERA: and
	(4) A statement that the decision is a final agency action and is subject to judicial review.

■ 17. In § 224.76, revise the introductory text to read as follows:

§ 224.76 Upon notification of disapproval, may a Tribe re-submit a revised final proposed TERA?

Yes, within 45 days of receiving the notice of disapproval, or a later date as the Secretary and the Tribe agree to in writing, the Tribe may re-submit a revised final proposed TERA, approved by the tribal governing body and signed by the Tribe's authorized representative, to the Secretary that addresses the Secretary's concerns. Unless the Secretary and the Tribe otherwise agree, the Secretary must approve or disapprove the revised final proposed TERA within 90 days of the Secretary's receipt of the revised final proposed TERA. If the Secretary does not approve or disapprove the revised proposed TERA within that time, it will take effect on the 91st day. Within 10 days of the Secretary's approval or disapproval of a revised final proposed TERA, the Secretary must notify the tribal governing body in writing and take the following actions:

* * * * *

■ 18. Add § 224.78 to subpart C to read as follows:

§ 224.78 How long will a TERA remain in effect?

A TERA that takes effect under this part remains in effect to the extent any provision of the TERA is consistent with applicable Federal law (including regulations), unless and until either:

(a) The Secretary reassumes all activities included within a TERA without the consent of the Tribe under Subpart G; or

(b) The Tribe rescinds a TERA under Subpart H.

■ 19. Add § 224.79 to subpart C to read as follows:

§ 224.79 Will the Secretary make non-expended amounts available to the Tribe?

Upon written request of a Tribe for whom an approved TERA is in effect, the Secretary will provide to the Tribe those amounts that the Secretary would otherwise have expended to carry out any program, function, service, or activity (or portion thereof) that the Secretary does not expend as a result of the Tribe carrying out the activities under a TERA. The Secretary will provide the Tribe with a full accounting of the amounts as calculated based on the specific terms of the TERA, the scope of the contracted functions, and applicable circumstances.

§ 224.80 [Amended]

■ 20. In § 224.80, add the word ''Federal'' before the word ''authorities''.

■ 21. Revise § 224.84 to read as follows:

§ 224.84 When may a Tribe grant a right-of-way?

A Tribe may grant a right-of-way under a TERA if the grant of right-of-way is over tribal land and the right-of-way serves:

(a) An electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land;

(b) A facility located on tribal land that processes or refines energy resources; or

(c) The purposes, or facilitates in carrying out the purposes, of any lease or agreement entered into for energy resources development on tribal land.

■ 22. Revise § 224.85 to read as follows:

§ 224.85 When may a Tribe enter into a lease or business agreement?

A Tribe may enter into a lease or business agreement for the purpose of energy resource development for:

(a) Exploration for, extraction of, or other development of the Tribe's energy mineral resources on tribal land including, but not limited to, marketing or distribution;

(b) Construction or operation of an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land;

(c) Construction or operation of a facility to process or refine energy resources, at least a portion of which have been developed on tribal land; or

(d) Pooling, unitization, or communitization of the energy mineral resources of the Indian tribe located on tribal land with any other energy mineral resource (including energy mineral resources owned by the Indian tribe or an individual Indian in fee, trust, or restricted status or by any other persons or entities) if the owner, or, if appropriate, lessee, of the resources has consented or consents to the pooling, unitization, or communitization of the other resources under any lease or agreement.

■ 23. Revise § 224.101 to read as follows:

§ 224.101 Who is an interested party?

For the purposes of this part, an interested party is a person or entity that the Secretary determines has demonstrated with substantial evidence that an interest of the person or entity has sustained, or will sustain, an adverse environmental impact as a result of a Tribe's failure to comply with a TERA.

■ 24. Revise § 224.107 to read as follows:

§ 224.107 What must a petitioner do before filing a petition with the Secretary?

Before a petitioner may file a petition with the Secretary under this subpart, the petitioner must have exhausted all tribal remedies by participating in any tribal process under § 224.106, and available under the laws, regulations, or procedures of the Tribe, including any tribal appeal process.

■ 25. In § 224.110 revise paragraph (b) to read as follows:

§ 224.110 What must a petition to the Secretary contain?

* * * * *

(b) Specific facts demonstrating that the petitioner is an interested party under § 224.101, including identification of the affected interest;

* * * * *

■ 26. In § 224.115, revise the introductory text to read as follows:

§ 224.115 When in the petition process must the Secretary investigate a Tribe's compliance with a TERA?

The Secretary must investigate the petitioner's claims of the Tribe's noncompliance with a TERA only after making a threshold determination that the petitioner is an interested party and:

* * * * *

■ 27. Revise § 224.116 to read as follows:

§ 224.116 What is the time period in which the Secretary must investigate a Tribe's compliance with a TERA?

(a) If the Secretary determines under § 224.115 that one of the threshold determinations in § 224.114 has been met, then within 120 days of the Secretary's receipt of a petition, the Secretary must determine:

(1) Whether the petitioner is an interested party; and

(2) If the petitioner is an interested party, whether or not a Tribe is in compliance with the TERA as alleged in the petition;

(b) The Secretary may extend the time for Tribe making the determinations in paragraph (a) of this section for up to 120 days in any case in which the Secretary determines that additional time is necessary to evaluate the claims in the petition and the Tribe's written response, if any. If the Secretary decides to extend the time, the Secretary must notify the petitioner and the Tribe in writing of the extension.

■ 28. In § 224.119, revise paragraph (b)(1) and add paragraph (c) to read as follows:

§ 224.119 What must the Secretary do when making a decision on a petition?

* * * * *

(b) * * *

(1) Include findings of fact and conclusions of law with respect to each claim made in the petition in the written decision to the Tribe; and

* * * * *

(c) The Secretary will dismiss any petition if the interested party who filed the petition has agreed with the Tribe to a resolution of the claims presented in the petition.

■ 29. In § 224.120, revise the introductory text to read as follows:

§ 224.120 What action may the Secretary take to ensure compliance with a TERA?

If the Secretary decides that a Tribe is not in compliance with a TERA, the Secretary may take only such action as the Secretary determines to be necessary to address the claims of noncompliance made the petition including:

* * * * *

■ 31. In § 224.181 revise paragraph (c) to read as follows:

§ 224.181 Who may appeal Departmental decisions or inaction under this part?

* * * * *

(c) An interested party who is adversely affected by a decision or inaction by the Secretary under subpart E of this part, provided that the interested party may appeal only those issues raised in its prior participation under subpart E of this part and may not appeal any other decision rendered or inaction under this part.

■ 32. In § 224.182, revise paragraph (a) to read as follows:

§ 224.182 What is the Initial Appeal Process?

* * * * *

(a) Within 30 days of receiving an adverse decision by the Director or similar level official within 30 days after the time period within which the Secretary is required to act under subpart E, a party that may appeal under this subpart may file an appeal to the Principal Deputy Assistant Secretary—Indian Affairs;

* * * * *

■ 33. Add subpart J, consisting of §§ 224.200 through 224.206, to read as follows:

Subpart J—Alternative to TERAs: Tribal Energy Development Organization (TEDO) Certification

Sec.

§ 224.200 What is the purpose of this subpart?

The purpose of this part is to establish a process by which an entity may be certified as an Tribal energy development organization (TEDO) that may enter into a lease or business agreement with an Indian Tribe without Secretarial review under 25 U.S.C. 3504(a)(2) or right-of-way with an Indian Tribe without Secretarial review under 25 U.S.C. 3504(b)(2)(B) and without a TERA.

§ 224.201 What must an application for certification as a Tribal energy development organization (TEDO) include?

An application for certification as a TEDO must include documentation of the items listed in paragraphs (a) through (d) of this section.

(a) The Tribe has carried out a contract or compact under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*) for a period of not less than 3 consecutive years ending on the date on which the Tribe submits the application, and the contract or compact:

(1) Has been carried out by the Tribe without material audit exceptions (or without any material audit exceptions that were not corrected within the 3-year period); and

(2) Has included programs or activities relating to the management of Tribal land; and

(b) The TEDO is organized under the Tribe's laws;

(c) The majority of the interest in the TEDO is owned and controlled by the Tribe (or the Tribe and one or more other Tribes) the Tribal land of which is being developed; and

(d) The TEDO's organizing document:

(1) Requires the Tribe with jurisdiction over the land to maintain, at all times, the controlling interest in the TEDO;

(2) Requires the Tribe (or the Tribe and one or more other Tribes the Tribal land of which is being developed) to own and control, at all times, a majority of the interest in the TEDO; and

(3) Includes a statement that the TEDO is subject to the jurisdiction, laws, and authority of the Tribe.

§ 224.202 How must a TEDO submit an application for certification?

A TEDO must submit an application and all supporting documents in written and electronic form to the Secretary at 1849 C Street NW, Washington, DC 20240, and *TERA@bia.gov*.

§ 224.203 What must the Secretary do upon receipt of an application for certification as a Tribal energy development organization?

Within 90 days of receiving an application for certification as a TEDO, the Secretary must approve or disapprove the application.

§ 224.204 What criteria will the Secretary use to determine whether to approve an application for certification of a TEDO?

The Secretary will approve the application for certification upon determining that the application contains the documentation required in § 224.201.

§ 224.205 What must the Secretary do upon approval of an application for certification?

If the Secretary approves an application for certification, the Secretary must do the following within 10 days of making the determination under § 224.203:

(a) Issue a certification stating that:

(1) The TEDO is organized under the laws of the Tribe and subject to the Tribe's jurisdiction, laws, and authority;

(2) The majority of the interest in the TEDO is owned and controlled by the Tribe (or the Tribe and one or more other Tribes) and the Tribal land of which is being developed;

(3) The TEDO's organizing document requires the Tribe with jurisdiction over the land to maintain, at all times, the controlling interest in the TEDO;

(4) The TEDO's organizing document requires the Tribe (or the Tribe and one or more other Tribes the Tribal land of which is being developed) to own and control, at all times, a majority of the interest in the TEDO;

(5) The certification is issued under 25 U.S.C. 3504(h); and

(6) Nothing in the certification waives the sovereign immunity of the Tribe.

(b) Deliver a copy of the Certification to the applicant Tribe (or Tribes, as applicable); and

(c) Publish the certification in the **Federal Register**.

§ 224.206 What is the effect of a TEDO receiving certification?

Upon receiving certification under this subpart, a TEDO may enter into a lease, business agreement, or right-of-way with an Indian Tribe without Secretarial approval as long as:

(a) The scope of the lease or business agreement does not exceed that of a TERA as established in § 224.85 of this part.

(b) The scope of a right-of-way does not exceed that of a TERA as established in § 224.84 of this part.

(c) The term of a lease, business agreement, or right-of-way does not exceed that of a TERA as established in § 224.86 of this part.

Dated: May 30, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–13265 Filed 7–1–19; 8:45 am]

BILLING CODE 4337–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0336; FRL–9995–34–Region 7]

Air Plan Approval; Missouri; Removal of Control of VOC Emissions From Traffic Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by Missouri on December 3, 2018. Missouri requests that the EPA remove from its SIP a rule related to control of volatile organic compounds (VOCs) from traffic coatings. This rescission does not have an adverse effect on air quality. The EPA's proposed approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before August 1, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0336 to *https://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will 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 ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7016; email address *casburn.tracey@epa.gov*.

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

Table of Contents

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0336, at *https://www.regulations.gov*. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, 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*.

II. What is being addressed in this document?

The EPA is proposing to approve the removal of 10 Code of State Regulation (CSR) 10–5.450, *Control of VOC Emissions from Traffic Coatings,* from the Missouri SIP.

Missouri rescinded the rule because the Federal rule at 40 CFR 59, subpart D—National Volatile Organic Compound Emission Standard for Architectural Coatings contains an identical limit of one hundred fifty (150) grams of VOCs per liter of coating and one point twenty-six (1.26) pounds per gallon. Enforcement of the rule is based on the ug/L standard. The Federal rule became effective on September 11, 1998 (63 FR 48877, August 11, 2004). Because the Federal rule applies to sources in Missouri, the state rule was duplicative and no longer necessary. The state rule was approved in 2000 (65 FR 8060, February 17, 2000). At that time, the Federal rule was also in place, therefore, the state rule was likely unnecessary at the time it was approved into the SIP.

Missouri received two comments during the comment period. The EPA commented on the rule noting that the state rule was more stringent than the Federal rule related to the recordkeeping and reporting requirements. Missouri did not make any changes to the rescission based on the comments received.

Upon further review, the EPA has analyzed both the state and Federal rule and determined that the Federal rule, as applied to Missouri, is protective of human health and the environment. The recordkeeping and reporting requirements are included in the Federal rule, which is still applicable. Those requirements did not apply to the sources the Missouri rule addressed. Therefore, the state SIP and current Federal rule were equivalent and removing the state rule will not make the requirements for these sources less stringent. Therefore, the EPA is proposing to approve the rescission of this rule because it will not have a negative impact on air quality.

III. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice on this SIP revision from February 28, 2018, to March 30, 2018, and received two comments. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to approve Missouri's request to rescind 10 CSR 10–5.450 from the SIP because the Federal rule provides the same air quality protection as the state rule and the state rule is duplicative of the Federal rule. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. The EPA has made, and will continue to make the State Implementation Plan generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 18, 2019.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart—AA Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by removing the entry ''10–5.450'' under the heading ''Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area''.

[FR Doc. 2019–13371 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0819; FR–9995–57–Region 4]

Air Plan Approval; Georgia; Revisions to Sulfur Dioxide Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 31, 2018, the State of Georgia, through the Georgia Environmental Protection Division (EPD), provided a revision to the Georgia State Implementation Plan (SIP). The Environmental Protection Agency (EPA) is proposing to approve into the SIP a modification to Georgia's Ambient Air Quality Standards regulation. Specifically, the July 31, 2018, SIP revision updates Georgia's air quality standards for sulfur dioxide (SO_2) to be consistent with the National Ambient Air Quality Standard (NAAQS). EPA is proposing to approve the July 31, 2018, SIP revision because the changes are consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before August 1, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0819 at *www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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 *www2.epa.gov/dockets/commenting-epa-dockets*.

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

SUPPLEMENTARY INFORMATION:

I. Background

In this rulemaking, EPA is proposing to approve changes into the Georgia SIP dated July 31, 2018.[1] This rulemaking proposes to approve changes that revise Subparagraph (b), ''Sulfur Dioxide,'' of Georgia Rule 391–3–1–.02(4), ''Ambient Air Standards'' by updating Georgia's air quality standard to be consistent with the NAAQS. Georgia's July 31, 2018, SIP revision can be found in the docket for this rulemaking at *www.regulations.gov* and is further summarized below.

II. EPA's Analysis of Georgia's SIP revision

The July 31, 2018, SIP submission revises the State's ambient air quality standards to reflect the historical and current NAAQS for SO_2. Specifically, the changes update the former primary SO_2 NAAQS for the 1971 annual and 24-hour ambient air quality standards to be consistent with the federal regulations.

On June 22, 2010, EPA promulgated a revised primary SO_2 NAAQS. The revised SO_2 NAAQS is an hourly standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The June 22, 2010 action that promulgated the revised primary SO_2 NAAQS also addressed revocation of the 1971 24-hour and annual primary SO_2 NAAQS. *See* 75 FR 35520. Pursuant to the June 22, 2010 action and 40 CFR 50.4 the 1971 primary SO_2 annual and 24-hour NAAQS will continue to apply in an area until one year after the effective date of the designation of that area for the 2010 SO_2 NAAQS. *See* 42 U.S.C. 7407; 40 CFR 50.17.[2] Accordingly, in the July 31, 2018, SIP submittal, Georgia revised Rule 391–3–1–.02(4)(b) to provide clarity that the 1971 standard continues to apply in Georgia.[3]

EPA notes that the State's revision to Rule 391–3–1–.02(4)(b) in the July 31, 2018, submittal replaces the State's previous version of Rule 391–3–1–.02(4)(b). If EPA finalizes approval of the revision, the State's previous regulation containing the 1971 standard (expressed in micrograms per cubic meter ($\mu g/m^3$)) will be replaced by the version state effective on July 23, 2018 (expressed in parts per million (ppm)). EPA notes that the two expressions of the NAAQS are equivalent and thus there is no expected increase in emissions as a result of this change.[4]

EPA has reviewed the changes to Subparagraph (b), ''Sulfur Dioxide'', of Rule 391–3–1–.02(4), ''Ambient Air Standards'' and has made the preliminary determination that the changes are consistent with the CAA. As mentioned above, EPA is proposing to approve these changes to the NAAQS into the Georgia SIP.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference changes to Georgia's Rule 391–3–1–.02(4), ''Ambient Air Standards,'' effective July 23, 2018, which revises the State ambient air quality standards to be consistent with the NAAQS. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the aforementioned changes to the Georgia SIP dated July 31, 2018, as described above. These changes are consistent with the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to

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[1] The Agency received the SIP revision on August 2, 2018. EPA received several SIP revisions from Georgia through the July 31, 2018, letter. EPA is considering action on the additional SIP revisions in actions separate from today's action.

[2] *See* 75 FR at 35581. No areas in Georgia were designated as nonattainment for the 1971 standards at the time of promulgation of the 2010 1-hour SO_2 annual and 24-hour SO_2 standards. *See id.*

[3] *See* 40 CFR 81.311 for designated areas in the State of Georgia for the 2010 SO_2 standard. The EPA notes that Floyd County is the only county in Georgia that has not yet been designated for the 2010 SO_2 standard, and thus is still subject to the 1971 annual and 24-hour SO_2 standards. *See* 81 FR 45039 (July 12, 2016); 83 FR 1098 (January 9, 2018).

[4] *See, e.g.,* 36 FR 8186 (April 30, 1971) (listing the sulfur dioxide NAAQS in both ppm and $\mu g/m^3$).

approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

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

Dated: May 28, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–14017 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0328; FRL–9995–32–Region 7]

Air Plan Approval; Missouri; Rescission of Information on Sales of Fuels To Be Provided and Maintained and Certain Coals To Be Washed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve two State Implementation Plan (SIP) revision submissions from the State of Missouri. In these submissions, the State requested that two rules relating to the sales of fuel and coal washing be rescinded from the Missouri SIP. The EPA received both submissions on December 4, 2018, and received supplemental information for both submissions on May 6, 2019. The EPA reviewed the submissions and supplemental information and determined that rescission of these rules from the SIP does not impact the stringency of the SIP or air quality and is proposing to rescind the rules from the Missouri SIP. Approval of the submissions will ensure consistency between state and federally approved rules and is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before August 1, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0328 to *https://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will 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 ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Region 7 Office, Air Quality Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7016; email address *casburn.tracey@epa.gov*.

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

Table of Contents

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0328, at *https://www.regulations.gov*. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, 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*.

II. What is being addressed in this document?

The EPA is proposing to approve two submissions requesting revision of the Missouri SIP, received on December 4, 2018. Supplemental information for both submissions was received on May 6, 2019. In the submissions, the State requested that two rules, found at Title 10, Division 10 of the code of state regulations (CSR)–10 CSR 10–5.120 *Information on Sales of Fuels to be Provided and Maintained* and 10 CSR 10–5.130 *Certain Coals to be Washed*-be rescinded from the Missouri SIP.

This document and the technical support document (TSD) that is a part of this docket describes the EPA's rational to approve the state's submissions.

III. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice of the revisions from June 15, 2018, to September 6, 2018, and held a public hearing on August 30, 2018. The State received and addressed one comment. The comment was from the EPA and was general in nature. No changes were made to the proposal to rescind the rules in response to the EPA's comment. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to amend the Missouri SIP by rescinding 10 CSR 10–5.120 *Information on Sales of Fuels to be Provided and Maintained* and 10 CSR 10–5.130 *Certain Coals to be Washed*.

Approval of these revisions will ensure consistency between state and federally-approved rules. These rescissions will not impact air quality since the rules do not effectively limit emissions or the amount of fuel that can be burned and do not function to achieve attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

The EPA is processing this as a proposed action because we are soliciting comments on the action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. The EPA has made, and will continue to make the State Implementation Plan generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the ''*For Further Information Contact*'' section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Certain coals to be washed, Incorporation by reference, Information on fuel sales, Particulate matter, Rescission, Sulfur dioxide.

Dated: June 18, 2019.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by removing entries ''10–5.120'' and ''10–5.130'' under the heading ''Chapter 5— Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area''.

[FR Doc. 2019–13372 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[WT Docket No. 19–140; RM–11793, RM–11799, RM–11818, RM–11832; FCC 19–53]

Promoting Aviation Safety

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) proposes changes to the Aviation Radio Service rules to support the deployment of more advanced avionics technology, increase the efficient use of limited spectrum resources, and generally improve aviation safety.

DATES: Comments due by September 3, 2019. Reply comments due by September 30, 2019.

ADDRESSES: You may submit comments, identified by WT Docket No. 19–140, by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/*. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, *Jeff.Tobias@FCC.gov,* Wireless Telecommunications Bureau, (202) 418–1617, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*) in WT Docket No. 19–140, FCC 19–53, adopted on June 6, 2019, and released on June 7, 2019. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Washington, DC 20554. Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). To request materials in accessible formats for persons with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). The complete text is also available on the Commission's website at: *www.fcc.gov*.

Synopsis

1. The Commission regulates the Aviation Radio Service in cooperation with the Federal Aviation Administration (FAA), which currently is undertaking several initiatives to promote aviation safety, including, most importantly, developing and implementing the Next Generation Aviation System (NextGen). NextGen is a modernization of the U.S. air transportation system that is designed to increase the safety, efficiency, capacity, predictability, and resiliency of American aviation.

2. *Enhanced Flight Vision Systems.* One key objective of NextGen is to increase airport approach and arrival access and flexibility through improved aircraft capabilities such as Enhanced Flight Vision Systems. These are airborne systems that supplement instrument landing systems in limited visibility environments (such as fog, haze, smoke, sand, and precipitation) by providing a synthetic vision or computer-generated image of terrain and obstacles.

3. The Commission tentatively concludes that accommodating the effective and efficient use of Enhanced Flight Vision System radar is in the public interest. Degraded visibility at an airport can cause aborted landing attempts and aircraft being placed in a holding pattern or redirected to other airports. Implementation of Enhanced Flight Vision Systems can increase opportunities for flights to land in conditions that otherwise would close airports. This should enhance safety and reduce flight delays and cancellations, fuel consumption and emissions, aircraft operational costs, and passenger travel time. The Commission seeks comment on this tentative conclusion.

4. The FAA specifically identifies millimeter wave [1] radar as an acceptable type of Enhanced Flight Vision System imaging. In 2018, Sierra Nevada Corporation (Sierra Nevada) filed a petition for rulemaking asking the Commission to amend its rules to allow for the operation of Enhanced Flight Vision System radar in the 92–95.5 GHz frequency range. It maintains that millimeter wave radar is superior to existing technology using infrared camera sensors, which provide inadequate penetration in heavily degraded visual conditions. Sierra Nevada also asserts that the 90 GHz band is the optimal frequency range to maximize obscurant penetration (removing false detections caused by cloud particles and locating obstacles within the cloud) and radar resolution, because higher frequency bands provide lower penetration, while lower frequency bands require antennas that are too large to fit in an aircraft nose cone.[2]

5. The frequencies in the 92–95.5 GHz range are allocated for Federal and non-Federal use on a shared basis, and they mainly consist of shared co-primary allocations.[3] In addition, Footnote US342 (of the Commission's Table of Frequency Allocations), which applies to nearly all of this frequency range, requires that all practical steps be taken to protect the Radio Astronomy Service from harmful interference.[4] In its petition, Sierra Nevada argues that its Enhanced Flight Vision System product would be able to co-exist successfully with other users in this band because: (1) The device will be used only under adverse conditions and operate at low power, low altitude, and for short duration; [5] (2) transmissions in the 92–95.5 GHz band are characterized by severe propagation losses; and (3) currently there are very few users of the band. The Commission seeks comment on these assertions, and specifically on whether Enhanced Flight Vision System radars are compatible with existing and contemplated services in the 92–95.5 GHz band, such as foreign object debris detection systems.[6]

6. Consequently, the Commission proposes to amend its rules to permit the use of the 92–95.5 GHz band for Enhanced Flight Vision System radar. It proposes to amend the Table of Allocations to add a Radionavigation Service allocation to the 92–95 GHz band. It also proposes to amend part 87 by adding service rules listing the 92–95.5 GHz band as an authorized band for Enhanced Flight Vision System radar,[7] defining Enhanced Flight Vision System,[8] and exempting Enhanced

[1] *I.e.,* frequencies between 30 GHz and 300 GHz.

[2] The Commission's rules currently authorize no aircraft station operations above 33.4 GHz.

[3] The 92–94 GHz and 94.1–95 GHz bands are allocated for the Fixed, Mobile, Radio Astronomy, and Radiolocation services on a co-primary basis. The 94–94.1 GHz band contains Federal co-primary allocations for the Earth Exploration Satellite (Active) and Space Research (Active) Services, and shared allocations for Radiolocation (primary) and Radio Astronomy (secondary). The 95–100 GHz band has shared co-primary allocations for the Fixed, Mobile, Radio Astronomy, Radiolocation, Radionavigation, and Radionavigation-Satellite Services.

[4] The footnote does not apply to the 94–94.1 GHz band.

[5] FAA rules permit use of Enhanced Flight Vision Systems only below the Decision Altitude/Decision Height, which is the point at which the pilot must decide whether to continue the approach or initiate a missed approach. Generally, Enhanced Flight Vision Systems will be used for less than a half-minute over the course of less than a linear mile prior to touching down.

[6] We note in this regard that the International Telecommunication Union Radiocommunication Sector Working Party 5B is considering a proposal to authorize foreign object debris detection systems in the 92–100 GHz band.

[7] The Commission also takes this opportunity to propose to update the address to which applicants for equipment certification in an Aviation Radio Service frequency band must send notification to the FAA.

[8] The Commission proposes to adopt the FAA definition: "Enhanced flight vision system (EFVS) means an installed aircraft system which uses an electronic means to provide a display of the forward external scene topography (the natural or manmade features of a place or region especially in a way to show their relative positions and elevation) through the use of imaging sensors, including but not limited to forward-looking infrared, millimeter wave radiometry, millimeter wave radar, or low-light level image intensification. An EFVS includes

Continued

Flight Vision Systems from the station identification requirement in section 87.107. The Commission seeks comment on these proposals, and on their costs and benefits. The Commission also asks commenters to identify any other rule changes necessary to allow for the operation of Enhanced Flight Vision Systems and to address any effects that such further rule changes may have on existing services.

7. *Audio Visual Warning Systems.* In 2013, the Commission adopted rules for audio visual warning systems, which are integrated air hazard notification systems that activate obstruction lighting and transmit audible warnings to aircraft on a potential collision course with an obstacle such as a power line, wind turbine, or tower. These systems are installed on a tower or other obstacle and contain a radar unit and a radio capable of transmitting in the VHF aeronautical band (108–136.975 MHz). When the radar detects an aircraft within a predefined horizontal and vertical perimeter (warning zone), the system activates the obstruction lighting as a visual warning. If the aircraft continues toward the obstacle into a second warning zone, the VHF radio transmits an audible warning describing the hazard (*e.g.,* ''power line . . . power line''). The Commission concluded that authorizing audio visual warning system stations would serve the public interest by helping aircraft avoid potential collisions with antenna structures and other obstacles. In order to avoid interference to other communications, the Commission restricted audible warnings to certain frequencies within the VHF aeronautical band, and limited the power and duty cycle. Specifically, the audible warning may not exceed two seconds in duration, no more than six warnings may be transmitted in a single transmit cycle, and there must be an interval of at least 20 seconds between transmit cycles.

8. In 2015, the FAA updated its Advisory Circular regarding obstruction marking and lighting to include requirements for Aircraft Detection Lighting Systems, which it defines as ''sensor-based systems designed to detect aircraft as they approach an obstruction or group of obstructions; these systems automatically activate the appropriate obstruction lights until they are no longer needed by the aircraft.'' The Advisory Circular imposes performance standards for aspects of Aircraft Detection Lighting Systems that are not addressed in the Commission's rules, such as the volume of airspace in which aircraft must be detected and the period for which the obstruction lights must remain illuminated. The FAA will not approve Aircraft Detection Lighting System installations that do not comply with the Advisory Circular.

9. The Advisory Circular provides that the audible warning feature is optional rather than mandatory, but it sets forth requirements regarding the content and duration of the warning. Specifically, the audible warning must be activated when an aircraft is within one-half nautical mile horizontally and 500 feet vertically of the obstruction. It is repeated three times or until the system determines that the aircraft is no longer within that area. The Commission notes that the FAA's requirements may conflict with the permissible duty cycle in the Commission's Rules in that aircraft may enter this warning zone more frequently, or remain in it longer, than the permitted broadcast of the audible warning allowed under our rules.

10. The Commission proposes to amend its rules to address the Advisory Circular and to facilitate the licensing of Aircraft Detection Lighting Systems, which serve the public interest by reducing the impact of nighttime lighting on nearby communities and migratory birds, reducing energy consumption, and extending the life expectancy of obstruction lights. It proposes to amend its rules to use the FAA's terminology and to remove the duty cycle limits that conflict with the Advisory Circular. The Commission seeks comment on whether the proposed relaxation of the duty cycle limits would pose a significantly greater risk of interference to other communications.

11. The Commission proposes to codify in its rules these Advisory Circular standards related to the audible warning and tentatively concludes that additional codification is unnecessary. The Commission does not propose any changes to its rules regarding permissible frequencies or the technical parameters for the audible warning that do not conflict with the Advisory Circular. It tentatively concludes that such rule changes are unnecessary because they would simply duplicate the FAA requirements and would necessitate further revision of the Commission's rules if those requirements change. The Commission seeks comment on these proposals.

12. The Commission also seeks comment on whether any changes to its part 17 rules governing marking and lighting of antenna structures are needed to make them consistent with the Advisory Circular with respect to Aircraft Detection Lighting Systems. Commenters seeking part 17 rule changes are encouraged to provide specific language.

13. *Aeronautical Mobile (Route) Service Systems in the 108–117.975 MHz and 960–1164 MHz Bands.* In 2015, the Commission allocated the 108–117.975 MHz and 960–1164 MHz bands to the Aeronautical Mobile (Route) Service [9] on a primary basis for Federal and non-Federal use, with the limitations that systems must operate in accordance with recognized international aeronautical standards and that such use must be in accordance with certain International Telecommunication Union (ITU) resolutions. The ITU resolutions require that these systems must be able to operate in spectrum adjacent to the FM radio band without interference from broadcast operations.[10] In addition, use of the 108–112 MHz sub-band is limited to systems composed of ground-based transmitters and associated receivers that provide navigational information in support of air navigation functions.

14. The Commission's *WRC–07 Report and Order* amended the section 2.106 Table of Frequency Allocations but did not adopt corresponding service rules. The Commission now seeks comment on whether those amendments are sufficient to codify the relevant ITU decisions in the Commission's rules, or whether it should modify the part 87 service rules to reflect expressly the requirements of the relevant ITU resolutions (in addition to the proposed amendments discussed in the following paragraphs). For example, the Commission could expressly extend the FM broadcasting immunity requirements in section 87.151 of the rules, which currently references only differential Global Positioning System receivers, to all aeronautical mobile (route) service receivers. To implement the provisions that are specific to the 108–112 MHz sub-band, the Commission could limit the use of the band to Ground-Based Augmentation Systems.[11] Commenters favoring amendments to part 87 should identify

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the display element, sensors, computers and power supplies, indications, and controls.''

[9] The Aeronautical Mobile (Route) Service (also referred to as the Aeronautical Mobile Route (R) Service) is an aeronautical mobile service reserved for communications relating to safety and regularity of flight, primarily along national or international civil air routes. It is a subset of the Aeronautical Mobile Service.

[10] Specifically, Aeronautical Mobile (Route) Service systems must meet the requirements in Annex 10 to the Convention on International Civil Aviation, including FM broadcasting immunity.

[11] Ground-Based Augmentation Systems stations are ground-based differential Global Positioning System transmitters.

the appropriate rule sections and provide suggested text to implement such amendments. Commenters should address the costs and benefits of any proffered rules or amendments. Finally, the Commission seeks comment on whether it should implement any form of grandfathering protection or transition provisions, should it adopt such rules.

15. Automatic Dependent Surveillance-Broadcast (ADS–B) is a key component of NextGen. ADS–B is a service that automatically broadcasts GPS-derived data on the location, velocity, altitude, heading, etc., of an ADS–B-equipped aircraft to other ADS–B-equipped aircraft and ground stations for distribution to air traffic control systems. After January 1, 2020, virtually all aircraft must be able to transmit ADS–B information (ADS–B Out) to fly in most controlled airspace.[12] For aircraft that operate above 18,000 feet or need to comply with ADS–B requirements outside the United States, the equipment must operate on frequency 1090 MHz using what are often referred to as 1090ES transponders. All other aircraft may carry equipment operating either on frequency 978 MHz or frequency 1090 MHz.

16. In 2006, the Commission adopted technical and operational rules for ADS–B transmissions on 978 MHz using Universal Access Transceiver (UAT) technology.[13] While the Commission authorized the use of the frequency 1090 MHz by aeronautical utility mobile stations used for airport surface detection in 2013, it has not adopted technical and operational rules specifically for airborne ADS–B transmissions on 1090 MHz. The Commission believes that establishing rules specifically for 1090ES is warranted, especially since the use of 1090 MHz for ADS–B will be mandatory for all aircraft operating above 18,000 feet or internationally. It proposes such rules below, but also seeks comment on whether the proposed rules are unnecessary because part 87 already accommodates 1090ES as an airborne electronic aid to navigation in the 960–1215 MHz band.

17. The Commission proposes to authorize 1090ES equipment for use on aircraft and to require compliance with certain technical standards, including emissions limitations and frequency stability requirements derived from the applicable FAA Technical Standard Order and the Radio Technical Commission for Aeronautics Minimum Operational Performance Standard. The Commission proposes similar requirements for UATs operating on 978 MHz to ensure their compatibility and interoperability in the ADS–B service. It seeks comment on how best to amend the part 87 rules to reflect these standards to ensure compatibility and interoperability with this critical safety of life service. Should the Commission incorporate the standards by reference in part 87, adopt a rule stating the requirements imposed by the standards, or adopt some other measure? In addition to proposing entries in the appropriate part 87 frequency tables to clarify that the frequency 1090 MHz is authorized for ADS–B use, the Commission proposes separate power, emission, and frequency tolerance and other technical requirements for ADS–B equipment operating on 978 MHz and 1090 MHz. It asks whether these requirements are appropriate and whether any additional or alternative technical rules are necessary for either 1090ES ADS–B or 978 MHz UAT ADS–B. It invites comment on all aspects of this proposal. For example, it notes that the FAA is considering whether to adopt rules to exempt certain government aircraft from the requirement to transmit ADS–B data at all times, in the interest of protecting sensitive information relating to national security and law enforcement activities. We seek comment on whether we may need to take any action to implement exceptions adopted by the FAA for national security and law enforcement activities. We also note that the World Radiocommunication Conference held in 2015 allocated spectrum for satellite reception of ADS–B Out. Space-based ADS–B can extend air traffic visibility over the ocean and other areas of the planet where traditional radio receivers are not feasible. This and other potential changes to the part 87 rules stemming from decisions at WRC–15 will be addressed in a separate proceeding.

18. *Aeronautical Advisory (Unicom) Stations.* Unicom stations provide safety-related and other information to aircraft, primarily general aviation aircraft. Unicom stations provide information concerning flying conditions, weather, availability of ground services, and other information to promote the safe and expeditious operation of aircraft.[14] The Commission proposes two clarifications of the unicom rules to reduce confusion among licensees and applicants. It seeks comment on these proposed rule changes and on their costs and benefits.

19. Current rules prohibit the authorization of more than one unicom station at an uncontrolled airport, *i.e.,* an airport which does not have a control tower, remote communications outlet, or FAA flight service station that operates on the published common traffic advisory frequency.[15] Eligibility for the unicom license at such an airport is restricted to State or local government entities and to nongovernmental organizations that are authorized to apply for the license by a State or local government entity whose primary mission is the provision of public safety services.[16] The Commission proposes to clarify that this eligibility restriction applies only at public-use airports, and that unicom stations serving private airfields or helipads (such as at a hospital or offshore oil platform) that do not have a published common traffic advisory frequency do not need State or local government approval. The Commission did not appear to have considered such airports [17] when it

[12] There is a partial exemption from the ADS–B carriage requirements for ''any aircraft that was not originally certificated with an electrical system, or that has not subsequently been certified with such a system installed, including balloons and gliders.'' The transmission of ADS–B information from aircraft is known as ''ADS–B Out'' and the reception of ADS–B information by aircraft is known as ''ADS–B In.''

[13] A Universal Access Transceiver (UAT) is defined in part 87 as a ''radio datalink system authorized to operate on the frequency 978 MHz to support Automatic Dependent Surveillance—Broadcast (ADS–B) Service, Traffic Information Services—Broadcast (TIS–B) and Flight Information Service—Broadcast (FIS–B).''

[14] Unicom stations also may transmit, on a secondary basis, information pertaining to the efficient portal-to-portal transit of an aircraft, such as information concerning available ground transportation, food, and lodging. They must provide impartial information concerning available ground services, and must provide service to any aircraft station upon request and without discrimination.

[15] Control towers provide air traffic control services to aircraft landing on, taking off from, and taxiing at an airport, as well as aircraft transiting an airport's traffic area. A remote communications outlet is an aeronautical radio station at a small uncontrolled airport located near a large controlled airport that is connected via landlines to the control tower (or other FAA control facility) and enables the FAA to provide air traffic services to more airports and aircraft than would normally be served by the control facility alone. A flight service station is part of a network of stations providing weather briefings and information on flight facilities and monitoring the navigational radio net. A common traffic advisory frequency is a frequency designated for the purpose of carrying out airport advisory practices while operating to or from an airport without an operating control tower and is identified in appropriate aeronautical publications.

[16] The Commission enacted this eligibility restriction in 2003 to replace the hearing process for choosing among mutually exclusive unicom applicants at an uncontrolled airport. (The vast majority of airports in the United States are uncontrolled airports, and the unicom often is the only available source of critical safety-related information.)

[17] An airport is any area of land or water that is used or intended to be used for the landing and takeoff of aircraft, including its buildings and

Continued

adopted the requirement, and it sees no reason now to apply it to the owner or operator of a private airfield or helipad.

20. Only one frequency is assigned to an airport for unicom communications, regardless of how many unicoms serve that airport.[18] Currently, frequency 122.950 MHz must be used at airports that have a full-time control tower or full-time FAA flight service station; unicom stations at other airports use other frequencies. ''Full-time,'' in this context, means 24-hour operation.[19] The Commission proposes to revise the rule to specify that unicom stations at airports with ''a control tower or FAA flight service station that operates at all times when the airport is used by aircraft for takeoff or landing'' must use 122.950 MHz. This would clarify that 122.950 MHz is designated for use at all airports where the control tower or FAA flight service station is in operation at all times when the airport is open, including airports that do not operate continuously. The Commission invites comment on this proposal, and on alternative criteria. For example, should application of the rule be further expanded (by, for example, considering remote communications outlets, as the rules do with respect to whether more than one unicom is permitted at a particular airport) or should it be expanded in a more limited manner (by requiring unicom use of frequency 122.950 MHz only at airports that operate a minimum number of hours each day)? The Commission also seeks comment on the costs and benefits of expanding the use of frequency 122.950 MHz by unicom stations.

21. *Air Traffic Control and Aeronautical Operational Control Communications in the 136–137 MHz Band.* The Commission's rules currently differentiate between air traffic control communications spectrum and aeronautical operational control communications spectrum. Air traffic control communications concern ''the safe, orderly, and expeditious flow of air traffic.'' They are intended to ensure the adequate separation of aircraft and include aircraft routing information and departure/landing clearances. Today, air traffic control communications are transmitted through VHF ground stations using voice transmission. part 87 designates the 136.000–136.475 MHz frequencies (the lower 136 MHz band) for air traffic control communications, but makes no mention of aeronautical operational control communications in connection with those frequencies. Aeronautical operational control communications pertain to ''the safe, efficient and economical operation of aircraft, such as fuel, weather, position reports, aircraft performance, and essential services and supplies;'' they are transmitted by aeronautical enroute service stations, which are authorized to use the 136.4875–137.000 MHz band (the upper 136 MHz band).

22. NextGen's Data Communications (Data Comm) component will permit certain repetitive and routine communications transmitted to aircraft to be shifted from voice to data transmission. The system will transmit digital data that includes both air traffic control communications and aeronautical operational control communications over the entire 136–137 MHz band using VHF Datalink Mode 2, an advanced digital protocol for aeronautical safety communications traffic.

23. In response to an FAA request, the Wireless Telecommunications Bureau's Mobility Division (Division) in 2018 clarified that part 87 permits aeronautical enroute service stations to transmit air traffic control communications as well as aeronautical operational control communications in the upper 136 MHz band. The Division did not address the lower portion of the band.

24. In 2018, Aviation Spectrum Resources, Inc.[20] filed a petition for rulemaking asking that the Commission amend part 87 to permit aeronautical enroute service stations to use the lower 136 MHz band to provide aeronautical operational control communications and air traffic control communications.[21] The petition notes that our current rules do not fully accommodate Data Comm because networks using VHF Datalink Mode 2 combine all aviation messages into a single channel. This allows aircraft to exchange communications with aeronautical enroute service stations using a single avionics terminal aboard the aircraft.[22] The petition also asserts that the ability to use VHF Datalink Mode 2 in the entire 136–137 MHz band ''is essential to accommodate the growing spectrum bandwidth needs of the aviation industry and ensure the safe operation and navigation of our nation's aircraft,'' and that implementation of Data Comm will yield significant gains in operational efficiency and reduce flight delays.[23] The Commission tentatively concludes that permitting both aeronautical operational control and air traffic control communications throughout the 136–137 MHz band in support of Data Comm would enhance aviation safety and efficiency by permitting pilots to obtain critical information through a single integrated data link. It seeks comment on this tentative conclusion.

25. The Commission proposes to amend part 87 to permit aeronautical enroute stations to transmit both air traffic control communications and aeronautical operational control communications over the entire band. Specifically, it proposes to amend the part 87 frequency table in section 87.173(b), and section 87.263(a) in subpart I regarding aeronautical enroute service stations, to provide that: (1) Aeronautical enroute service stations may use the entire 136 MHz band, and (2) aeronautical operational control communications may be transmitted over the entire band. The Commission also proposes to specify that, when an aeronautical enroute station uses frequencies to transmit both air traffic control communications and aeronautical operational control communications, the specific frequencies and traffic sharing methodology must be agreed upon between the aeronautical enroute service station licensee and the FAA.[24] The Commission seeks comment on these proposed rule changes and on their costs and benefits. It requests that commenters be as detailed as possible in providing estimates of the costs and benefits to various stakeholders. The Commission also invites commenters to indicate whether they agree that these

facilities. The Commission's rules regarding unicom stations do not distinguish between public-use and private airports.

[18] As noted in the preceding paragraph, it remains that only one unicom can be authorized to serve an uncontrolled airport. We propose no change to the rule limiting each airport to a single unicom frequency irrespective of the number of unicoms serving that airport.

[19] At any airport where there is a part-time control tower, moreover, the unicom frequency becomes the common traffic advisory frequency when the tower is closed.

[20] Aviation Spectrum Resources, Inc. is owned by a consortium of U.S. airlines and other airspace users and is the licensee of all U.S. aeronautical enroute service stations (except certain stations in Alaska).

[21] The ASRI Petition was placed on public notice on October 18, 2018. Commenters unanimously support the petition.

[22] Using a single terminal for both aeronautical operational control and air traffic control traffic simplifies operations aboard the aircraft while also negating a need to retrofit large commercial aircraft with additional radios.

[23] Messages transmitted by VHF Datalink Mode 2 appear on a screen in the cockpit, can be printed, and can be transferred by the pilot or co-pilot into the aircraft's flight computer, thereby reducing the need for ''read backs'' of instructions and the acknowledgement or repeat of voice messages.

[24] The Commission has in other contexts required applicants and licensees to coordinate with the FAA as a condition precedent to the use of aviation spectrum.

rule changes would serve the public interest by enhancing aviation safety, whether there are any other alternatives that might reasonably accommodate Data Comm, whether any other rules need to be amended, and whether the specifics of our proposed amendments should be modified. It encourages commenters to address whether more detail is required in the rule regarding the requirement for securing FAA agreement before initiating joint aeronautical operational control/air traffic control operations.

26. *Aeronautical Mobile Airport Communications Systems.* The Aeronautical Mobile Airport Communications System (AeroMACS) is an internationally standardized and harmonized broadband aeronautical mobile (route) service system that will enable communications for surface operations at airports between aircraft and other vehicles, as well as between critical fixed assets. Implementation of AeroMACS in the United States will support Data Comm by offloading large amounts of aircraft data from, and thus easing overcrowding in, the heavily congested VHF aeronautical band. This will facilitate delivery of critical air traffic control messages, which should enhance safety and reduce flight delays. Other proposed uses for AeroMACS include air traffic management, including air traffic control; aeronautical operations communications; and communications related to airport operations, safety, and security. In addition to the Federal government, AeroMACS users may include airport owners and operators, airline carriers, aeronautical communications network providers, and other entities that engage in airport communications relating to safety and regularity of flight. AeroMACS trials are being conducted in the United States and abroad.[25]

27. The Commission allocated the 5091–5150 MHz band for Federal and non-Federal AeroMACS use on a co-primary basis in 2015[26] and it allocated the 5000–5030 MHz band for such use in 2017,[27] but it has not yet established AeroMACS services in either band. AeroMACS operation in the 5010–5030 MHz segment of the 5000–5030 MHz band is permitted only if the operation cannot be accommodated in the 5000–5010 MHz segment or the 5091–5150 MHz band. In addition, AeroMACS systems in the 5000–5030 MHz band must be designed and implemented to be capable of operational modification if interference is received from or caused to the Radionavigation-Satellite Service. The only permissible Aeronautical Mobile Service use of the 5091–5150 MHz band other than AeroMACS is aeronautical mobile telemetry for flight test purposes, subject to the technical parameters in ITU Resolution 418 (WRC–12) intended to ensure compatibility with other services. AeroMACS has priority over aeronautical mobile telemetry systems, but operators of AeroMACS and aeronautical mobile telemetry systems ''are urged to cooperate with each other in the exchange of information about planned deployments.'' This enhances the prospects for compatible sharing of the band at six airports with significant flight test activity, while other airports may be addressed on a case-by-case basis.[28]

28. In 2017, the WiMAX Forum filed a petition for rulemaking seeking the adoption of AeroMACS service rules. Commenters generally support the promulgation of AeroMACS rules, but not all agree with the WiMAX Forum's suggested licensing and sharing mechanisms.[29] In addition, other users of the 5091–5150 MHz band raise interference concerns.

29. *Licensing and eligibility.* AeroMACS will be used by fixed, base, and mobile units on or near airport property, including aircraft, for airport services related to the safety and regularity of flight. With respect to aircraft, the Commission proposes to authorize AeroMACS operation under the existing aircraft station authorization, rather than to require a separate license. For other stations, the Commission proposes to authorize AeroMACS operation under a new station class code for AeroMACS stations. Fixed and base station transmitters will be licensed by geographic coordinates and mobile units licensed for an area of operation defined by a geographic point-radius that encompasses the parts of the airport property where the mobile units will operate. While the WiMAX Forum and some commenters suggest that AeroMACS operations be licensed by rule under part 95 of the Commission's rules without individual licensing, with users required to register in a centralized database similar to the Wireless Medical Telemetry Service and Medical Body Area Networks in the MedRadio Service, the Commission believes that site-based licensing under part 87 is necessary. AeroMACS is a safety of life service that requires strict license eligibility requirements and individualized coordination of each transmitter to ensure no interference to other AeroMACS links. The Commission and any other interested party must be able to quickly identify licensees in the band, especially in cases of interference to critical safety-related air traffic control AeroMACS applications. The Commission seeks comment on these proposals and their costs and benefits, as well as those of any alternative licensing schemes. In particular, how do the administrative costs and administrative benefits of our proposed licensing scheme compare to those of registering in a separate database? How do the safety benefits compare? How should we expect that costs will be allocated to airport owners and operators?

30. The Commission proposes to limit eligibility for non-aircraft AeroMACS licenses to airport owners and operators, and entities that have been granted permission by the airport owner or operator to transmit using AeroMACS equipment at or near the airport. This may include airline carriers, aeronautical communications network providers or other third-party network access providers, and entities that perform airport services and engage in communications for the purpose of safety and regularity of flight (such as snow removal and deicing). The Commission seeks comment on this proposal, and on whether to extend eligibility to other entities. It also seeks comment on whether to delineate or limit the entities to which airport owners and operators can grant permission, or in the alternative, whether the eligibility of entities other than airport owners and operators should be determined by the FAA during the application coordination process discussed below.

31. *Coordination and channel management.* The Commission proposes to require applicants to coordinate with

[25] Some foreign airlines already use AeroMACS equipment onboard.

[26] The 5091–5150 MHz band is allocated on a co-primary basis to the Aeronautical Mobile, Aeronautical Mobile-Satellite (Route), Aeronautical Radionavigation, and Fixed Satellite (limited to Earth-to-space feeder links of non-geostationary satellite systems in the mobile-satellite service) Services. In designating this band for AeroMACS use, the Commission implemented an international allocation made at the World Radiocommunication Conference held in 2007.

[27] The 5000–5030 MHz band is allocated on a co-primary basis to the Aeronautical Mobile (Route) (limited to AeroMACS), Aeronautical Mobile-Satellite (Route), Aeronautical Radionavigation, and Radionavigation-Satellite Services.

[28] The six airports are Boeing Field/King County International Airport in Seattle; Lambert-St. Louis International Airport; Charleston (South Carolina) Air Force Base/International Airport; Wichita Dwight D. Eisenhower National Airport; Roswell (New Mexico) International Air Center Airport; and William P. Gwinn Airport in Jupiter, Florida.

[29] The Wireless Telecommunications Bureau sought comment on the WiMAX Forum Petition on July 19, 2017.

the relevant FAA Regional Office prior to filing an application with the Commission. After the application is filed, Commission licensing staff would undertake further coordination with the FAA prior to granting the application to ensure that the FAA does not anticipate any problems stemming from the proposed AeroMACS operations. The Commission already follow these procedures with respect to other airport operations. It believes that coordination with FAA Regional Offices will expedite the licensing process. It seeks comment on these proposed application coordination procedures.

32. AeroMACS spectrum will be shared between Federal and non-Federal users. The Commission believes that the FAA is best-suited to evaluate Federal AeroMACS needs at each location. The FAA already plays a large role in overseeing aviation spectrum use at airports, and the Commission defers to its judgment regarding air safety matters to avoid conflicting requirements, consistent with its statutory obligations. Regarding non-Federal users, the WiMAX Forum suggests that the Commission designate an AeroMACS Channel Manager to manage non-Federal authorized AeroMACS users and to coordinate channel sharing with Federal users. As envisioned by the WiMAX Forum, the Commission would designate a single entity to assign channels to eligible non-Federal entities and manage the use of such channels nationwide. The Commission seeks comment on how AeroMACS spectrum should be coordinated among non-Federal users, and between Federal and non-Federal users. Proponents of a third-party coordinator should recommend specific rules to govern the selection, eligibility, and responsibilities of such a coordinator.[30] Commenters also should address whether the Commission should designate a channel manager on a nationwide or regional basis, and whether more than one entity should be authorized at any location. The Commission also seeks comment on any alternative or additional channel management methods that commenters believe it should consider. Commenters should discuss the costs and benefits of any alternatives they address.

33. *Coordination with flight test systems.* As noted above, AeroMACS has priority over aeronautical mobile telemetry systems in the 5091–5150 MHz band, and operators of AeroMACS and aeronautical mobile telemetry systems are urged to cooperate to avoid causing harmful interference. The Commission expects users to operate cooperatively at the six specified airports with significant flight test activity and at any other locations where circumstances warrant coordination. It seeks comment on how to implement this sharing arrangement, and its costs and benefits. In particular, given the power flux density requirements contained in Resolution 418, and the safety of life nature of AeroMACS, it seeks comment as to whether technical parameters for aeronautical mobile telemetry should be incorporated in the Commission's part 87 rules to further facilitate compatible operation.

34. The Aerospace and Flight Test Radio Coordinating Council, Inc. claims that there is increased spectrum demand for flight testing due to the increased use of digital video to obtain important flight test data and to the loss of other spectrum for flight test systems. The record indicates that the flight test community has discussed with the WiMAX Forum and the FAA how to maximize use of the 5091–5150 MHz band without causing harmful interference to AeroMACS. The Commission is encouraged that the parties have initiated discussions to develop coordination criteria between flight test and AeroMACS users. The Commission believes that these discussions should proceed in parallel with this rulemaking, and it welcomes recommendations developed by the parties. The Commission asks commenters to address whether these discussions should impact the AeroMACS service and technical rules, *e.g.,* if the parties do not timely agree to sharing criteria, to defer AeroMACS implementation at the six specified airports and any other locations that present similar sharing issues.

35. *Coordination with satellite systems.* Globalstar holds licenses for feeder links between its gateway earth stations and space stations in the 5096–5250 MHz band, which overlaps AeroMACS operations in the 5091–5150 MHz band.[31] It alleges that, if the Commission does not adopt appropriate technical rules in this proceeding, widespread AeroMACS operations could result in aggregate interference to Globalstar. This could reduce the capacity of its mobile satellite service network, diminish the quality of its services, and cause unacceptable harm to first responders, public safety personnel, consumers, and other customers. As a basis for its concern, Globalstar cites ITU Recommendation ITU–R M.1827–1, which includes criteria for limiting aggregate interference in order to protect fixed-satellite service feeder links from aeronautical mobile (route) service surface applications at airports in the 5091–5150 MHz band. The Commission notes that AeroMACS must operate in accordance with ITU Resolution 748 (Rev. WRC–12), which incorporates ITU–R M.1827–1. Consequently, it believes that AeroMACS operations in this band already are required to comply with Recommendation ITU–R M.1827–1. It observes that proposed section 87.604 includes individual base station power limits, and it seeks comment on whether these limits can be expected under typical deployment scenarios to limit aggregate interference sufficiently. The Commission also seeks comment on what, if any, additional references or technical rules are needed to protect Globalstar operations.

36. *Technical rules.* The technical standards for AeroMACS have been approved worldwide by numerous technical standards bodies, based on Institute of Electrical and Electronics Engineers Standard 802.16–2009.[32] Similar standards and requirements have been adopted by the Radio Technical Commission for Aeronautics, the International Civil Aviation Organization, and the European Organization for Civil Aviation Equipment. As suggested by the WiMAX Forum, the Commission proposes technical rules that are based on the requirements currently incorporated in the International Civil Aviation Organization Standards and Recommended Practices and in the Radio Technical Commission for Aeronautics Minimum Operational Performance Standards. The Commission asks whether any additional or alternative technical rules

[30] The WiMAX Forum recommends a rule that provides that the third-party coordinator shall ''assign AeroMACS channels to eligible non-Federal entities and manage the use of such channels, in a manner that reasonably maximizes the efficient utilization of the spectrum at each location where AeroMACS spectrum is utilized and protects the spectrum from either hoarding or warehousing [and] shall act as a single non-Federal point of contact for spectrum coordination with Federal Government users and other authorized users of the 5000–5010 MHz, 5010–5030 MHz, and 5091–5150 MHz bands, including aeronautical mobile telemetry (AMT) users . . . .'' The WiMAX Forum's suggested rules also provide that ''the Channel Manager is urged to cooperate with aeronautical mobile telemetry (AMT) users in accordance with Table of Allocations footnote US444B(c).'' Commenters supporting designation of a third-party coordinator should also address the WiMAX Forum's recommended eligibility criteria for the coordinator.

[31] Globalstar operates a mobile satellite service system in the 1610–1618.725 MHz and 2483.5–2500 MHz bands.

[32] We see no need to require compliance with the IEEE standard, which applies generally to WiMAX operations, in addition to the aviation-specific standards that are based on it.

are needed to ensure the compatibility, interoperability, or efficient operation of AeroMACS users. It also invites comment on how best to ensure that its AeroMACS rules are technology-neutral and flexible. Commenters should address specific aspects of the proposed rules, such as the channel plan, transmitter power levels, and emission mask. Finally, the Commission seeks comment on whether, in lieu of setting forth technical criteria in our rules, it should incorporate by reference the relevant international standards. Commenters favoring this option should identify all standards that should be incorporated and address any practical or legal issues associated with such incorporation by reference.

37. *Vehicle Squitters.* In 2013, at the request of the National Telecommunications and Information Administration, the Commission authorized use of the frequency 1090 MHz by aeronautical utility mobile stations used for airport surface detection, known as vehicle squitters.[33] Vehicle squitters help reduce collisions between aircraft and airport ground vehicles such as snow plows and maintenance vehicles by enabling air traffic control to monitor vehicle movement. Consistent with a request from the Airports Council International-North America,[34] the Commission proposes two changes to the vehicle squitter rules described below to increase operational flexibility. It invites comment on these proposed rule changes and their costs and benefits. In particular, it seeks comment from airport owners and operators, which are the only authorized vehicle squitter licensees.

38. Section 87.345 of the rules states that aeronautical utility mobile stations ''provide communications for vehicles operating on an airport movement area,'' which it defines as ''the runways, taxiways and other areas utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas.'' [35] In response to an FAA request, the Division in 2015 clarified that vehicle squitters may power up outside the airport movement area to facilitate their acquisition of position data before entering the airport movement area, because such operation is ancillary to the authorized operation in the airport movement area. The Commission proposes to amend the rule to codify the Division's clarification that power-up of vehicle squitters outside the airport movement area is permissible. The Commission believes that this codification would remove any residual uncertainty that vehicle squitters may power up in this manner, and would thus facilitate a practice that may enhance airport safety by allowing air traffic control detection of a vehicle squitter immediately upon its entry into the airport movement area.

39. The Commission also proposes to clarify that vehicle squitter use of frequency 978 MHz as well as 1090 MHz is authorized. The frequency 978 MHz is designated for transmissions using UAT datalink technology. UAT transmissions are authorized for all aeronautical utility mobile stations. The Commission initially discussed the use of only frequency 1090 MHz for vehicle squitter operation because that frequency was used for existing airport surface detection equipment operations to manage the movement of aircraft on airport surfaces. Operation of vehicle squitters on 978 MHz can enhance operational flexibility for airport managers without increasing the risk that vehicle squitters would cause interference to other airport communications, thereby enhancing the safety of passengers and airport workers. The Commission also proposes to permit operation of vehicle squitters on 978 MHz over a broader portion of the airport than just the airport movement area (plus ancillary operation for powering up and down). The Commission seeks comment on whether any additional rule changes are required to clarify that vehicle squitters are authorized to transmit on 978 MHz.

40. *Emergency Locator Transmitter Test Station Frequencies.* Emergency locator transmitters are radio beacons that are carried on board aircraft and triggered in the event of a crash or other unplanned downing. Emergency locator transmitter test stations are used for testing related to the manufacture or design of emergency locator transmitters, and for training operations with respect to the operation and location of emergency locator transmitters. Section 87.475(d) of the Commission's rules makes frequencies 121.600, 121.650, 121.700, 121.750, 121.800, 121.850, and 121.900 MHz available for emergency locator transmitter test stations.[36] This list dates from when emergency locator transmitters were first authorized in 1973. More recent FAA guidance, however, authorizes emergency locator transmitter test stations to operate on frequency 121.775 MHz. The Commission proposes to amend section 87.475(d) by adding frequency 121.775 MHz to the list of frequencies available for emergency locator transmitter test stations to align its rules with FAA guidance and facilitate emergency locator transmitter testing. The Commission seeks comment on this proposal.

41. Procedural Matters. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in this *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

42. In the *NPRM,* the Commission seeks comment on rule amendments that are intended to enhance aviation safety, accommodate new aviation radio services and technologies, and promote the efficient use of aviation radio spectrum. It proposes to allocate spectrum and establish service rules for an Enhanced Flight Vision System (EFVS) to improve pilots' ability to detect and avoid objects in degraded visual environments. The Commission invites comment on whether it should amend its part 87 rules to mandate that aeronautical mobile (route) service systems operating in the 108–117.975 and 960–1164 MHz bands meet FM broadcasting immunity requirements and other requirements adopted by the International Telecommunication Union (ITU), and proposes to authorize use of the frequency 1090 MHz for Automated Dependent Surveillance—Broadcast (ADS–B) service. It further proposes to clarify certain rules regarding license eligibility and assignable frequencies for aeronautical advisory (unicom) stations. In addition, it proposes to establish service rules for non-Federal use of the

[33] The term ''squitter'' refers to random output pulses from a transponder caused by ambient noise or by an intentional random triggering system, but not by the interrogation pulses.

[34] The ACI–NA Petition was placed on public notice on March 28, 2019. No comments were received.

[35] Vehicle squitter communications are limited to the airport movement area to prevent use of the system for purposes other than vehicle and aircraft safety (such as tracking baggage carts).

[36] Licensees must ''[n]ot cause harmful interference to voice communications on these frequencies or any harmonically related frequency,'' and must ''[c]oordinate with the appropriate FAA Regional Spectrum Management Office prior to the activation of each transmitter.''

Aeronautical Mobile Airport Communications System (AeroMACS), a globally standardized broadband network for use at airports by the aviation industry in the 5000–5030 MHz and 5091–5150 MHz bands. The Commission proposes to permit use of the 136.000–136.4875 MHz band for aeronautical operational control communications as well as the already-permitted air traffic control communications as an accommodation for NextGen data transmissions. It further proposes to establish service rules for new obstacle avoidance technologies. It proposes to adopt rules allowing more flexible use of vehicle squitters, which are aeronautical utility mobile stations designed to reduce accidents on airport runways and other airport movement areas. Finally, the Commission proposes to add 121.775 MHz to the list of frequencies available for testing of Emergency Locator Transmitters (ELTs).

43. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[37] A small business concern is one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

44. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. It therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

45. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).[38]

46. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments [39] indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[40] Of this number there were 37,132 General purpose governments (county, municipal and town or township [41]) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts [42] and special districts [43]) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000.[44] Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

47. *Air Traffic Control.* This industry comprises establishments primarily engaged in providing air traffic control services to regulate the flow of air traffic. The SBA has developed a small business size standard for the Air Traffic Control industry which consists of all such firms with annual receipts of $32.5 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 8 firms that operated for the entire year. Of those firms, a total of 5 firms had annual receipts less than $25 million and 3 firms had annual receipts of $50 million or more. Based on this data, the Commission estimates the majority of firms in this industry can be considered small.

48. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio, and, as appropriate, a type of emergency position indicating radio beacon (EPIRB) and/or radar, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. The closest applicable SBA size standard is for ''Wireless Telecommunications Carriers (except Satellite),'' which is an entity employing 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 967 firms in that category that operated for the entire year. Of those 967,955 had fewer than 1,000 employees, and 12 firms had 1,000 or more employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, it estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard.

49. *Aviation Radio Equipment Manufacturers.* Neither the Commission nor the SBA has adopted a size standard for small businesses specific to aviation radio equipment manufacturers. The closest applicable SBA size standard is

[37] Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[38] Data from the Urban Institute, National Center for Charitable Statistics (NCCS) reporting on nonprofit organizations registered with the IRS was used to estimate the number of small organizations. Reports generated using the NCCS online database indicated that as of August 2016 there were 356,494 registered nonprofits with total revenues of less than $100,000. Of this number, 326,897 entities filed tax returns with 65,113 registered nonprofits reporting total revenues of $50,000 or less on the IRS Form 990–N for Small Exempt Organizations and 261,784 nonprofits reporting total revenues of $100,000 or less on some other version of the IRS Form 990 within 24 months of the August 2016 data release date.

[39] The Census of Government is conducted every five (5) years compiling data for years ending with ''2'' and ''7''.

[40] Local governmental jurisdictions are classified in two categories—General purpose governments (county, municipal and town or township) and Special purpose governments (special districts and independent school districts).

[41] There were 18,811 municipal and 16,207 town and township governments with populations less than 50,000.

[42] There were 12,184 independent school districts with enrollment populations less than 50,000.

[43] The U.S. Census Bureau data did not provide a population breakout for special district governments.

[44] While U.S. Census Bureau data did not provide a population breakout for special district governments, if the population of less than 50,000 for this category of local government is consistent with the other types of local governments the majority of the 38,266 special district governments have populations of less than 50,000.

for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is an entity employing 1,250 or fewer employees. U.S. Census Bureau data for 2012 show that there were a total of 841 establishments in this category that operated that year. Of this total, 828 had fewer than 1,000 employees and 13 had 1,000 or more employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

50. *Other Airport Operations.* This industry comprises establishments primarily engaged in (1) operating international, national, or civil airports, or public flying fields or (2) supporting airport operations, such as rental of hangar space, and providing baggage handling and/or cargo handling services. The SBA has developed a small business size standard for the ''Other Airport Operations'' which consists of all such firms with annual receipts of $32.5 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,096 firms that operated for the entire year. Of those firms, a total of 1,052 had annual receipts less than $25 million and 18 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of firms in this industry can be considered small.

51. *Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing.* This U.S. industry comprises establishments primarily engaged in manufacturing search, detection, navigation, guidance, aeronautical, and nautical systems and instruments. Examples of products made by these establishments are aircraft instruments (except engine), flight recorders, navigational instruments and systems, radar systems and equipment, and sonar systems and equipment. The SBA has established a size standard for this industry of 1,250 or fewer employees. U.S. Census Bureau data for 2012 show that 588 establishments operated in this industry in that year. Of that number, 557 establishments operated with fewer than 1,000 employees, 21 establishments operated with between 1,000 and 2,499 employees and 10 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

52. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

53. The Commission expects the proposals in the *NPRM* will impose new or additional reporting or recordkeeping and/or other compliance obligations on small entities For the most part, however, the proposed rules will give the aviation community the opportunity to use new technologies that benefit aviation safety, such as AeroMACS, EFVS radar sensors, and the AVWS and ADLS obstruction avoidance technologies; modernize the rules to accommodate advancements in avionics, such as NextGen Data Comm equipment; and enhance user flexibility by easing restrictions on the use of spectrum in the 136.0–136.475 MHz band, allowing the power-up of vehicle squitters before they enter the airport movement area, and making an additional frequency available for ELT testing.

54. The proposed rule requiring AeroMACS base stations to be individually licensed, rather than licensed by rule, coupled with the proposal to require license applicants to coordinate with the FAA and perhaps others before filing a license application with the Commission, could impose a burden on small entities and impact their costs of compliance due to the need to complete FCC Form 605 and pay any attendant filing fees. The Commission believes, however, that the benefits of an individual licensing requirement, chiefly assurance that the Commission can effectively maintain regulatory oversight over AeroMACS operations in the interest of airport safety, outweigh any such burdens. In the *NPRM,* the Commission seeks comment on this tentative determination and on the proposed new service rules for AeroMACS. It also seeks comment on whether its proposed eligibility rules for AeroMACS licensing would have an adverse impact. The proposed rule would confine AeroMACs eligibility to airport owners and operators, airline carriers, aircraft plots, ramp operators, aeronautical communications network providers, emergency service, snow removal, and deicing entities and other entities that engage in airport communications relating to safety and regularity of flight.

55. The Commission's proposed rule to authorize EFVS operations in the 92–95.5 GHz frequency range, which will increase airport approach and arrival access, should not impose any burdens on EFVS users. The Commission seeks comment, however, on its proposals associated with allowing EFVS operations in the 92–95.5 GHz band, such as whether there are any existing operations in the 90 GHz band that might be adversely affected by EFVS operations, either through harmful interference or for other reasons; the costs and benefits associated with such proposals; and whether any other rule changes are necessary.

56. The Commission has also invited comment on whether it should adopt rules in part 87 to require that aeronautical mobile (route) service systems in the 108–117.975 MHz and 960–1164 MHz bands meet FM broadcasting immunity requirements and other standards adopted by the Convention on International Civil Aviation. It further sought comment on whether codification in part 87 is necessary or warranted given that affected entities should already be subject to such requirements because the requirements are imposed by existing international agreements and/or are codified as notes in the Commission's part 2 Table of Frequency Allocations. Relatedly, the Commission sought comment on a proposal to establish rules for the use of the frequency 1090 MHz for Automatic Dependent Surveillance—Broadcast (ADS–B) service, but also sought comment on whether such rules are necessary given that the part 87 rules already permit airborne electronic aids to air navigation such as ADS–B for aircraft in the 960–1215 MHz band

57. At this time, the Commission is not currently in a position to determine whether its proposals, if adopted, will require small entities to hire attorneys, engineers, consultants, or other professionals and cannot quantify the cost of compliance with the potential rule changes discussed herein. The Commission does not believe however, that the costs and/or administrative burdens associated with any of the proposed rule changes will unduly burden small entities. In the discussions of its proposals in the *NPRM,* the Commission has sought comments from the parties in the proceeding, including cost and benefit analyses, which may

help the Commission identify and evaluate other relevant matters, including any compliance costs and burdens on small entities that may result from the proposed rules.

58. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

59. In this proceeding the Commission seeks to update its part 87 Aviation Radio Service rules to improve aviation safety, increase efficiency, and reflect advances in avionics technology. The proposed rules will give small entities and others in the aviation community the use of new and safer technologies, and will remove certain restrictions and requirements providing more operational flexibility. The removal of these restrictions and requirements will benefit small entities by reducing their administrative costs to comply with the Commission's part 87 rules. The Commission also seeks to create consistency and harmony with relevant Federal Aviation Administration (FAA) requirements and international standards and requirements, and has sought comments on steps taken to meet this objective. For example, with regard to Aircraft Detection Lighting Systems, the FAA's 2015 Advisory Circular contains performance standards that are not addressed in the Commission's rules and potentially conflicts with the Commission's rules. To address this matter, the Commission proposes to amend its rules to reflect FAA terminology and remove the provisions that conflict with the FAA's Advisory Circular, and seeks comment on this proposal.

60. The Commission believes that applying the proposed part 87 rules equally to all entities is necessary to carry out its objectives to improve spectrum efficiency and protect the safety of life and property in air navigation. However, to assist the Commission's evaluation of the economic impact on small entities as a result of actions that have been proposed in the *NPRM,* and to better explore options and alternatives, the Commission has sought comment on its proposals from the parties. The Commission expects to more fully consider and evaluate the economic impact and alternatives for small entities following the review of comments filed in response to the *NPRM* before it adopts final rules.

61. Federal rules that may duplicate, overlap, or conflict with the proposed rules: None.

62. *Paperwork Reduction Analysis.* This *NPRM* contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

63. *Ex Parte Presentations.* The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

64. *Filing Procedures.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one active docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

65. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov*

or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

66. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY–A257, Washington, DC. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

67. For further information, contact Mr. Jeff Tobias, Mobility Division, Wireless Telecommunications Bureau, (202) 418–1617 or TTY (202) 418–7233; or via email at *jeff.tobias@fcc.gov*.

68. Ordering Clauses. Accordingly, *it is ordered*, pursuant to sections 4(i), 301, 303(r), 307, 308, 309, and 332(a)(2) of the Communications Act of 1934, 47 U.S.C. 154(i), 301, 303(r), 308, 307, 309, 332(a)(2), that this Notice of Proposed Rulemaking is *hereby adopted*.

69. *It is further ordered* that the petition for rulemaking filed by the WiMAX Forum on March 31, 2017, RM–11793, the petition for rulemaking filed by Sierra Nevada Corporation on February 16, 2018, RM–11799, the petition for rulemaking filed by Aviation Spectrum Resources, Inc. on October 16, 2018, RM–11818, and the petition for rulemaking filed by the Airports Council International-North America on January 30, 2019, RM–11832, *are granted* to the extent set forth herein and otherwise *denied*. RM–11793, RM–11799, RM–11818, and RM–11832 shall be closed and the records thereof consolidated into the above-captioned docket.

70. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Communications equipment, Reporting and recordkeeping requirements.

47 CFR Part 87

Air transportation, Communications equipment, Radio.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2 and 87 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106, the Table of Frequency Allocations, is amended by revising page 63 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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Table of Frequency Allocations 86-130 GHz (EHF) Page 63

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
92-94 FIXED 5.338A MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149			92-94 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION US161 US342		RF Devices (15) Aviation (87) Fixed Microwave (101)
94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A			94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A	94-94.1 RADIOLOCATION RADIONAVIGATION Radio astronomy 5.562A	RF Devices (15) Aviation (87)
94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149			94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION US161 US342		RF Devices (15) Aviation (87) Fixed Microwave (101)
95-100 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554			95-100 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554 US342		Aviation (87)
100-102 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			100-102 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
102-105 FIXED MOBILE RADIO ASTRONOMY 5.149 5.341			102-105 FIXED MOBILE RADIO ASTRONOMY 5.341 US342		

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PART 87—AVIATION SERVICES

■ 3. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

■ 4. Section 87.5 is amended by adding in alphabetical sequence definitions of ''AeroMACS,'' ''Aircraft Detection Lighting System,'' ''Enhanced Flight Vision System,'' and ''1090 Extended Squitter (1090ES)'' to read as follows:

§ 87.5 Definitions.

AeroMACS. The Aeronautical Mobile Airport Communications System utilizing the 5000–5010 MHz, 5010–5030 MHz, and 5091–5150 MHz bands for high capacity wireless safety and regularity of flight communications (mobile and fixed) supporting airport surface applications.

* * * * *

Aircraft Detection Lighting System. An Aircraft Detection Lighting System (ADLS) is a sensor-based system designed to detect aircraft as they approach an obstruction or group of obstructions; these systems automatically activate the appropriate obstruction lights until they are no longer needed by the aircraft. ADLS may include an optional voice/audio feature that transmits a low-power, audible warning message to provide pilots additional information on the obstruction they are approaching. The ADLS operations are limited to locations where natural and man-made obstructions exist.

* * * * *

Enhanced Flight Vision System. Enhanced flight vision system (EFVS) means an installed aircraft system which uses an electronic means to provide a display of the forward external scene topography (the natural or manmade features of a place or region especially in a way to show their relative positions and elevation) through the use of imaging sensors, including but not limited to forward-looking infrared, millimeter wave radiometry, millimeter wave radar, or low-light level image intensification. An EFVS includes the display element, sensors, computers and power supplies, indications, and controls.

* * * * *

1090 Extended Squitter (1090ES). A radio datalink system authorized to operate on the frequency 1090 MHz to support Automatic Dependent Surveillance-Broadcast (ADS–B) Service and Traffic Information Services-Broadcast (TIS–B).

* * * * *

■ 5. Section 87.107 is amended by revising paragraph (d) to read as follows:

§ 87.107 Station identification.

* * * * *

(d) *Exempted station.* The following types of stations are exempted from the use of a call sign: Airborne weather radar, radio altimeter, air traffic control transponder, distance measuring equipment, collision avoidance equipment, racon, radio relay radio-navigation land test station (MTF), automatically controlled aeronautical enroute stations, and enhanced flight vision systems.

■ 6. Section 87.131 is amended by adding entries for ''ADS–B UAT'' and ''ADS–B'' at the beginning of the table to read as follows:

§ 87.131 Power and emissions.

Class of station	Frequency band/ frequency (MHz)	Authorized emission(s) [9]	Maximum power [1]
ADS–B UAT	978	F1D	Various.[11]
ADS–B	1090	M1D	Various.[11]
*	*	*	*

[1] The power is measured at the transmitter output terminals and the type of power is determined according to the emission designator as follows:

(i) Mean power (pY) for amplitude modulated emissions and transmitting both sidebands using unmodulated full carrier.

(ii) Peak envelope power (pX) for all emission designators other than those referred to in paragraph (i) of this note.

* * * * * * *

[9] Excludes automatic link establishment.

* * * * * * *

[11] Maximum power will be determined by appropriate standards during the certification process.

* * * * * * *

■ 7. Section 87.133 is amended by adding paragraph (h) to read as follows:

§ 87.133 Frequency stability.

* * * * *

(h) For ADS–B Universal Access Transmitters operating on the frequency 978 MHz, the frequency stability is 20 parts per million. For ADS–B transmitters operating on 1090 MHz, the frequency stability is ± 1 MHz.

■ 8. Section 87.147 is amended:

■ a. By revising the introductory text of paragraph (d); and

■ b. In paragraph (d)(3) by adding an entry for ''92 GHz to 95.5 GHz'' at the end of the list of frequency bands.

The revision and addition read as follows:

§ 87.147 Authorization of equipment.

* * * * *

(d) An application for certification of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: Federal Aviation Administration, Orville Wright Building, Spectrum Engineering Services Group, AJW–1C, 800 Independence Ave. SW, Washington, DC 20591 prior to the filing of the application with the Commission.

* * * * *

(3) * * *

92 GHz to 95.5 GHz

* * * * *

§ 87.171 [Amended]

■ 9. Section 87.171 is amended:

■ a. By removing from the list of *Symbol and class of station* the entry for ''AVW—Audio visual warning systems''; and

■ b. By adding at the beginning of the list entries for ''ADL—Aircraft Detection Lighting Systems'' and ''AMC—AeroMACS.''

The revision and addition read as follows:

§ 87.171 Class of station symbols.

Symbol and Class of Station

AX—Aeronautical fixed

ADL—Aircraft Detection Lighting Systems

AMC—AeroMACS

AXO—Aeronautical operational fixed

* * * * *

■ 10. In § 87.173, amend the table in paragraph (b) by:

■ a. Revising the entries for 121.600–121.925 MHz, 122.700 MHz, 122.725 MHz, 122.750 MHz, 122.800 MHz, 122.850 MHz, 122.900 MHz, 122.950 MHz, 122.975 MHz, 123.000 MHz, 123.025 MHz, 123.050 MHz, 123.075 MHz, 123.300 MHz, and 123.500 MHz, 136.000–136.400 MHz, 136.425 MHz, 136.450 MHz, 136.475 MHz, 978.000 MHz, 1090.000 MHz; and

■ b. Adding an entry for 92000–95500 MHz in numerical order.

The revisions and additions read as follows:

§ 87.173 Frequencies.

* * * * *

Frequency or frequency band	Subpart	Class of station	Remarks
*	*	*	*
121.600–121.925 MHz	O, L, Q	MA, FAC, MOU, MRT, RLT, GCO, RCO, RPC.	25 kHz channel spacing.
122.700 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
122.725 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
122.750 MHz	F, Q	MA2, ADL	Private fixed wing aircraft air-to-air communications.
*	*	*	*
122.800 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
*	*	*	*
122.850 MHz	H, K, Q	MA, FAM, FAS, ADL	
*	*	*	*
122.900 MHz	F, H, L, M, Q	MA, FAR, FAM, MOU, ADL	
*	*	*	*
122.950 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with control tower; Aeronautical utility stations.
122.975 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
123.000 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
123.025 MHz	F, Q	MA2, ADL	Helicopter air-to-air communications; Air traffic control operations.
123.050 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
123.075 MHz	G, L, Q	MA, FAU, MOU, ADL	Unicom at airports with no control tower; Aeronautical utility stations.
*	*	*	*
123.300 MHz	K, Q	MA, FAS, ADL	
*	*	*	*
123.500 MHz	K, Q	MA, FAS, ADL	
*	*	*	*
136.000–136.475 MHz	I, O, S	MA, FAC, FAE, FAW, GCO, RCO, RPC.	Air traffic control operations; aeronautical operational communications; 25 kHz channel spacing.
*	*	*	*
978.000 MHz	F, L, Q UAT Q	MA, MOU, UAT RLT	Universal Access Transceivers.
*	*	*	*
1090 MHz	L	MOU, RLT	Vehicular Squitter; 1090ES.
*	*	*	*
5000–5030 MHz	T	AMC	AeroMACS.
*	*	*	*
5091–5150 MHz	T	AMC	AeroMACS.
*	*	*	*
92000–95500 MHz	F	MA	Aeronautical radionavigation.
*	*	*	*

* * * * *

■ 11. Section 87.187 is amended by adding paragraphs (ii) and (jj) to read as follows:

§ 87.187 Frequencies.

* * * * *

(ii) The frequency 1090 MHz is authorized for 1090ES data transmission.

(jj) The frequency band 92–95.5 GHz is available for use by air carrier and private aircraft stations for aeronautical radionavigation (EFVS airborne radars).

■ 12. Section 87.215 is amended by revising paragraph (c) to read as follows:

§ 87.215 Supplemental eligibility.

* * * * *

(c) At an airport with a published common traffic advisory frequency where only one unicom may be licensed, eligibility for new unicom licenses is restricted to State or local government entities, and to nongovernmental organizations (NGOs) that are authorized to apply for the license by a State or local government entity whose primary mission is the provision of public safety services. All applications submitted by NGOs must be accompanied by a new, written certification of support (for the NGO applicant to operate the applied for station) by the State or local government entity. Applications for a unicom license at the same airport, where only one unicom may be licensed, that are filed by two or more applicants meeting these eligibility criteria must be resolved through settlement or technical amendment.

* * * * *

■ 13. Section 87.217 is amended by revising paragraph (a)(1) to read as follows:

§ 87.217 Frequencies.

(a) * * *

(1) 122.950 MHz at airports which have a control tower or FAA flight service station that operates at all times when the airport is used by aircraft for takeoff or landing.

* * * * *

■ 14. Section 87.263 is amended by revising paragraph (a)(1) to read as follows:

§ 87.263 Frequencies.

(a) * * *

(1) Frequencies in the 128.8125–132.125 MHz and 136.000–137.000 MHz bands are available to serve domestic routes, except that the frequency 136.750 MHz is available only to aeronautical enroute stations located at least 288 kilometers (180 miles) from the Gulf of Mexico shoreline (outside the Gulf of Mexico region). The frequencies 136.900 MHz, 136.925 MHz, 136.950 MHz, and 136.975 MHz are available to serve domestic and international routes. Frequency assignments may be based on either 8.33 kHz or 25 kHz spacing. Frequencies in the 136.000–137.000 MHz band are available to provide air traffic control (ATC) and aeronautical operational control (AOC) service for data link communication. When frequencies are shared for ATC and AOC for data link communications in the 136.000–137.000 MHz band, the specific frequencies and traffic sharing methodology must be agreed upon with the FAA. Use of these frequencies must be compatible with existing operations and must be in accordance with pertinent international treaties and agreements.

* * * * *

■ 15. Section 87.345 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 87.345 Scope of service.

Aeronautical utility mobile stations provide communications for vehicles that are authorized to operate on an airport movement area. An airport movement area is defined as the runways, taxiways and other areas utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas. Aeronautical utility mobile stations operating on frequency 978 MHz or 1090 MHz also may transmit at a designated vehicle service area for system check out, or just prior to entering or just after exiting the airport movement area. Transmissions on 978 MHz by aeronautical utility mobile stations for Universal Access Transceiver service are authorized within all portions of the air operations area of the airport.

(a) An aeronautical utility mobile station must monitor its assigned frequency during periods of operation except for operations on frequencies 978 MHz and 1090 MHz.

* * * * *

■ 16. Section 87.349 is amended by removing paragraph (e), redesignating paragraph (f) as paragraph (e), and revising newly redesignated paragraphs (e) introductory text and (e)(3) and (5), and adding a new paragraph (f) to read as follows:

§ 87.349 Frequencies.

* * * * *

(e) The Commission will assign either frequency 978 MHz or frequency 1090 MHz for use by aeronautical utility mobile stations for ground vehicle identification and collision avoidance after coordination with the FAA, subject to the following conditions:

* * * * *

(3) No more than either two hundred 978 MHz or two hundred 1090 MHz aeronautical utility mobile stations will be authorized at one airport.

* * * * *

(5) Message transmission rates are limited as indicated in the table below:

ADS–B message	Rate when moving	Rate when stationary
978 MHz:		
Surface Position Message	Once per second	Once per second.
Mode Status Message	Every 4 to 5 seconds	Every 4 to 5 seconds.
1090 MHz:		
Surface Position Message (Types 5, 6, 7, 8)...	Every 0.4 to 0.6 seconds	Every 4.8 to 5.2 seconds.
Aircraft Operational Status (Type 31)	Every 4.8 to 5.2 seconds	Every 4.8 to 5.2 seconds.
Aircraft Identification and Type (Type 2)	Every 4.8 to 5.2 seconds	Every 9.8 to 10.2 seconds.

(f) The frequency 1090 MHz is authorized for 1090ES data transmission.

* * * * *

■ 17. Section 87.475 is amended by adding paragraph (b)(15) and revising paragraph (c)(2) and paragraph (d) introductory text to read as follows:

§ 87.475 Frequencies.

* * * * *

(b) * * *

(15) The frequency 1090 MHz is authorized for 1090ES data transmission.

(c) * * *

(2) The frequencies available for assignment to radionavigation land test

stations for the testing of airborne receiving equipment are 108.000 and 108.050 MHz for VHF omni-range; 108.100 and 108.150 MHz for localizer; 334.550 and 334.700 MHz for glide slope; 978 and 979 MHz (X channel)/ 1104 MHz (Y channel) for DME; 978 MHz for Universal Access Transceiver; 1030 MHz for air traffic control radar beacon transponders; 1090 MHz for Traffic Alert and Collision Avoidance Systems (TCAS) and for 1090 Extended Squitter (1090ES) data transmissions; and 5031.0 MHz for microwave landing systems. Additionally, the frequencies in paragraph (b) of this section may be assigned to radionavigation land test stations after coordination with the FAA. The following conditions apply after coordination with the FAA:

* * * * *

(d) *Frequencies available for ELT test stations.* The frequencies available for assignment to ELT test stations are 121.600, 121.650, 121.700, 121.750, 121.775, 121.800, 121.850, and 121.900 MHz. Licensees must:

* * * * *

■ 18. Section 87.483 is amended:
■ a. By revising the section heading;
■ b. By removing the introductory text;
■ c. By revising paragraph (a);
■ d. By revising paragraph (b) introductory text; and
■ e. By removing paragraph (b)(3).

The revisions read as follows:

§ 87.483 Aircraft Detection Lighting Systems.

(a) Radiodetermination (radar) frequencies. Frequencies authorized under § 87.475(b)(8) of this chapter are available for use by an ADLS. The frequency coordination requirements in § 87.475(a) of this chapter apply.

(b) VHF audible warning frequencies. Frequencies authorized under §§ 87.187(j), 87.217(a), 87.241(b), and 87.323(b) (excluding 121.950 MHz) of this chapter are available for use by an ADLS. Multiple frequencies may be authorized for an individual station, depending on need and the use of frequencies assigned in the vicinity of a proposed ADLS facility. Use of these frequencies is subject to the following limitations:

* * * * *

■ 19. Add subpart T, consisting of §§ 87.601 through 87.606, to read as follows:

PART 87—AVIATION SERVICES

Subpart T—AeroMACS

Sec.

§ 87.601 Scope of service.

AeroMACS supports wireless broadband communications connectivity for safety and regularity of flight to fixed, base and mobile stations in the airport surface. Applications fall into three general categories: Air Traffic Services (ATS), including Air Traffic Control (ATC) and Air Traffic Management (ATM); Aeronautical Operations Communications (AOC); and communications related to airport operations, safety, and security.

§ 87.602 Licensing.

(a) Eligibility for an AeroMACS base, fixed, or mobile station is limited to the owner or operator of an airport or to a person who has entered into a written agreement with the owner or operator for the right to operate and maintain the station.

(b) AeroMACS base and fixed stations may be installed where needed to provide adequate service to the airport being served. Mobile stations will be licensed for an area of operation defined by a radius around a geographic point that encompasses the airport property.

(c) Aircraft stations are authorized pursuant to § 87.18 of this chapter.

§ 87.603 Channel plan.

The frequencies listed below are available for AeroMACS operation. Channel spacing is 5 megahertz without a guardband between adjacent channels. AeroMACS shall operate in time division duplex (TDD) mode.

TABLE 1 TO § 87.603

Lower AeroMACS band (5000–5030 MHz)	
Channel No.	Channel center frequency (f_c) (MHz)
1	5005
2	5010
3	5015
4	5020
5	5025

TABLE 2 TO § 87.603

Upper AeroMACS band (5091–5150 MHz)	
Channel No.	Channel center frequency (MHz)
6	5095
7	5100
8	5105
9	5110
10	5115
11	5120
12	5125
13	5130
14	5135
15	5140
16	5145

§ 87.604 Base station EIRP limits.

(a) The total base station equivalent isotropic radiated power (EIRP) in a single channel sector shall not exceed:

(1) 39.4 dBm for elevation angles from the horizon up to 1.5 degrees;

(2) 39.4 dBm linearly decreasing (in dB) to 36.4 dBm for elevation angles from 1.5 to 7.5 degrees;

(3) 36.4 dBm linearly decreasing (in dB) to 24.4 dBm for elevation angles from 7.5 to 27.5 degrees;

(4) 24.4 dBm linearly decreasing (in dB) to 1.4 dBm for elevation angles from 27.5 to 90 degrees;

(5) For multiple transmit antenna configurations the EIRP limit is the sum of the individual antennas.

(6) For aircraft (A/C) and ground equipment, the maximum allowable EIRP is +30 dBm.

(b) For purposes of this section, EIRP is defined for these purposes as antenna gain in a specified elevation direction plus the average AeroMACS transmitter power. While the instantaneous peak power from a given transmitter may exceed that level when all of the subcarriers randomly align in phase, when the large number of transmitters assumed in the analysis is taken into account, average power is the appropriate metric.

(c) If a sector contains multiple transmit antennas, *e.g.,* multiple input multiple output (MIMO) antenna, the specified power limit is the sum of the power from each antenna.

§ 87.605 Transmitted Spectral Mask for frequencies greater than 250 percent of the channel bandwidth away from the Base Station/Mobile Station operating center.

The power spectral density of the emissions when all active sub-carriers are transmitted in the channel shall be attenuated below the maximum power spectral density as follows:

(a) On any frequency removed from the assigned frequency between 50 and

55 percent of the authorized bandwidth: 26 + 145 log (percent of BW/50) dB.

(b) On any frequency removed from the assigned frequency between 55 and 100 percent of the authorized bandwidth: 32 + 31 log (percent of (BW)/55) dB.

(c) On any frequency removed from the assigned frequency between 100 and 150 percent of the authorized bandwidth: 40 +57 log (percent of (BW)/100) dB; and

(d) On any frequency removed from the assigned frequency beyond 150 percent of the authorized bandwidth: 50 dB or 55+10log(P) dB, whichever is the lesser attenuation.

§ 87.606 Unwanted emissions.

(a) Transmitter spurious emissions For AeroMACS frequencies that are greater than 250 percent of the channel bandwidth away from the Base Station/Mobile Station operating center, Base Station and Mobile Station transmitter spurious emissions must not exceed the values in the following table.

TABLE 1 TO § 87.606

Frequency band	Measurement bandwidth	Maximum level (dBm)
30 MHz < f < 1 GHz	100 kHz	−36
1 GHz < f < 12.75 GHz	30 kHz if 2.5xBW < = absolute value of (f_c − f) < 10xBW	−30
1 GHz < f < 12.75 GHz	300 kHz if 10xBW < = absolute value of (f_c − f) < 12xBW	−30
1 GHz < f < 12.75 GHz	1 MHz if 12xBW < = absolute value of (f_c − f)	−30

Note: f_c denotes the center frequency and f denotes the frequency of the spurious emission. BW is the AeroMACS channel bandwidth of 5 MHz. The above values apply to both MS and BS equipment. All transmitter spurious emission shall be measured at the output of the equipment.

(b) Receiver spurious emissions. Receiver spurious emissions must not exceed the values in the following table.

TABLE 2 TO § 87.606

Frequency band	Measurement bandwidth	Maximum level (dBm)
30 MHz < f < 1 GHz	100 kHz	−57
1 GHz < f < 12.75 GHz	1 MHz	−47

[FR Doc. 2019–12980 Filed 7–1–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

[Docket No. FWS–HQ–LE–2018–0078; FF09L00200–FX–LE18110900000]

Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act; Religious Use of Feathers; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Petition for rulemaking; extension of the comment period.

SUMMARY: In 2018, the U.S. Fish and Wildlife Service (Service) received a petition for rulemaking, which asks the Service to revise the existing rules pertaining to the religious use of federally protected bird feathers. The Service published the petition in the **Federal Register** for public comment pursuant to the terms of a settlement agreement entered into in 2016 by the United States with McAllen Grace Brethren Church et al. Today's action extends the comment period for 15 days.

DATES: The comment period on the petition for rulemaking that published April 30, 2019 (84 FR 18230), is extended. To ensure our consideration of your comments, they must be submitted on or before July 16, 2019.

ADDRESSES: *Document availability:* The petition and other materials mentioned in this document are available on the internet at *http://www.regulations.gov* in Docket No. FWS–HQ–LE–2018–0078. To review these materials in person, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Comment submission: You may submit written comments by one of the following methods:

Electronically: Go to the Federal e-Rulemaking Portal: *http://www.regulations.gov*. Search for FWS–HQ–LE–2018–0078, which is the docket number for this notice, and follow the directions for submitting comments.

By hard copy: Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: FWS–HQ–LE–2018–0078; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only one of the methods described above. We will post all information received on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **PUBLIC COMMENTS** section below for more information).

FOR FURTHER INFORMATION CONTACT: Edward Grace, Assistant Director, U.S. Fish and Wildlife Service, Office of Law Enforcement, *edward_grace@fws.gov,* (703) 358–1949. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 2018, the Service received a petition for rulemaking from Pastor Robert Soto, the lead plaintiff in *McAllen Grace Brethren Church* v. *Jewell,* No. 7:07–cv–060 (S.D. Tex. June 3, 2016) (hereinafter ''*McAllen*''), and the Becket Fund for Religious Liberty, asking the Service to revise its existing rules pertaining to the religious use of federally protected bird feathers and parts for Native Americans. The petitioners submitted the petition pursuant to paragraph 7 of the June 10, 2016, settlement agreement between the *McAllen* Plaintiffs and the United States, which states that the Secretary of the Interior will publish the petition for public comment and make a decision on the petition within 2 years of receipt.

Accordingly, the U.S. Fish and Wildlife Service published the petition in the **Federal Register** on April 30, 2019 (84 FR 18230) and opened a comment period with a deadline of July 1, 2019. During the comment period, we received a request to extend the comment period. With this notice, we are extending the deadline for submission of comments, as requested.

Public Comments

You may obtain the petition for rulemaking, and you must submit your comments and materials concerning this petition, by one of the methods described in **ADDRESSES**. The Service will not consider the petition's merits until after the comment period ends on the date set forth in **DATES**. The Service will announce in the **Federal Register** any action that we decide to take in response to the petition and public comments we receive.

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Dated: June 26, 2019.

Aurelia Skipwith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–14069 Filed 7–1–19; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 84, No. 127

Tuesday, July 2, 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.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 25, 2019.

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: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; 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 August 1, 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: Operating Reports for Telecommunications and Broadband Borrowers.

OMB Control Number: 0572–0031.

Summary of Collection: The Rural Utilities Service's (RUS) is a credit agency of the Department of Agriculture. The Rural Electrification Act of 1936, as amended (RE Act) (7 U.S.C. 901 *et seq*) authorizes the Secretary to make mortgage loans and loan guarantees to finance electric, telecommunications, broadband, and water and waste facilities in rural areas. In addition to providing loans and loan guarantees, one of RUS' main objectives is to safeguard loan security until the loan is repaid. The RE Act also authorizes the Secretary to make studies, investigations, and reports concerning the progress of borrowers' furnishing of adequate telephone service and publish and disseminate this information.

Need and Use of the Information: Information from the Operating Report for both telecommunication and broadband borrowers provides RUS with vital financial information needed to ensure the maintenance of the security for the Government's loans and service data which enables RUS to ensure the provision of quality telecommunications and broadband service as mandated by the RE Act of 1936. Form 674, ''Certificate of Authority to Submit or Grant Access to Data'' will allow telecommunication and broadband borrowers to file electronic Operating Reports with the agency using the new USDA Data Collection System. Accompanied by a Board Resolution, it will identify the name and USDA e-Authentication ID for a certifier and security administrator that will have access to the system for purposes of filing electronic Operating Reports.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 580.

Frequency of Responses: Reporting: On occasion; Quarterly; Annually.

Total Burden Hours: 6,296.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–14042 Filed 7–1–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 26, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 1, 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 Business Cooperative Service

Title: Guaranteed Loanmaking and Servicing Regulations.

OMB Control Number: 0570–0069.

Summary of Collection: The Business & Industry Guaranteed Loan Program is authorized under Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to banks and other approved lenders to finance private businesses located in rural areas. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed loans. The regulations governing the Business & Industry Guaranteed Loan Program are codified at 7 CFR 4279. The required information, in the form of written documentation and Agency approved forms, is collected from applicants/borrowers, their lenders, and consultants.

Need and Use of the Information: The collected information will be used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

Description of Respondents: Business or Other for Profit, Not-for-profit institutions; State, Local or Tribal government.

Number of Respondents: 3,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 37,959.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–14043 Filed 7–1–19; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

[Docket No. TFAA–2019–0001]

International Standard-Setting Activities

AGENCY: Office of Trade and Foreign Agricultural Affairs (TFAA), U.S. Codex Office, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act. This notice also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers Codex activities during the time periods from July 20, 2018 to June 21, 2019 and June 21, 2019 to May 31, 2020, seeks comments on standards under consideration and recommendations for new standards.

ADDRESSES: The U.S. Codex Office invites interested persons to submit their comments on this notice. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the on-line instructions at the website for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Office of Trade and Foreign Agricultural Affairs, 1400 Independence Avenue SW, Mailstop S4861, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or email are to include the Agency name and docket number TFAA–2019–0001. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information to *http://www.regulations.gov*.

Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify the committee(s) in your comments and submit a copy of your comments to the delegate from that particular committee.

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the TFAA Docket Room at 1400 Independence Avenue SW, Room S4861, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Frances Lowe, United States Manager for Codex Alimentarius, U.S. Department of Agriculture, Office of Trade and Foreign Agricultural Affairs, South Agriculture Building, 1400 Independence Avenue SW, Room 4861, Washington, DC 20250–3700; Telephone: (202) 205–7760; Fax: (202) 720–3157; Email: *uscodex@usda.gov*.

For information pertaining to particular committees, contact the delegate of that committee. A complete list of U.S. delegates and alternate delegates can be found in Attachment 2 of this notice. Documents pertaining to Codex and specific committee agendas are accessible via the internet at *http://www.codexalimentarius.org/meetings-reports/en/*. The U.S. Codex Office also maintains a website at *http://www.usda.gov/codex*.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). United States membership in the WTO was approved and the Uruguay Round Agreements Act (Uruguay Round Agreements) was signed into law by the President on December 8, 1994, Public Law 103–465, 108 Stat. 4809. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. The Uruguay Round Agreements amended the Trade Agreements Act of 1979. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be ''responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization'' (19 U.S.C. 2578). The main international standard-setting organizations are Codex, the World Organisation for Animal Health, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995, (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Office of Trade and Foreign Agricultural Affairs the responsibility to inform the public of the SPS standard-setting activities of Codex. The Office of Trade and Foreign Agricultural Affairs has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office (USCO).

Codex was created in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for establishing standards for food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of food standards work undertaken by international governmental and nongovernmental organizations. In the United States, U.S. Codex activities are managed and carried out by the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); and the Environmental Protection Agency (EPA).

As the agency responsible for informing the public of the SPS standard-setting activities of Codex, the U.S. Codex Office publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The SPS standards under consideration or planned for consideration; and
2. For each SPS standard specified:
a. A description of the consideration or planned consideration of the standard;
b. Whether the United States is participating or plans to participate in the consideration of the standard;
c. The agenda for United States participation, if any; and
d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of the standards listed in attachment 1, please contact the Codex delegate or the U.S. Codex Office.

This notice also solicits public comment on standards that are currently under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The U.S. delegate will facilitate public participation in the United States Government's activities relating to Codex. The U.S. delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding U.S. delegation activities to interested parties. This information will include the status of each agenda item; the U.S. Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following the Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its web page at *http://www.usda.gov/codex*. If you would like to access or receive information about specific committees, please visit the web page or notify the appropriate U.S. delegate or the U.S. Codex Office, Room 4861, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–3700 (*uscodex@usda.gov*).

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex committees for the time periods from July 20, 2018 to June 21, 2019 and June 21, 2019 to May 31, 2020. Attachment 2 provides a list of U.S. Codex Officials (including U.S. delegates and alternate delegates). A list of forthcoming Codex sessions may be found at: *http://www.fao.org/fao-who-codexalimentarius/meetings/en/*.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the U.S. Codex web page located at: *https://www.federalregister.gov/agencies/us-codex-office*.

Done at Washington, DC.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

ATTACHMENT 1

Sanitary and Phytosanitary Activities of Codex

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission (CAC) will convene for its 42nd Session on July 8–12, 2019 in Geneva, Switzerland. At that time, the Commission will consider adopting standards recommended by committees at Step 8 or 5/8 (final adoption) and advance the work of committees by adopting draft standards at Step 5 (for further comment and consideration by the relevant committee). The Commission will also consider revocation of Codex texts; proposals for new work; discontinuation of work; amendments to Codex standards and related texts; matters arising for the Reports of the Commission, the Executive Committee, and subsidiary bodies; Codex Strategic Plan 2020–2025; Codex budgetary and financial matters; FAO/WHO scientific support to Codex (activities, budgetary, and financial matters); matters arising from FAO/WHO; reports of the side event on FAO and WHO capacity development activities; report of the side event on the Codex Trust Fund (CTF2); election of the chairperson and vice-chairpersons and members of the Executive Committee elected on a geographical basis; designation of countries responsible for appointing the chairpersons of Codex subsidiary bodies; any other business; and adoption of the report.

Before the Commission meeting, the Executive Committee (CCEXEC) will meet at its 77th Session on July 1–7, 2019. It is composed of the Commission chairperson; vice-chairpersons; seven members elected by the Commission from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific; and regional coordinators from the six regional committees. The United States will participate as the member elected on a geographical basis for North America. The Executive Committee will report on the work of the strategic planning sub-committee of CCEXEC on the Codex Strategic Plan 2020–2025, and consider the following agenda items: the implementation status of the Codex Strategic Plan 2014–2019; regular review of Codex work management from 2018–2019; critical review process in a follow-up to the regular review of Codex work management from 2017–2018; regular review of Codex work management for 2019–2020; history and implications of the fourth paragraph of the Statement of Principle; Codex budgetary and financial matters; FAO/WHO scientific support to Codex activities (activities, budgetary, and financial matters); matters arising from FAO and WHO; applications from international non-governmental organizations for observer status in Codex; organization of the 42nd Session of the Codex Alimentarius Commission; and any other business.

Responsible Agency: USDA/TFAA/USCO.

U.S. Participation: Yes.

Codex Committee on Contaminants in Foods

The Codex Committee on Contaminants in Foods (CCCF) establishes or endorses permitted maximum levels (MLs) and, where necessary, revises existing guideline levels (GLs) for contaminants and naturally occurring toxicants in food and feed; prepares priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); considers and elaborates methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed; considers and elaborates on standards or codes of practice (CoPs) for related subjects; and considers other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed.

The committee convened for its 13th Session in Yogyakarta, Indonesia, April 29–May 3, 2019. The relevant document is REP 19/CF.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 8:

• Draft CoP for the Reduction of 3-monochloropropane-1,2-diol esters (3-MCPDEs) and glycidyl esters (GE) in Refined Oils and Food Products Made with Refined Oils (REP 19/CF Para. 79, Appendix IV);

• Draft Guidelines for Rapid Risk Analysis Following Instances of Detection of Contaminants in Food Where There is No Regulatory Level.

To be considered for final adoption at Step 5/8:

• Proposed Draft Revised MLs for Lead in Selected Commodities in the *General Standard for Contaminants and Toxins in Food and Feed* (GSCTFF) (Codex Standard (CXS) 193–1995);

• Proposed Draft ML for Cadmium in Chocolates Containing or Declaring <30% Total Cocoa Solids on a Dry Matter Basis.

To be considered for approval as new work:

• Establishment of MLs for Aflatoxins in Certain Cereals and Cereal-based Products including Foods for Infants and Young Children;

• Establishment of MLs for Lead in Certain Food Categories;

• Revision of the *CoP for the Prevention and Reduction of Lead Contamination in Foods*;

• Development of a *CoP for the Prevention and Reduction of Cadmium Contamination in Cocoa Beans*;

To be considered for revocation:

• MLs for Lead in Selected Commodities in the GSCTFF.

The committee will continue to discuss the following items:

• Establishment of MLs for cadmium in chocolate and chocolate products containing or declaring ≥30% to <50% total cocoa solids on a dry matter basis; and cocoa powder (100% total cocoa solids on a dry matter basis);

• Discussion paper on radioactivity in feed and food;

• Discussion paper on lead and cadmium in quinoa;

• Discussion paper on MLs for methylmercury for additional fish species;

• Discussion papers on fermented cassava products and mitigation measures to support development of a CoP for prevention and reduction of mycotoxins in cassava and cassava products;

• General guidance on data analysis for ML development and improved data collection;

• Forward work plan for CCCF, including:

○ Identification of key staple food/contaminant combinations;

○ An approach to identify the need for review of existing CCCF standards that may need revision;

○ Pilot project on evaluation of implementation of CoPs.

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Cereals, Pulses and Legumes

The Codex Committee on Cereals, Pulses and Legumes (CCCPL) elaborates worldwide standards and/or Codes of Practice, as appropriate, for cereals, pulses and legumes and their products.

The committee has been reactivated to work by correspondence to draft an international Codex Standard for Quinoa. The relevant document is REP 19/CPL.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 8:

• Draft Two Sections in the Standard for Quinoa.

No additional work is ongoing in this committee. It will again be adjourned *sine die* once the work on the international Codex Standard for Quinoa is completed.

Responsible Agencies: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Food Additives

The Codex Committee on Food Additives (CCFA) establishes or endorses acceptable maximum levels (MLs) for individual food additives; prepares a priority list of food additives for risk assessment by the JECFA; assigns functional classes to individual food additives; recommends specifications of identity and purity for food additives for adoption by the Codex Alimentarius Commission; considers methods of analysis for the determination of additives in food; and considers and elaborates standards or codes of practice for related subjects such as the labeling of food additives when sold as such.

The committee convened for its 51st Session in Jinan, China, March 25–29, 2019. The relevant document is REP 19/FA. Immediately prior to the Plenary Session, there was a one and a half day Physical Working Group (PWG) on the General Standard for Food Additives (GSFA) chaired by the United States and a half day PWG on Alignment chaired by Australia.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 5/8:

• Proposed Draft Specifications for the *Identity and Purity of Food Additives* Arising from the 86th JECFA Meeting;

• Revision of the *Class Names and the International Numbering System for Food Additives* (CXG 36–1989).

To be considered for final adoption at Step 8 and 5/8:

• Draft and Proposed Draft Food-Additive Provisions of the *General Standard for Food Additives*.

Also to be considered for final adoption:

• Revised Food Additive Provisions of the GSFA in Relation to the Alignment of the Thirteen Standards for Milk and Milk Products (Ripened Cheese), Two Standards for Sugars, Two Standards for Natural Mineral Waters, Three Standards for Cereals, Pulses and Legumes, and Three Standards for Vegetable Proteins;

• Revised Food Additive Provisions of the GSFA in Relation to the Alignment of Provisions for Ascorbyl Esters (ascorbyl palmitate (INS 304) and ascorbyl stearate (INS 305)) and the Standards for Infant Formula and Formula for Special Dietary Purposes Intended for Infants (CXS 72–1981) and Follow-up Formula (CXS 156–1987);

• Revised Food-Additive Sections of the Thirteen Standards for Milk and Milk Products (Ripened Cheese), i.e. Standards for Cheddar (CXS 263–1966); Danbo (CXS 264–1966); Edam (CXS 265–1966); Gouda (CXS 266–1966); Havarti (CXS 267–1966); Samsø (CXS 268–1966); Emmental (CXS 269–1967); Tilsiter (CXS 270–1968); Saint-Paulin (CXS 271–1968); Provolone (CXS 272–1968); Coulommiers (CXS 274–1969);

Camembert (CXS 276–1973); and Brie (CXS 277–1973);

• Revised Food-Additive Sections of the Two Standards for Sugars and Two Standards for Natural Mineral Waters, i.e. Standards for Honey (CXS 12–1981); and Sugars (CXS 212–1999) and Standards for Natural Mineral Waters (CXS 108–1981); and Bottled/Packaged Drinking Waters (other than natural mineral waters) (CXS 227–2001);

• Revised Food-Additive Sections of the Three Standards for Cereals, Pulses and Legumes and Three Standards for Vegetable Proteins, i.e. Standards for Wheat flour (CXS 152–1985); Couscous (CXS 202–1995); and Instant noodles (CXS 249–2006); and Wheat protein products including wheat gluten (CXS 163–1987); Vegetable protein products (VPP) (CXS 174–1989); and Soy protein products (CXS 175–1989);

• Revised Food-Additive Provisions of the GSFA in Relation to the Replacement Notes to Note 161;

• Insertion of a Footnote to the Table Entitled ''References to Commodity Standards for GSFA Table 3 Additives'';

• The Revised Table on ''Justified use'' in Food Additive section in the *Standard for Mozzarella* (CXS 262–2006).

To be considered for discontinuation:

• Draft and proposed draft food additive provisions of the GSFA.

The committee will continue working on:

• Draft and Proposed draft food additive provisions of the GSFA (Electronic Working Group (EWG) led by the United States);

• Proposals for additions and changes to the *Priority List of Substances Proposed for Evaluation by JECFA* (PWG led by Canada);

• Alignment of the food additive provisions of commodity standards and relevant provisions of the GSFA (EWG led by Australia, Japan and the United States);

• Revision of the *Class Names and the International Numbering System for Food Additives* (EWG led by Belgium);

• Provisions related to the use of sweeteners with Note 161 attached to (1) determine if sweeteners or flavor enhancers are justified in specific food categories and (2) developing wording for an alternative to Note 161 relating to the use of sweeteners or flavor enhancers in food categories where the use is technologically justified;

• Issues with the online GSFA which prevent the implementation of committee decisions and to inform the Executive Committee on this matter.

The committee also agreed to hold a one and half day PWG on the GSFA immediately preceding the 52nd Session of CCFA to be chaired by the United States. That group will discuss:

• The recommendations of the EWG on the GSFA and new proposals and proposed revisions of food additive provisions in the GSFA.

The committee also agreed to hold a half day PWG on Alignment immediately preceding the 52nd Session of CCFA to be chaired by Australia. That group will discuss the recommendations of the EWG on Alignment.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables (CCFFV) is responsible for elaborating worldwide standards and codes of practice, as may be appropriate, for fresh fruits and vegetables, consulting as necessary, with other international organizations in the standards development process to avoid duplication.

The committee convened for its 20th Session in Kampala, Uganda, on October 2–6, 2017. The relevant document is REP 17/FFV.

The committee does not have items that will be considered by the 42nd Session of the Commission in July 2019.

The committee will continue working on the following items:

• Draft standard for garlic;

• Draft standard for kiwifruit;

• Proposed draft standard for ware potatoes;

• Proposed draft standard for fresh dates;

• Proposed draft standard for yams;

• Proposed draft standard for onions and shallots;

• Proposed draft standard for berry fruits;

• Discussion paper on glossary terms used in the layout for Codex standards for fresh fruits and vegetables.

Responsible Agencies: USDA/Agricultural Marketing Services (AMS); HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene (CCFH) is responsible for developing basic provisions on food hygiene, applicable to all food or to specific food types; considering and amending or endorsing provisions on food hygiene contained in Codex commodity standards and CoP developed by other committees; considering specific food hygiene problems assigned to it by the Commission; suggesting and prioritizing areas where there is a need for microbiological risk assessment at the international level and developing questions to be addressed by the risk assessors; and considering microbiological risk management matters in relation to food hygiene and in relation to the FAO/WHO risk assessments.

The committee convened for its 50th Session in Panama City, Panama, November 12–16, 2018. The relevant document is REP 19/FH.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption Step 5/8:

• Alignment of the *Code of Practice for Fish and Fishery Products* with the Histamine Control Guidance.

To be considered for adoption Step 5, allowing for further consideration by the next session of CCFH:

• Proposed Draft *Code of Practice on Food Allergen Management for Food Business Operators*.

To be considered for approval as new work:

• *Development of Guidelines for the Control of Shiga Toxin-Producing Escherichia coli (STEC) in Beef Meat, Leafy Greens, Raw Milk and Cheese Produced from Raw Milk, and Sprouts*.

To be considered for discontinuation:

• *Development of Histamine Sampling Guidance in 11 Commodity Standards for Fish and Fishery Products*.

The committee will continue working on:

• Proposed draft Revision of the *General Principles of Food Hygiene* and its HACCP Annex;

• *Guidance for the Management of Biological Foodborne Outbreaks;*

• New work proposals/forward workplan.

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) is responsible for developing principles and guidelines for food import and export inspection and certification systems, with a view to harmonizing methods and procedures that protect the health of consumers, ensure fair trading practices, and facilitate international trade in foodstuffs; developing principles and guidelines for the application of measures by the competent authorities of exporting and importing countries to provide assurance, where necessary, that foodstuffs comply with requirements, especially statutory health requirements; developing guidelines for the utilization, as and when appropriate, of quality assurance systems to ensure that foodstuffs conform with requirements and promote the recognition of these systems in facilitating trade in food products under bilateral/multilateral arrangements by countries; developing guidelines and criteria with respect to format, declarations, and language of such official certificates as countries may require with a view towards international harmonization; making recommendations for information exchange in relation to food import/export control; consulting as necessary with other international groups working on matters related to food inspection and certification systems; and considering other matters assigned to it by the Commission in relation to food inspection and certification systems.

The committee convened for its 24th Session in Brisbane Australia, October 22-26, 2018. The relevant document is REP 19/FICS.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for adoption at Step 5, allowing for further consideration at the next session of CCFICS:

- Draft Principles and Guidelines for the Assessment and Use of Voluntary Third-Party Assurance (vTPA) Programmes.

To be considered for approval as new work:

- Project Document for New Work on the Consolidation of Codex Guidelines Related to Equivalence.

To be considered for information:

- Outcome of the assessment of the experimental approach for Intersessional physical Working Groups combined with webinar technology;
- Ongoing discussions on food integrity food authenticity and food fraud.

The committee also agreed to continue working on the following items through electronic Working Groups (EWG):

- Proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems;
- Proposed draft consolidated Codex guidelines related to equivalence;
- Proposed draft guidance on paperless use of electronic certificates (Revision of Guidelines for Design, Production, Issuance, and Use of Generic Official Certificates);
- Draft principles and guidelines for the assessment and use of voluntary Third-Party Assurance (vTPA) programs;
- Discussion paper on the role of CCFICS with respect to tackling food fraud in the context of food safety and fair practices in food trade.

Responsible Agencies: USDA/FSIS; HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling (CCFL) drafts provisions on labeling applicable to all foods; considers, amends, and endorses draft specific provisions on labeling prepared by the Codex Committees drafting standards, codes of practice, and guidelines; and studies specific labeling problems assigned to it by the Codex Alimentarius Commission. The Committee also studies problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The Committee convened its 45th Session in Ottawa, Canada, May 13–17, 2019. The relevant document is REP 19/FL.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for adoption at Step 5, allowing for further consideration at the next session of CCFL:

- Proposed Draft Guidance for the Labelling of Non-retail Containers.

To be considered for approval as new work:

- Revision to the *General Standard for the Labelling of Prepackaged Foods*: Allergen Labelling and Guidance on the Precautionary Allergen or Advisory Labelling;
- Proposed Draft Guidance on Internet Sales/E-Commerce.

The committee will continue working on the following items:

- Proposed draft guidelines on front-of-pack nutrition labelling;
- Discussion paper on innovation–use of technology in food labelling;
- Discussion paper on labelling of alcoholic beverages;
- Discussion paper on labelling of foods in joint presentation and multipack formats;
- Discussion paper on future work and direction of CCFL (update).

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils (CCFO) is responsible for elaborating worldwide standards for fats and oils of animal, vegetable, and marine origin, including margarine and olive oil.

The Committee convened for its 26th Session in Kuala Lumpur, Malaysia, February 25-March 1, 2019. The relevant document is REP 19/FO.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for adoption at final Step 8 and 5/8:

- Revision to the *Standard for Named Vegetable Oils*:
  - Addition of palm oil with high content of oleic acid (OXG);
  - Amendment to the values of the refractive index and apparent density of palm superolein at 40°C;
  - Inclusion of almond oil, flaxseed (linseed) oil, hazelnut oil, pistachio oil, and walnut oil;
  - Replacement of acid value with free fatty acids for virgin palm oil and inclusion of free fatty acids for crude palm kernel oil;
  - Revision to Table 1: applicability of the fatty acid composition of other oils (listed in table 1) in relation to their corresponding crude form and consequential deletion of an equivalent note for rice bran oil;
  - Inclusion of free fatty acids as quality characteristic criteria for refined rice bran oil.
- Alignment of Food Additives Provisions in Standards for Fats and Oils (Excepts Fish Oils) and Technological Justification for Use of Emulsifiers in Food Category (FC) 02.1.2 of the GSFA.

To be considered for revocation:

- Provisions for Monosodium Tartrate (INS 335(i)), Monopotassium Tartrate (INS 336(i)), Dipotassium Tartrate (INS 336(ii)) and Sodium Sorbate (INS 201) in the *Standard for Fat Spreads and Blended Spreads* (CXS 26–2007).

The committee will continue working on:

- Draft Revision of the *Standard for Named Vegetable Oils* (Codex Stand 201–1999): Essential composition of sunflower seed oils;
- Revision of the *Standard for Olive Oils and Pomace Olive Oils* (Codex Stan 33–1981);
- Considering proposals for new substances to be added to the list of acceptable previous cargoes and providing relevant information (if available from Member countries) to JECFA on the 23 substances on the list of acceptable previous cargoes currently on the list.

Responsible Agencies: HHS/FDA; USDA/Agricultural Research Service (ARS).

U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling (CCMAS) defines the criteria appropriate to Codex Methods of Analysis and Sampling; serves as a coordinating body for Codex with other international groups working on methods of analysis and sampling and quality assurance systems for laboratories; specifies, on the basis of final recommendations submitted to it by the bodies referred to above, reference methods of analysis and sampling appropriate to Codex standards which are generally applicable to a number of foods; considers, amends if necessary, and endorses as appropriate, methods of analysis and sampling proposed by Codex commodity committees, except for methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives; elaborates sampling plans and procedures, as may be required; considers specific sampling and analysis problems submitted to it by the Commission or any of its committees; and defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The committee convened for its 40th Session in Budapest, Hungary, May 27–31, 2019. The relevant document is REP 19/MAS.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 8:

• Methods of Analysis and Sampling Plans for Provisions in Codex Standards.

To be considered for final adoption at Step 5/8:

• *Preamble and Document Structure for the* General Standard for Methods of Analysis and Sampling

To be considered for adoption at Step 5, allowing for further consideration by the next session of CCMAS:

• *Proposed Draft Revised* Guidelines on Measurement Uncertainty.

To be considered for revocation:

• Methods of Analysis for Provisions in Codex Standards.

The committee will continue to discuss:

• Endorsement of methods of analysis and sampling plans for provisions in Codex standards;

• Review of dairy methods- dairy workable package;

• Review of cereals, pulses and legumes methods workable package;

• Review of the fats and oils methods;

• Review of the general guidelines on sampling.

Responsible Agencies: HHS/FDA; USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) is responsible for studying nutrition issues referred to it by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses in cooperation with other committees where necessary; considers, amends if necessary, and endorses provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines, and related texts.

The committee convened for its 40th Session in Berlin, Germany, November 26-30, 2018. The reference document is REP 19/NFSDU.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for adoption at Step 5, allowing for further consideration at the next session of CCNFSDU:

• Review of the *Standard for Follow-up Formula*: Proposed Proposed draft Scope, Description and Labelling for Follow-up Formula for Older Infants.

To be considered for revocation:

• Provisions for Monosodium Tartrate (INS 335(i)), Monopotassium Tartrate (INS 336(i)) and Dipotassium Tartrate (INS 336(ii)) in the *Standard for Processed Cereal-Based Foods for Infant and Young Children.*

To be considered for discontinuation:

• Nutrient Reference Values—Non-Communicable Diseases (NRV-NCD) for Eicosatetraenoic Acid (EPA) and Docosahexaenoic Acid (DHA) Long Chain Omega-3 Fatty Acids

The committee will continue to discuss:

• Review of the *Standard for Follow up Formula*;

• Nutrient References Value—Recommended (NRV-R) for older infants and young children;

• Mechanism/framework for considering the technological justification of food additives;

• Alignment of food additives;

• Consideration of a discussion paper on harmonized probiotic guidelines for use in foods and dietary supplements;

• Consideration of a discussion paper on general guidelines to establish nutritional profiles;

• Prioritization mechanism to better manage the work of CCNFSDU.

Responsible Agencies: HHS/FDA; USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables (CCPFV) is responsible for elaborating worldwide standards and related texts for all types of processed fruits and vegetables including, but not limited to canned, dried, and frozen products, as well as fruit and vegetable juices and necttfa.

The committee convened for its 29th Session by correspondence, March 13–June 28, 2019.

The committee does not have items that will be considered for adoption by the 42nd Session of the Commission in July 2019.

The committee will continue working on:

• Chili sauce;

• Mango chutney;

• Gochujang;

• Dried fruits;

• Canned fruit salads;

• Referring matters back to CCFA for the use of functional classes and food additives in processed fruits and vegetables:

○ ''Emulsifiers, stabilizers, thickeners'' and xantham gum (INS 415) in Food Category 14.1.2 Fruit and Vegetable Juices and Food Category 14.1.3 Fruit and Vegetable Nectar;

○ Acidity regulators and tartrates (INS 334, 335(ii), 337) in Food Category 04.2.2 Dried Fruit;

○ Tartrates (INS 334, 335(ii), 337) in Food Category 04.1.2.6 Fruit Based Spreads (e.g., chutney), excluding products in Food Category 04.1.2.5; and

○ Use of colors in quick frozen French fried potatoes.

• Referring matters to CCMASS on a method for fat extraction prior to the use of the method for the determination of free fatty acids in quick-frozen French-fried potatoes and other matters related to methods of analysis and sampling for processed fruits and vegetables.

Responsible Agencies: USDA/Agricultural Marketing Service; HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues (CCPR) is responsible for establishing maximum residue limits (MRLs) for pesticide residues in specific food items or in groups of food;

establishing MRLs for pesticide residues in certain animal feeding stuffs moving in international trade where this is justified for reasons of protection of human health; preparing priority lists of pesticides for evaluation by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR); considering methods of sampling and analysis for the determination of pesticide residues in food and feed; considering other matters in relation to the safety of food and feed containing pesticide residues; and establishing maximum limits for environmental and industrial contaminants showing chemical or other similarity to pesticides in specific food items or groups of food.

The committee convened for its 51st Session in Macau, China, April 8–13, 2019. The relevant document is REP 19/PR.

The following items will be considered at the 42nd Session of the Commission in July 2019:

To be considered for final adoption:

• MRLs for Different Combinations of Pesticide(s)/Commodity(ies) for Food and Feed;

• Revision of the *Classification of Food and Feed*: Miscellaneous Commodities not Meeting the Criteria for Crop Grouping.

To be considered for approval as new work:

• Development of Guidance for Compounds of Low Public Health Concerns that could be Exempted from the Establishment of CXLs;

• *Class C: Primary Animal Feed Commodities. Type Miscellaneous Primary Feed Commodities and Class D: Processed Foods of Plant Origin. Type Miscellaneous Processed Foods of Plant Origin;*

• *Priority List of Pesticides for Evaluation by the 2020 JMPR.*

To be considered for revocation:

• CXLs for Different Combinations of Pesticide/Commodity(ies) Proposed for Revocation by CCPR49.

The committee will continue to discuss the following items:

• Draft and Proposed Draft Revision of the *Classification of Food and Feed*:

○ Revision of Class C, Animal feed commodities, taking into account silage, fodder, and a separate group for grasses;

○ Revision of Class D, Processed Food commodities;

○ Transferring commodities from Class D to Class C;

○ Creating tables with representative crops for Class C and D;

○ Edible animal tissues (including edible offal) in collaboration with the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) EWG on edible animal tissues.

• Information on a National Registration Database of Pesticides—Establishment of a Codex Database of National Registration of Pesticides;

• Establishment of JMPR Schedules and Priority Lists for Evaluations of Pesticides;

• Discussion Paper on the Review of the International Estimated Short-Term Intake (IESTI) Equations (possible revision);

• Discussion Paper on the Management of Unsupported Compounds;

• Discussion Paper on the Opportunity to Revise the Guidelines on the Use of Mass Spectrometry for the Identification, Confirmation and Quantitative Determination of Pesticide Residues;

• Discussion Paper on Opportunities and Challenges for JMPR Participation in International Review of a New Compound.

Responsible Agencies: EPA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. The Committee also develops codes of practice, as may be required, and considers methods of sampling and analysis for the determination of veterinary drug residues in food. A veterinary drug is defined as any substance applied or administered to any food producing animal, such as meat or milk producing animals, poultry, fish, or bees, whether used for therapeutic, prophylactic or diagnostic purposes, or for modification of physiological functions or behavior.

A Codex Maximum Residue Limit (MRL) for residues of veterinary drugs is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food. Residues of a veterinary drug include the parent compounds or their metabolites in any edible portion of the animal product and include residues of associated impurities of the veterinary drug concerned. An MRL is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI) or on the basis of a temporary ADI that utilizes an additional safety factor. When establishing an MRL, consideration is also given to residues that occur in food of plant origin or the environment. Furthermore, the MRL may be reduced to be consistent with official recommended or authorized usage, approved by national authorities, of the veterinary drugs under practical conditions.

An ADI is an estimate made by the JECFA of the amount of a veterinary drug, expressed on a body weight basis, which can be ingested daily in food over a lifetime without appreciable health risk.

The Committee convened for its 24^{th} Session in Chicago, Illinois, April 23–27, 2018. The relevant document is REP 18/RVDF.

The Committee does not have items that will be considered for adoption by the 42nd Session of the Commission in July 2019.

The committee will continue working on the following items:

• Draft MRL for flumethrin (honey);

• Proposed draft MRLs for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle);

• Priority list of veterinary drugs approved by CAC41 (2018);

• Draft priority list of veterinary drugs for approval by CAC;

• Discussion paper on extrapolation of MRLs to one or more species (including a pilot on extrapolation of MRLs identified in Part D of the Priority List);

• Coordination with the CCPR/EWG on the revision of the Classification of Food and Feed for the development of a harmonized definition for edible offal/animal tissues for the establishment of MRLs;

• Database on countries needs for MRLs;

• Discussion paper on advantages and disadvantages of a parallel approach to compound evaluation.

Responsible Agencies: HHS/FDA/Center for Veterinary Medicine; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Sugars

The Codex Committee on Sugars (CCS) elaborates worldwide standards for all types of sugars and sugar products.

The Committee has been re-activated electronically to work by correspondence on a *draft standard for panela and/or common or vernacular name as known in each country (non-centrifuged sugar).*

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 8:

• Draft Standard for panela and/or common or vernacular name as known in each country (non-centrifuged sugar).

Responsible Agencies: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Spices and Culinary Herbs

The Codex Committee on Spices and Culinary Herbs is responsible for elaborating worldwide standards for spices and culinary herbs in their dried and dehydrated state in whole, ground, and cracked or crushed form. It also consults, as necessary, with other international organizations in the standards development process to avoid duplication.

The committee convened for its 4th Session in Thiruvananthapuram (Trivandrum), Kerala, India, from January 21–25, 2019. The relevant document is REP 19/SCH.

The following items will be considered by the 42nd Session of the Commission in July 2019:

To be considered for final adoption at Step 5/8:

• Standard for Dried and/or Dehydrated Garlic.

To be considered for adoption at Step 5, allowing for further consideration at the next session of CCSCH:

• Draft standard for dried oregano;
• Draft standard for dried roots, rhizomes, and bulbs—dried or dehydrated ginger;
• Draft standard for dried basil;
• Draft standard for dried floral parts—dried cloves;
• Draft standard for saffron.

The committee will continue to discuss:

• Draft Standard for Dried and/or Dehydrated Chili and Paprika;
• Draft Standard for Nutmeg;
• Working Group (WG) on Priorities and Group Standards.

Responsible Agencies: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance

The *Ad hoc* Codex Intergovernmental Task Force on Antimicrobial Resistance (TFAMR) is responsible for reviewing and revising, as appropriate, the Code of Practice to Minimize and Contain Antimicrobial Resistance (CAC/RCP 61–2005) to address the entire food chain, in line with the mandate of Codex; and considering the development of Guidance on Integrated Surveillance of Antimicrobial Resistance, taking into account the guidance developed by the WHO Advisory Group on Integrated Surveillance of Antimicrobial Resistance (AGISAR) and relevant World Organization for Animal Health (OIE) documents. The objective of the Task Force is to develop science-based guidance on the management of foodborne antimicrobial resistance, taking full account of the WHO Global Action Plan on Antimicrobial Resistance, in particular Objectives 3 and 4, the work and standards of relevant international organizations, such as FAO, WHO, and OIE, and the One-Health approach, to ensure members have the necessary guidance to enable coherent management of antimicrobial resistance along the food chain. The Task Force is expected to complete this work within three (or a maximum of four) sessions.

The Task Force convened for its 6th Session (the 2nd Session since reactivation in 2016) in Busan, Republic of Korea, December 10–14, 2018, working on draft text for the Code of Practice (CoP) and Guidance on Integrated Surveillance (GLIS).

The task force does not have items that will be considered for adoption by the 42nd Session of the Commission in July 2019.

The task force will continue to discuss:

• Proposed draft revision of the *Code of Practice to Minimize and Contain Antimicrobial Resistance*;
• Proposed draft *Guidelines on Integrated surveillance of Antimicrobial Resistance*;
• Requests for Scientific Advice from FAO and WHO in collaboration with OIE.

Responsible Agencies: FDA/USDA.

U.S. Participation: Yes.

Adjourned Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned sine die. The following Committees fall into this category:

Cocoa Products and Chocolate—adjourned 2001

Responsible Agency: HHS/FDA, DCO/NOAA.

U.S. Participation: Yes.

Fish and Fishery Products—adjourned 2016

Responsible Agency: HHS/FDA/NOAA.

U.S. Participation: Yes.

Meat Hygiene—adjourned 2003

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Milk and Milk Products—adjourned 2017

Responsible Agency: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Natural Mineral Waters—adjourned 2008

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Vegetable Proteins—adjourned 1989

Responsible Agency: USDA/ARS.

U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The FAO/WHO Regional Coordinating Committees define the problems and needs of the regions concerning food standards and food control; promote within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulate the strengthening of food control infrastructures; recommend to the Commission the development of worldwide standards for products of interest to the region, including products considered by the committees to have an international market potential in the future; develop regional standards for food products moving exclusively or almost exclusively in intra-regional trade; draw the attention of the Commission to any aspects of the Commission's work of particular significance to the region; promote coordination of all regional food standards work undertaken by international governmental and non-governmental organizations within each region; exercise a general coordinating role for the region and such other functions as may be entrusted to them by the Commission; and promote the use of Codex standards and related texts by members.

There are six regional coordinating committees:

• Coordinating Committee for Africa;
• Coordinating Committee for Asia;
• Coordinating Committee for Europe;
• Coordinating Committee for Latin America and the Caribbean;
• Coordinating Committee for the Near East;
• Coordinating Committee for North America and the South West Pacific.

Coordinating Committee for Africa

The Committee (CCAFRICA) will convene its 23rd Session in Nairobi, Kenya, September 2–6, 2019.

The committee will discuss the following agenda items:

- Use of Codex standards in the region;
- Matters referred from the Codex Alimentarius Commission and other Codex Committees;
- Implementation of the Codex Strategic Plan 2014–2019;
- Codex Strategic Plan 2020–2025;
- Codex communication work plan;
- Draft standard for fermented cooked cassava-based products;
- Draft standard for *Gnetum spp* leaves;
- Proposed draft standard for dried meat;
- Discussion paper on regional harmonized food law guidelines for the CCAFRICA region;
- Discussion paper on the development of a regional standard for fermented non-alcoholic cereal-based drink (Mahewu);
- Nomination of the coordinator;
- Other business.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as observer).

Coordinating Committee for Asia

The Committee (CCASIA) will convene for its 21st Session in Goa, India, September 23–27, 2019.

The committee will discuss the following agenda items:

- Use of Codex standards in the region;
- Matters arising from the Codex Alimentarius Commission and other Codex Committees;
- Codex work relevant to the region;
- Implementation of the Codex Strategic Plan 2014–2019;
- Codex Strategic Plan 2020–2025;
- Codex communication work plan;
- Discussion paper/project document on the development of a regional standard for rice-based low alcohol beverages (cloudy types);
- Discussion paper/project document on the development of a regional standard for soybean products fermented with the bacterium *Bacillus subtilis*;
- Discussion paper/project document on the development of a regional standard for quick frozen dumplings (Ziaozi);
- Discussion paper/project document on the development of a regional standard/code of practice for Zongzi;
- Nomination of coordinator;
- Other business.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as observer).

Coordinating Committee for Europe

The Committee (CCEURO) will convene for its 31st Session in Almaty, Kazakhstan, September 30-October 4, 2019.

The agenda will be announced at a later date. It will be posted at: http://www.fao.org/fao-who-codexalimentarius/meetings/en/.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as observer).

Coordinating Committee for Latin America and the Caribbean

The Committee (CCLAC) will convene for its 21st Session in Santiago, Chile, October 21–25, 2019.

The agenda will be announced at a later date. It will be posted at: http://www.fao.org/fao-who-codexalimentarius/meetings/en/.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as observer).

Coordinating Committee for North America and the South West Pacific

The Committee will convene for its 15th Session in Port Vila, Vanuatu, September 16–20, 2019.

The Committee will continue discuss the following agenda items:

- Food safety and quality situation in the countries of the region:
  - Current and emerging issues in the region;
  - Use of the online platform for information sharing on food safety control systems; status of information and future plans/prospects;
- Use of Codex standards in the region;
- Matters referred from the Codex Alimentarius Commission and other Codex Committees;
- Codex work relevant to the region;
- Implementation of the Codex Strategic Plan 2014–2019;
- Codex Strategic Plan 2020–2025;
- Codex communications work plan;
- Proposed draft standard for fermented noni juice;
- Proposed draft standard for kava as a beverage when mixed with cold water;
- Nomination of the coordinator;
- Other business.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes.

Coordinating Committee for the Near East

The Committee (CCNEA) will convene for its 10th Session on November 18–22, 2019.

The agenda will be announced at a later date. It will be posted at: http://www.fao.org/fao-who-codexalimentarius/meetings/en/.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: No.

Contact: U.S. Codex Office, United States Department of Agriculture, Room 4861, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–3700, Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *uscodex@usda.gov*.

ATTACHMENT 2

U.S. Codex Alimentarius Officials

Chairpersons from the United States

Codex Committee on Food Hygiene

Dr. Emilio Esteban, DVM, MBA, MPVM, Ph.D., Chief Scientist, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2129—South Building, Washington, DC 20250, Phone: (202) 690 9058-3429, Email: *emilio.esteban@usda.gov*.

Codex Committee on Processed Fruits and Vegetables

Mr. Richard Boyd, Chief, Contract Services Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 0247, Room 0726—South Building, Washington, DC 20250, Phone: (202) 690–1201, Fax: (202) 690-1527, *richard.boyd@usda.gov*.

Codex Committee on Residues of Veterinary Drugs in Foods

Dr. Kevin Greenlees, Ph.D., DABT, Senior Advisor for Science and Policy, Office of New Animal Drug Evaluation, HFV–100, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, Phone: (240) 402–0638, Fax: (240) 276–9538, *kevin.greenlees@fda.hhs.gov*.

U.S. Delegates and Alternate Delegates

Worldwide General Codex Subject Committees

Contaminants in Foods

(Host Government—The Netherlands)

U.S. Delegate: Dr. Lauren Posnick Robin, Ph.D., Branch Chief, Plant Products Branch, Division of Plant Products and Beverages, Office of Food Safety (HFS-317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1639, *lauren.fobin@fda.hhs.gov*.

Alternate Delegate: Mr. Terry Dutko, Laboratory Director, Food Safety and Inspection Service, Office of Public

Health Science, U.S. Department of Agriculture, 4300 Goodfellow Building, 105D Federal, St. Louis, MO 63120–0005, Phone: +1 (314) 263–2680, Extension 344, *tery.dutko@usda.gov*.

Food Additives

(Host Government—China)

U.S. Delegate: Dr. Paul S. Honigfort, Ph.D., Consumer Safety Officer, Division of Food Contact Notifications (HFS-275), Office of Food Additive Safety, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1206, Fax: +1 (301) 436–2965, *paul.honigfort@fda.hhs.gov*.

Alternate Delegate: Dr. Daniel Folmer, Ph.D., Chemist, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 3017, HFS–265, College Park, MD 20740, Phone: +1 (240) 402–1274, *daniel.folmer@fda.hhs.gov*.

Food Hygiene

(Host Government—United States)

U.S. Delegate: Ms.Jenny Scott, Senior Advisor, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, HFS–300, Room 3B–014, College Park, MD 20740–3835, Phone: +1 (240) 402–2166, Fax: +1 (301) 436–2632, *jenny.scott@fda.hhs.gov*.

Alternate Delegate: Dr. William Shaw, Director, Risk, Innovation and Management Staff, Food Safety and Inspection Service, 355 E Street SW, Room 8–142, Patriots Plaza III, Washington, DC 20024, Phone: +1 (301) 504–0852, *william.shaw@usda.gov*.

Alternate Delegate: Dr. Andrew Chi Yuen Yeung, Ph.D., Branch Chief, Egg and Meat Products Branch, Division of Dairy, Egg and Meat Products, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1541, Fax: +1 (301) 436–2632, *andrew.yeung@fda.hhs.gov*.

Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

U.S. Delegate: Ms. Mary Stanley, Senior Advisor, Office of International Coordination, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 3151, Washington, DC 20250, Phone: +1 (202) 720–0287, Fax: +1 (202) 690–3856, *mary.stanley@usda.gov*.

Alternate Delegate: Ms. Caroline Smith DeWaal, International Food Safety Policy Manager, Office of the Center Director, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 4A011, College Park, MD 20740–3835, Phone: +1 (240) 402–1242, *caroline.dewaal@fda.hhs.gov*.

Food Labelling

(Host Government—Canada)

U.S. Delegate: Dr. Douglas Balentine, Director, Office of Nutrition and Food Labelling, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–830), College Park, MD 20740, Phone: +1 240 402 2373, Fax: +1 (301) 436–2636, *douglas.balentine@fda.hhs.gov*.

Alternate Delegate: Mr. Bryce Carson, Issues Analyst, International Relations and Strategic Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Phone: +1 (202) 250–8915, *bryce.carson@usda.gov*.

General Principles

(Host Government—France)

U.S. Delegate: Ms. Mary Frances Lowe, U.S. Manager for Codex Alimentarius, U.S. Codex Office, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4861, Washington, DC 20250, Phone: +1 (202) 720–2057, *maryfrances.lowe@usda.gov*.

Alternate Delegate: Ms. Camille Brewer, Director of International Affairs, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, HFS–1, College Park, MD 20740–3835, Phone: +1 (240) 402–1723, *camille.brewer@fda.hhs.gov*.

Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate: Dr. Gregory Noonan, Director, Division of Bioanalytical Chemistry, Division of Analytical Chemistry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2250, Fax: +1 (301) 436–2332, *gregory.noonan@fda.hhs.gov*.

Alternate Delegate: Dr. Timothy Norden, Ph.D., Technology and Science Division, Federal Grain Inspection Program, Agricultural Marketing Service, U.S. Department of Agriculture, 10383 N Ambassador Drive, Kansas City, MO 64153, Phone: +1 (816) 891–0470, Fax: +1 (816) 872–1253, *timothy.d.norden@usda.gov*.

Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

U.S. Delegate: Dr. Douglas Balentine, Director, Office of Nutrition and Food Labelling, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–830), College Park, MD 20740, +1 240 402 2373, Fax: +1 (301) 436–2636, *douglas.balentine@fda.hhs.gov*.

Alternate Delegate: Dr. Pamela R. Pehrsson, Ph.D., Research Leader, U.S. Department of Agriculture, Agricultural Research Service, Nutrient Data Laboratory, Room 105, Building 005, BARC–West, 10300 Baltimore Avenue, Beltsville, MD 20705, 301.504.0630 (voice), 301.504.0632 (fax), *pamela.pehrsson@usda.gov*.

Pesticide Residues

(Host Government—China)

U.S. Delegate: Captain David Miller, Chief, Chemistry and Exposure Branch, and acting Chief, Toxicology and Epidemiology Branch, Health Effects Division, William Jefferson Clinton Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460, Phone: +1 (703) 305–5352, Fax: +1 (703) 305–5147, *miller.davidj@epa.gov*.

Alternate Delegate: Dr. John Johnston, Ph.D., Scientific Liaison/Chemist, Food Safety and Inspection Service, U.S. Department of Agriculture, 2150 Centre Avenue, Building D, Suite 320, Fort Collins, CO 80526, Phone: (202) 365–7175, *john.johnston@usda.gov*.

Residues of Veterinary Drugs in Foods

(Host Government—United States)

U.S. Delegate: Ms. Brandi Robinson, MPH, CPH, ONADE International Coordinator, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7500 Standish Place (HFV–100), Rockville, MD 20855, Phone: +1 (240) 402–0645, *brandi.robinson@fda.hhs.gov*.

Alternate Delegate: Dr. Louis Bluhm, Chemistry Branch Chief, Laboratory Quality Assurance Division, U.S. Department of Agriculture, Food Safety and Inspection Service, Russell Research Center, Suite PB–4, Athens, GA, Phone: +1 (706) 546–2359, *louis.bluhm@usda.gov*.

Worldwide Commodity Codex Committees (Active)

Cereals, Pulses and Legumes

(Host Government—United States)

U.S. Delegate: Dr. Henry Kim, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and

Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD, USA 20740–3835, Phone: +1 (240) 402–2023, *henry.kim@fda.hhs.gov*.

Alternate Delegate: Mr. Patrick McCluskey, Supervisory Agricultural Marketing Specialist, U.S. Department of Agriculture, Agricultural Marketing Service, Federal Grain Inspection Service, 10383 N Ambassador Drive, Kansas City, MO 64153, Phone: +1 (816) 659–8403, *patrick.j.mccluskey@usda.gov*.

Fats and Oils

(Host Country—Malaysia)

U.S. Delegate: Dr. Paul South, Ph.D., Director, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740–3835, Phone: +1 (240) 402–1640, Fax: +1 (301) 436–2632, *paul.south@fda.hhs.gov*.

Alternate Delegate: Vacant

Fresh Fruits and Vegetables

(Host Government—Mexico)

U.S. Delegate: Mr. Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov*.

Alternate Delegate: Dr. David T. Ingram, Ph.D., Consumer Safety Officer, Office of Food Safety, Fresh Produce Branch, Division of Produce Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 3E027, College Park, MD 20740–3835, Phone: +1 (240) 402–0335, *david.ingram@fda.hhs.gov*.

Processed Fruits and Vegetables

(Host Government—United States)

U.S. Delegate: Mr. Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov*.

Alternate Delegate: Dr. Yinqing Ma, Branch Chief, Beverages Branch, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2479, Fax: +1 (301) 436–2632, *yinqing.ma@fda.hhs.gov*.

Spices and Culinary Herbs

(Host Government—India)

U.S. Delegate: Mr. Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov*.

Alternate Delegate: Dr. Aparna Tatavarthy, Microbiologist, Spices and Seasoning Mixes Team, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1013, Fax: +1 (301) 436–2632, *aparna.tatavarthy@fda.hhs.gov*.

Codex Committee on Sugars (CCS)

(Host Government—Columbia)

U.S. Delegate: Dr. Chia-Pei Charlotte Liang, Chemist, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2785, *charlotte.liang@fda.hhs.gov*.

Worldwide Ad Hoc Codex Task Forces (Active)

Antimicrobial Resistance (Reactivated 2016)

(Host Government—Republic of Korea)

U.S. Delegate: Dr. Donald A. Prater, DVM, Assistant Commissioner for Food Safety Integration, Office of Foods and Veterinary Medicine, Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, Phone: +1–301–348–3007, *donald.prater@fda.hhs.gov*.

Alternate Delegate: Dr. Neena Anandaraman, DVM, MPH, Veterinary Science Policy Advisor, Office of Chief Scientist, U.S. Department of Agriculture, Jamie L. Whitten Building, Room 339A, 1200 Independence Avenue SW, Washington, DC 20024, Phone: +1 (202) 260–8789, *neena.anandaraman@usda.gov*.

Worldwide Commodity Codex Committees (Adjourned)

Cocoa Products and Chocolate (adjourned sine die 2001)

(Host Government—Switzerland)

U.S. Delegate: Dr. Michelle Smith, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–317), Harvey W. Wiley Federal Building, 5001 Campus Drive, College Park, MD 20740–3835, Phone: +1 (240) 402–2024, Fax: +1 (301) 436–2632, *michelle.smith@fda.hhs.gov*.

Fish and Fishery Products (adjourned sine die 2016)

(Host Government—Norway)

U.S. Delegate: Dr. William R. Jones, Ph.D., Deputy Director, Office of Food Safety (HFS–300), U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2300, Fax: +1 (301) 436–2601, *william.jones@fda.hhs.gov*.

Alternate Delegate: Mr. Steven Wilson, Deputy Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, 1315 East West Highway, Silver Spring, Maryland 20910, Phone: +1 (301) 427–8312, *steven.wilson@noaa.gov*.

Meat Hygiene (adjourned sine die 2003)

(Host Government—New Zealand)

Delegate: Vacant

Milk and Milk Products (adjourned sine die 2017)

(Host Government—New Zealand)

U.S. Delegate: Mr. Christopher Thompson, Dairy Standardization Branch, Mail Stop 0230, Room 2756, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Phone: +1 (202) 720–9382, Fax: +1 (844) 804–4701, *christopher.d.thompson@usda.gov*.

Alternate Delegate: Mr. John F. Sheehan, Director, Division of Dairy, Egg and Meat Product Safety, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–315), Harvey W. Wiley Federal Building, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1488, Fax: +1 (301) 436–2632, *john.sheehan@fda.hhs.gov*.

Natural Mineral Waters (adjourned sine die 2008)

(Host Government—Switzerland)

U.S. Delegate: Dr. Yinqing Ma, Branch Chief, Beverages Branch, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2479, Fax: +1 (301) 436–2632, *yinqing.ma@fda.hhs.gov*.

Vegetable Proteins (adjourned sine die 1989)

(Host Government—Canada)

Delegate: Vacant.

Ad Hoc Intergovernmental Task Forces (Dissolved)

Animal Feeding (Dissolved 2013)

(Host government—Switzerland)

Delegate: Vacant

[FR Doc. 2019–14076 Filed 7–1–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Modernizing Channels of Communication With SNAP Participants

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

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and public agencies to comment on this proposed information collection for the Modernizing Channels of Communication with SNAP Participants study. This is a new information collection.

The primary purpose of the study is to highlight best practices and lessons learned from various mobile communication strategies (MCS) implemented by State Supplemental Nutrition Assistance Program (SNAP) agencies. This examination will help FNS and States improve communication and identify best practices that lead to improved program outcomes.

DATES: Written comments must be received on or before September 3, 2019.

ADDRESSES: Comments may be submitted through the Federal eRulemaking Portal; go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically. Comments may also be sent to Andrew Burns, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302 or submitted via fax to the attention of Andrew Burns at 703.305.2576 or via email to *Andrew.Burns@usda.gov*.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Andrew Burns at 703.305.1091 or *Andrew.burns@usda.gov*.

SUPPLEMENTARY INFORMATION: Comments are invited on the following topics: (1) Whether the proposed information collection is necessary for the proper performance of the agency's functions, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (IT).

Title: Modernizing Channels of Communication with SNAP Participants.

Form Number: N/A.

OMB Number: 0584–NEW.

Expiration Date: Not yet determined.

Type of Request: New information collection.

Abstract: Section 17 [7 U.S.C. 2026] (a)(1) of the Food and Nutrition Act of 2008, as amended, provides general legislative authority for the planned data collection. It authorizes the Secretary of Agriculture to enter into contracts with private institutions to undertake research that will help improve the administration and effectiveness of SNAP in delivering nutrition-related benefits.

In recent years, many States have enhanced their use of MCS to enable SNAP participants to access information about SNAP, receive alerts and notifications, and perform certain case management functions. These MCS offer SNAP participants an alternative means of interacting with SNAP agencies and have the potential to improve customer access and streamline case management activities. While there is a high level of variability in MCS features and functionality across States, MCS has the potential to assist with the following activities:

1. Clients Providing Information to States

- *Applying or recertifying activities:* MCS can help with broad functions, such as providing an eligibility screener, or with more personalized activities, like scheduling an interview, submitting documentation, and checking an application's status.
- *Reporting changes:* Participants can use MCS to report changes that may affect their case. This could include information like changes in household size or income, or, for individuals subject to work requirements, changes in work hours.

2. States Providing Information to Clients

- *Sending notifications:* States can use MCS to provide notifications to participants, including identifying verifications needed to process an application, updating office closures, and informing participants about account changes.
- *Responding to client inquiries:* MCS can be used to answer frequently asked questions, link participants to community partners or resources like food banks or workforce development centers, respond to individual questions, and facilitate online chatting with eligibility workers.
- *Managing benefits and electronic benefit transfer (EBT):* Participants can use MCS to manage their benefits and EBT cards.

USDA FNS has funded the Modernizing Channels of Communication With SNAP Participants study to highlight best practices and lessons learned from various MCS tested in State SNAP agencies in order to understand the range of functions available through MCS and assess clients' perspectives on how these tools affect their completion of typical tasks. This examination will help FNS and States improve communication and identify best practices that lead to improved program outcomes.

FNS identified four study objectives for this project. The first objective will present the landscape of mobile technology use for SNAP across the nation and provide a basis for selecting the MCS case study sites. The second and third objectives, which are the focus of this information collection request, are descriptive and will provide FNS with an understanding of the State processes, challenges, and distinct features of mobile technologies and the clients' experiences with these technologies. The fourth objective will summarize the best practices and lessons learned for States that choose to implement MCS moving forward.

The study will gather data through site visits to five States with SNAP MCS. Data will be collected in each of the five study States through (1) interviews with the State SNAP director, State MCS leads and other staff involved in MCS implementation, local SNAP office staff, and State software developers or IT staff; (2) interviews with community partners; (3) interviews with for-profit organizations (*e.g.,* software developers or IT staff); and (4) focus groups with individuals/household (*i.e.,* SNAP participants) and surveys of SNAP applicants and waiting room visitors. These data will provide information on States' and program recipients' use of MCS and client satisfaction with and perspectives on MCS.

Affected Public: (1) State, Local and Tribal governments, (2) Business-Not-for-profit business organizations, (3) Business for-profit organizations, and (4) Individuals/households.

Respondent Type groups identified includes—

1. *State, Local and Tribal government:* State SNAP director, State staff involved in MCS implementation, local SNAP office staff, and software developers or IT staff

2. *Business-Not-for-profit business organizations:* Community partners serving low-income populations and involved in MCS testing, implementation and/or outreach.

3. *For-profit organizations:* Third-party vendors (*e.g.,* mobile app developers).

4. *Individuals:* SNAP participants who have used MCS, SNAP applicants who may or may not have used MCS, and SNAP eligible local office waiting room visitors, including MCS nonusers.

Estimated Number of Respondents: The total estimated number of respondents is 433 (67 State and local government staff, 10 for-profit organization staff, 20 not-for-profit staff (staff from community partners), 336 individuals (166 SNAP participants and 170 waiting room visitors)). Of the 433 contacted, 315 are estimated to be responsive and 118 are estimated to be nonresponsive. The breakout follows:

1. *67 State and local government staff:* Of 6 State SNAP directors, 5 are estimated to be responsive; of 30 State staff involved in MCS implementation, 25 are estimated to be responsive; of 25 local SNAP office staff, 20 are estimated to be responsive; and of 6 software developers or IT staff, 5 are estimated to be responsive.

2. *20 Not-for-profit business (community partners):* Of 20 community partners, 15 are estimated to be responsive.

3. *10 for-profit business staff:* Of 10 software developers or IT staff from for-profit businesses, 5 are estimated to be responsive.

4. 336 Individuals (SNAP participants and applicants/waiting room visitors): Of 166 SNAP participants who use MCS, 120 are estimated to be responsive and 46 are estimated to be unresponsive. Of the 120 responsive participants who complete the screener, 90 will be eligible for the focus groups and 30 will be ineligible. Of 170 local SNAP office waiting room visitors, including MCS nonusers, 120 are estimated to be responsive and 50 will be unresponsive. Of the 120 who are responsive, 100 will be eligible for the questionnaire and 20 will be ineligible.

Estimated Number of Responses per Respondent: The average respondent will have 2.80 responses (based on 433 total annual respondents, with 315 responsive and 118 nonresponsive). See table 1 for the estimated number of responses per respondent for each type of respondent.

The breakout follows:

1. State and local government staff. The estimated number of responses per State and local government staff is 3.5:

- Out of 6 State SNAP directors, 5 State SNAP directors will respond to advance materials and scheduling and 1 State SNAP director will not respond. 5 responsive State SNAP directors will participate in an interview, and receive a follow-up email.
- Out of 15 State SNAP MCS leads, 10 State SNAP MCS leads will respond to advance materials and scheduling, and 5 will not respond. 10 will then participate in an introductory telephone interview, and receive a follow-up email. Later in the study, 25 MCS staff (the original 10 MCS leads and 15 other staff involved in MCS implementation) will respond to advance materials and scheduling for an in-person interview and 5 will not respond. 25 will participate in the interview, and receive a follow-up email.
- Out of 6 State software developers or IT staff, 5 State software developers or IT staff will respond to advance materials and scheduling and 1 will not respond. 5 will participate in an interview, and receive a follow-up email.
- Out of 25 local SNAP office staff, 20 local SNAP office staff will respond to advance materials and scheduling and 5 will not respond. 20 will participate in a group interview, and receive a follow-up email.

2. Not-for-profit businesses. The estimated number of responses per not-for-profit businesses is 3.0:

- Out of 25 community partners, 20 community partners will respond to advance materials and scheduling and 5 will not respond. 20 will participate in an interview, and receive a follow-up email.

3. For-profit businesses. The estimated number of responses per for-profit businesses is 3.0:

- Out of 10 software developers or IT staff from for-profit businesses, 5 software developers or IT staff from for-profit businesses will respond to advance materials and scheduling and 5 will not respond. 5 will participate in an interview, and receive a follow-up email.

4. Individuals. The estimated number of responses per individual is 2.7:

- Out of 166 SNAP participants, 120 individuals who are SNAP participants and MCS users will respond to advance materials and 46 will not respond. 120 individuals who complete an eligibility screener will be eligible and 46 will be ineligible. 120 eligible individuals will receive reminders and 90 will participate in a focus group.
- Out of 170 SNAP eligible visitors to SNAP local office waiting rooms, 120 visitors to SNAP local office waiting rooms, including MCS nonusers, will respond to a request to participate in an onsite questionnaire and 50 will not respond. Out of the 120 visitors who respond, 100 visitors will be eligible and will participate in the waiting room questionnaire and 20 will be ineligible.

Estimated Total Annual Responses: 1,114 (895 annual responses for responsive participants and 219 annual responses for nonresponsive participants).

Estimated Time per Response: The estimated time of response varies from 0.03 hours to 1.5 hours depending on respondent group and activity, as table 1 shows.

Estimated Total Annual Burden on Respondents: 315.02 hours (295.22 hours for responsive participants and 19.80 hours for nonresponsive participants). See table 1 for estimated total annual burden for each type of respondent.

TABLE 1—ESTIMATED TOTAL BURDEN PER RESPONDENT TYPE

Respondent category	Type of respondents	Instruments and activities	Sample size	Responsive					Nonresponsive					Grand total annual burden estimate (hours)
				Number of respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	Number of nonrespondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	
State, local, and tribal government														
State government.	State SNAP director	Advance materials and preparation for interviews, including scheduling calls and reminders.	6.0	5.0	1.0	5.0	0.25	1.25	1.0	1.0	1.0	0.25	0.25	1.5
	State SNAP director	In-person semi-structured interview protocol.	5.0	5.0	1.0	5.0	1.00	5.00	0.0	0.0	0.0	0.00	0.00	5.0
	State SNAP director	Follow-up email	5.0	5.0	1.0	5.0	0.03	0.17	0.0	0.0	0.0	0.00	0.00	0.2
	Subtotal for State SNAP director		6.0	5.0	3.0	15.0	0.43	6.42	1.0	1.0	1.0	0.25	0.25	6.7
	State MCS leads	Advance materials and preparation for introductory interview, including scheduling calls and reminders.	15.0	10.0	1.0	10.0	0.25	2.50	5.0	1.0	5.0	0.25	1.25	3.8
	State MCS leads	Introductory call with State staff interview protocol.	10.0	10.0	1.0	10.0	1.00	10.00	0.0	0.0	0.0	0.00	0.00	10.0
	State MCS leads	Follow-up email	10.0	10.0	1	10.0	0.03	0.33	0.0	0.0	0.0	0.00	0.00	0.3
	State MCS leads and other staff involved in MCS implementation.	Advance materials and preparation for in-person interview, including scheduling calls and reminders.	30.0	25.0	1.0	25.0	0.25	6.25	5.0	1.0	5.0	0.25	1.25	7.5
	State MCS leads and other staff involved in MCS implementation.	In-person semi-structured interview protocol.	25.0	25.0	1.0	25.0	1.50	37.50	0.0	0.0	0.0	0.00	0.00	37.5
	State MCS leads and other staff involved in MCS implementation.	Follow-up email	25.0	25.0	1	25.0	0.03	0.83	0.0	0.0	0.0	0.00	0.00	0.8
	Subtotal for State staff involved in MCS implementation		30.0	25.0	4.2	105.0	0.55	57.42	5.0	2.0	10.0	0.25	2.50	59.9
	Software developers or IT staff.	Advance materials and preparation for interview, including scheduling calls and reminders.	6.0	5.0	1.0	5.0	0.25	1.25	1.0	1.0	1.0	0.25	0.25	1.5
	Software developers or IT staff.	In-person semi-structured interview protocol.	5.0	5.0	1.0	5.0	1.00	5.00	0.0	0.0	0.0	0.00	0.00	5.0
	Software developers or IT staff.	Follow-up email	5.0	5.0	1.0	5.0	0.03	0.17	0.0	0.0	0.0	0.00	0.00	0.2
	Subtotal for software developers or IT staff		6.0	5.0	3.0	15.0	0.43	6.42	1.0	1.0	1.0	0.25	0.25	6.7
Local government.	Local SNAP office staff	Advance materials and preparation for group interview, including scheduling calls and reminders.	25.0	20.0	1.0	20.0	0.25	5.00	5.0	1.0	5.0	0.25	1.25	6.3
	Local SNAP office staff	In-person semi-structured group interview protocol.	20.0	20.0	1.0	20.0	1.00	20.00	0.0	0.0	0.0	0.00	0.00	20.0
	Local SNAP office staff	Follow-up email	20.0	20.0	1.0	20.0	0.03	0.67	0.0	0.0	0.0	0.00	0.00	0.7
	Subtotal for local SNAP office staff		25.0	20.0	3.0	60.0	0.43	25.67	5.0	1.0	5.0	0.25	1.25	26.9
State and local government subtotal			67.0	55.0	3.5	195.0	0.49	95.92	12.00	1.42	17.00	1.00	4.25	100.2
Businesses														
Business For-Profit.	Software developers or IT staff.	Advance materials and preparation for interview, including scheduling calls and reminders.	10.0	5.0	1.0	5.0	0.25	1.25	5.0	1.0	5.0	0.25	1.25	2.5
	Software developers or IT staff.	In-person semi-structured interview protocol.	5.0	5.0	1.0	5.0	1.00	5.00	0.0	0.0	0.0	0.00	0.00	5.0
	Software developers or IT staff.	Follow-up email	5.0	5.0	1.0	5.0	0.03	0.17	0.0	0.0	0.0	0.00	0.00	0.2
	Subtotal for for-profit businesses.		10.0	5.0	3.0	15.0	0.43	6.42	5.0	1.0	5.0	0.25	1.25	7.7
Business Not-For-Profit.	Community partners	Advance materials and preparation for interview, including scheduling calls and reminders.	20.0	15.0	1.0	15.0	0.25	3.75	5.0	1.0	5.0	0.25	1.25	5.0

TABLE 1—ESTIMATED TOTAL BURDEN PER RESPONDENT TYPE—Continued

Respondent category	Type of respondents	Instruments and activities	Sample size	Responsive: Number of respondents	Responsive: Frequency of response	Responsive: Total annual responses	Responsive: Hours per response	Responsive: Annual burden (hours)	Nonresponsive: Number of nonrespondents	Nonresponsive: Frequency of response	Nonresponsive: Total annual responses	Nonresponsive: Hours per response	Nonresponsive: Annual burden (hours)	Grand total annual burden estimate (hours)
	Community partners	In-person semi-structured interview protocol.	15.0	15.0	1.0	15.0	1.00	15.00	0.0	0.0	0.0	0.00	0.00	15.0
	Community partners	Follow-up email	15.0	15.0	1.0	15.0	0.03	0.50	0.0	0.0	0.0	0.00	0.00	0.5
	Subtotal for Not-for-profit businesses		20.0	15.0	3.0	45.0	0.43	19.25	5.0	1.0	5.0	0.25	1.25	20.5
Business subtotal			30.0	20.0	3.0	60.0	0.43	25.67	10.0	1.0	10.0	0.50	2.50	28.2
Individuals/Households														
SNAP Participants MCS Users.	SNAP participants/MCS users.	Recruitment materials	166.0	120.0	1.0	120.0	0.03	3.60	46.0	1.0	46.0	0.03	1.38	5.0
	SNAP participants/MCS users.	Eligibility screener	166.0	120.0	1.0	120.0	0.17	20.00	46.0	1.0	46.0	0.17	7.67	27.7
	Eligible SNAP participants/MCS users.	Reminders	120.0	90.0	1.0	90.0	0.03	2.70	30.0	1.0	30.0	0.03	0.90	3.6
	Eligible SNAP participants/MCS users.	In-person focus group protocol, consent form, demographic questionnaire.	90.0	90.0	1.0	90.0	1.50	135.00	0.0	0.0	0.0	0.00	0.00	135.0
	SNAP participants/MCS users subtotal		166.0	120.0	3.5	420.0	0.38	161.30	46.0	2.7	122.0	0.08	9.95	171.2
SNAP Eligible Individuals.	SNAP eligible in Local office waiting room visitors/MCS nonusers.	In-person recruitment to participate	170.0	120.0	1.0	120.0	0.03	4.00	50.0	1.0	50.0	0.03	1.50	5.5
	SNAP Eligible in Local SNAP office waiting room visitors/MCS nonusers.	Waiting room questionnaire	120.0	100.0	1.0	100.0	0.08	8.33	20.0	1.0	20.0	0.08	1.60	9.9
	SNAP eligible subtotal		170.0	120.0	1.8	220.0	0.06	12.33	50.0	1.4	70.0	0.04	3.10	15.4
Individuals subtotal			336.0	240	2.7	640.0	0.27	173.63	96.0	2.0	192.0	0.07	13.05	186.7
Total			433.0	315.0	2.8	895.0	0.33	295.22	118.0	1.9	219.0	0.09	19.80	315.0

Dated: June 19, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2019–14030 Filed 7–1–19; 8:45 am]

BILLING CODE 3410–30–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 Wednesday, July 17, 2019, from 10:30–11:30 a.m. EDT for the purpose of reviewing received testimony and discussing next steps in the Committee's final report and recommendations to the Commission on education funding in the state.

DATES: The meeting will be held on Wednesday July 17, 2019, at 10:30 a.m. EDT.

Public Call Information: Dial: 800–667–5617, Conference ID: 8748635.

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
Public Comment
Adjournment

Dated: June 27, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–14073 Filed 7–1–19; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Mississippi 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 Mississippi Advisory Committee (Committee) will hold a meeting on Tuesday July 16, 2019 at 2:30 p.m. Central time. The Committee will discuss next steps in their study of prosecutorial discretion in the state.

DATES: The meeting will take place on Tuesday July 16, 2019 at 2:30 p.m. Central Time.

Public Call Information: Dial: 800–353–6461, Conference ID: 3111491.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Mississippi Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome and roll call

II. Discussion: Prosecutorial Discretion in Mississippi

III. Public comment

IV. Next steps

V. Adjournment

Dated: June 27, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–14070 Filed 7–1–19; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–C–2019–0023]

National Medal of Technology and Innovation Nomination Evaluation Committee

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for committee nominations.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') is requesting nominations of individuals to serve on the National Medal of Technology and Innovation Nomination Evaluation Committee. The USPTO will consider all timely nominations received in response to this notice as well as from other sources.

DATES: To ensure full consideration, nominations must be postmarked, faxed or electronically transmitted no later than August 1, 2019.

ADDRESSES: Nominations must be submitted to, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450. Nominations also may be submitted by electronic mail to: *nmti@uspto.gov*.

FOR FURTHER INFORMATION CONTACT: John Palafoutas, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, telephone (571) 272–9821, or electronic mail: *nmti@uspto.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Medal of Technology and Innovation Nomination Evaluation Committee (''Committee'') was established in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2). The Charter for the Committee was renewed on February 13, 2018. *See* 83 FR 31526 (July 6, 2018). The following provides information about the Committee and membership:

• Committee members are appointed by and serve at the discretion of the Secretary of Commerce. The Committee provides advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711), as amended August 9, 2007.

• The Committee functions solely as an advisory body under the FACA. Members are appointed to the approximately 12-member committee for a term of three years. Each member will be reevaluated at the conclusion of the three-year term with the prospect of reappointment to one additional term, pending advisory committee needs and the Secretary's concurrence.

• Members are responsible for reviewing nominations and making recommendations for the nation's highest honor for technological innovation, awarded annually by the President of the United States. Members of the Committee must have an understanding of, and experience in, developing and utilizing technological innovation and/or be familiar with the education, training, employment, and management of the technological workforce.

Nomination Information

• Through this notice, the USPTO is requesting nominations for approximately five (5) members of the Committee, for terms of three years that begin on upon appointment by the Secretary of Commerce.

• The USPTO is seeking nominations of candidates from small, medium-sized, and large businesses, non-profit organizations and associations, and academia, with expertise in the following sub-sectors of the technology enterprise: Medical Innovations/Bioengineering and Biomedical Technology; Technology Management/Computing/IT/Manufacturing Innovation; Technological Workforce/Workforce Training/Education. Under the FACA, membership on a committee must be balanced in background and expertise. Past Committee members generally have been Chief Executive Officers or former Chief Executive Officers; former winners of the National Medal of Technology and Innovation; presidents or distinguished faculty of universities; or senior executives of non-profit organizations. As such, they not only offer the stature of their positions but also possess intimate knowledge of the forces determining future directions for their organizations and industries. The Committee as a whole is balanced in representing geographical, professional, and diverse interests.

• Persons wishing to submit a nomination must send the nominee's resume to the USPTO through one of the methods listed under **ADDRESSES**. A person can self-nominate or be nominated by another individual.

• Nominees must be United States citizens, be able to fully participate in meetings pertaining to the review and selection of finalists for the National Medal of Technology and Innovation, and be able to uphold the confidential nature of an independent peer review and competitive selection process.

• The United States Patent and Trademark Office is committed to equal opportunity in the workplace and seeks a broad-based and diverse committee membership.

Dated: June 26, 2019.

Andrei Iancu

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–14089 Filed 7–1–19; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before August 1, 2019.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0104.''

• *By email addressed to: OIRAsubmissions@omb.eop.gov* or

• *By mail addressed to:* The Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity

Futures Trading Commission (Commission) by either of the following methods. The copies should refer to ''OMB Control No. 3038–0104.''

• *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;

• By Hand Delivery/Courier to the same address; or

• Through the Commission's website at *http://comments.cftc.gov*. Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov*.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Melissa A. D'Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5086; email: *mdarcy@cftc.gov,* and refer to OMB Control No. 3038–0104.

SUPPLEMENTARY INFORMATION:

Title: Clearing Exemption for Swaps Between Certain Affiliated Entities (OMB Control No. 3038–0104). This is a request for an extension and revision of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act requires certain entities to submit for clearing certain swaps if they are required to be cleared by the Commission. Commission regulation 50.52 permits certain affiliated entities to elect not to clear inter-affiliate swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule further requires the reporting of certain information if the inter-affiliate exemption from clearing is elected. The Commission will use the information described in this collection and reported pursuant to Commission regulation 50.52 to monitor the use of the inter-affiliate exemption from the Commission's clearing requirement and to assess any potential market risks associated with such exemption.

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. On April 22, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 16662 (60-Day Notice). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: The Commission is revising its estimate of the burden for this collection for counterparties to swaps between certain affiliated entities that elect the inter-affiliate exemption under Commission regulation 50.52. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 310.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 310 hours.

Frequency of Collection: Annually; on occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

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

Dated: June 26, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–14049 Filed 7–1–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection Numbers 3038–0068 and 3038–0083: Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before August 1, 2019.

ADDRESSES: You may submit comments, identified by ''Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants,'' and Collection Numbers 3038–0068 and 3038–0083, by either of the following methods. Please identify the comments by ''OMB Control Nos. 3038–0068 and 3038–0083'':

• *By email addressed to: OIRAsubmissions@omb.eop.gov*; or

• *By mail addressed to:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the Commission) by one of the following methods. The copies should refer to ''OMB Control No. 3038–0068 and 3038–0083.''

• Through the Commission's website at *https://comments.cftc.gov*. Please follow the instructions for submitting comments through the website;

• *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; or

• By Hand Delivery/Courier to the same address as specified for mail.

Please submit your comments to the Commission using only one method. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov*.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Gregory Scopino, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418–5175; email: *gscopino@cftc.gov*.

SUPPLEMENTARY INFORMATION:

Title: Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants (OMB Control Nos. 3038–0068 and 3038–0083).[2] This is a request for an extension of currently approved information collections.

Abstract: On September 11, 2012 the Commission adopted Commission regulations 23.500–23.505 (Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants)[3] under sections 4s(f), (g) and (i)[4] of the Commodity Exchange Act (''CEA''). The regulations require, among other things, that swap dealers (''SDs'')[5] and major swap participants (''MSPs'')[6] develop and retain written swap trading relationship documentation. The regulations also establish requirements for SDs and MSPs regarding swap confirmation, portfolio reconciliation, and portfolio compression. Under the regulations, swap dealers and major swap participants are obligated to maintain records of the policies and procedures required by the rules.[7]

Confirmation, portfolio reconciliation, and portfolio compression are important post-trade processing mechanisms for reducing risk and improving operational efficiency. The information collection obligations imposed by the regulations are necessary to ensure that each swap dealer and major swap participant maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction. The information collections contained in the regulations are essential to ensuring that swap dealers and major swap participants document their swaps, reconcile their swap portfolios to resolve discrepancies and disputes, and wholly or partially terminate some or all of their outstanding swaps through regular portfolio compression exercises. The collections of information are mandatory.

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. On May 1, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 18521 (''60-Day Notice''). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The Commission is revising its estimate of the burdens for the collections to reflect the current number of respondents and estimated burden hours. The respondent burdens for the collections are estimated to be as follows:

- **OMB Control No. 3038–0068 (Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants)**

Number of Registrants: 101.

Estimated Average Burden Hours per Registrant: 1,274.5.

Estimated Aggregate Burden Hours: 128,724.5.

Frequency of Recordkeeping: As applicable.

- **OMB Control No. 3038–0083 (Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants)**

Number of Registrants: 101.

Estimated Average Burden Hours per Registrant: 270.

Estimated Aggregate Burden Hours: 27,270.

Frequency of Recordkeeping: As applicable.

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

Dated: June 26, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–14052 Filed 7–1–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

[2] Historically, PRA Collections 3038–0068, 3038–0083, and 3038–0088, which impose interrelated requirements, were renewed as a consolidated collection. *See* 81 FR 6241 (Feb. 5, 2016). However, on April 1, 2019, the CFTC published an interim final rule (IFR), which allows uncleared swaps to retain its legacy status when transferred in connection with a no-deal Brexit. *See* 84 FR 12233. This IFR directly affects the calculation of burdens in PRA Collection 3038–0088. Accordingly, the proposed renewal now treats collections 3038–0068 and 3038–0083 as a consolidated collection, with collection 3038–0088 being considered separately.

[3] 17 CFR 23.500–23.505.

[4] 7 U.S.C. 6s(f), (g) & (i).

[5] For the definition of SD, *see* Section 1a(49) of the CEA and Commission regulation 1.3, 7 U.S.C. 1a(49) and 17 CFR 1.3.

[6] For the definitions of MSP, *see* Section 1a(33) of the CEA and Commission regulation 1.3, 7 U.S.C. 1a(33) and 17 CFR 1.3.

[7] SDs and MSPs are required to maintain all records of policies and procedures in accordance with Commission regulation 1.31, including policies, procedures and models used for eligible master netting agreements and custody agreements that prohibit custodian of margin from re-hypothecating, repledging, reusing, or otherwise transferring the funds held by the custodian.

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0053]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Public Education Financial Survey (NPEFS) 2019–2021: Common Core of Data (CCD)

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 proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 1, 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–0053. 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 9086, 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 Public Education Financial Survey (NPEFS) 2019–2021: Common Core of Data (CCD).

OMB Control Number: 1850–0067.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 5,334.

Abstract: The National Public Education Financial Survey (NPEFS) is an annual collection of state-level finance data that has been included in the NCES Common Core of Data (CCD) since FY 1982 (school year 1981–82). NPEFS provides function expenditures by salaries, benefits, purchased services, and supplies, and includes federal, state, and local revenues by source. The NPEFS collection includes data on all state-run schools from the 50 states, the District of Columbia, American Samoa, the Northern Mariana Islands, Guam, Puerto Rico, and the Virgin Islands. NPEFS data are used for a wide variety of purposes, including to calculate federal program allocations such as states' ''average per-pupil expenditure'' (SPPE) for elementary and secondary education, certain formula grant programs (*e.g.,* Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) as amended, Impact Aid, and Indian Education programs). Furthermore, in addition to using the SPPE data as general information on the financing of elementary and secondary education, the U.S. Department of Education Secretary uses these data directly in calculating allocations for certain formula grant programs, including, but not limited to, title I, part A, of the ESEA, Impact Aid, and Indian Education programs. Other programs, such as the Education for Homeless Children and Youth program under title VII of the McKinney-Vento Homeless Assistance Act, and the Student Support and Academic Enrichment Grants under title IV, part A of the ESEA make use of SPPE data indirectly because their formulas are based, in whole or in part, on State title I, part A, allocations. This request is to conduct the annual collection of state-level finance data for FY 2019–2021.

Dated: June 26, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–14036 Filed 7–1–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2547–094]

Village of Swanton, Vermont; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. Type of Filing: Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. Project No.: 2547–094.

c. Date Filed: April 30, 2019.

d. Submitted By: Village of Swanton, Vermont (Swanton).

e. Name of Project: Highgate Falls Project.

f. Location: On the Missisquoi River near the Town of Highgate, Franklin County, Vermont. No federal lands are occupied by the project works or located within the project boundary.

g. Filed Pursuant to: 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. Potential Applicant Contact: Reginald R. Beliveau, Jr., Manager—Village of Swanton, 120 First Street, Swanton, Vermont 05488; (802) 868–3397; email at *rbeliveau@swanton.net*.

i. FERC Contact: Michael Watts at (202) 502–6123; or email at *michael.watts@ferc.gov*.

j. Swanton filed its request to use the Traditional Licensing Process (TLP) on April 30, 2019, and provided public notice of the request on April 29, 2019 and April 30, 2019. In a letter dated June 26, 2019, the Director of the Division of Hydropower Licensing approved Swanton's request to use the TLP.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Vermont State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Swanton as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section

106 of the National Historic Preservation Act.

m. Swanton filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERConlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at 120 First Street, Swanton, Vermont 05488.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2547. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2022.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 26, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–14079 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2555–019]

Kennebec Water District; Messalonskee Stream Hydro, LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On May 28, 2019, Kennebec Water District (transferor) and Messalonskee Stream Hydro, LLC (transferee) filed an application for the transfer of license of the Automatic Hydroelectric Project No. 2555. The project is located on the Messalonskee Stream in Kennebec County, Maine. The project does not occupy federal lands.

The applicants seek Commission approval to transfer the license for the Automatic Hydroelectric Project from the transferor to the transferee.

Applicants Contact: For transferor: Roger Crouse, General Manager, Kennebec Water District, 6 Cool Street, Walterville, ME 04901, (207) 872–2763, Email: *rcrouse@kennebecwater.org;* and William S. Harwood, Verrill Dana LLP, One Portland Square, Portland ME 04101, 207–774–4000, Email: *wharwood@verrilldana.com*

For transferee: Andrew Locke, Messalonskee Stream Hydro LLC c/o Essex Hydro Associates, LLC, 55 Union Street, 4th Floor, Boston, MA 02108, (617) 367–0032, Email: *alocke@essexhydro.com;* Elizabeth W. Whittle, Nixon Peabody, LLP, 799 Ninth Street NW, Suite 500, Washington, DC 20001, (202) 585–8338, (202)585–8080 (fax), Email: *ewhittle@nixonpeabody.com*

FERC Contact: Anumzziatta Purchiaroni, (202) 502–6191, *anumzziatta.purchiaroni@ferc.gov.*

Comments, Protests, or Motions to Intervene: Anyone may submit comments, protests, or motions to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214, 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2555–019.

Dated: June 26, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–14081 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2259–000]

Turquoise Nevada LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Turquoise Nevada LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14095 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–276–001.
Applicants: Young Gas Storage Company, Ltd.
Description: Report Filing: Refund Report in Docket No. RP19–276.
Filed Date: 6/20/19.
Accession Number: 20190620–5037.
Comments Due: 5 p.m. ET 7/2/19.

Docket Numbers: RP19–1328–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Misc Tariff Filing June 2019 to be effective 8/1/2019.
Filed Date: 6/25/19.
Accession Number: 20190625–5037.
Comments Due: 5 p.m. ET 7/8/19.

Docket Numbers: RP19–1329–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Terminate 2 Non-Conforming Agreements to be effective 6/13/2019.
Filed Date: 6/25/19.
Accession Number: 20190625–5043.
Comments Due: 5 p.m. ET 7/8/19.

Docket Numbers: RP19–1330–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Non-Conforming Agreement List Update—4 to be effective 6/13/2019
Filed Date: 6/25/19.
Accession Number: 20190625–5044
Comments Due: 5 p.m. ET 7/8/19.

Docket Numbers: RP19–1331–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedule FT—Service Rights of Conversion Buyers to be effective 7/26/2019.
Filed Date: 6/25/19.
Accession Number: 20190625–5099.
Comments Due: 5 p.m. ET 7/8/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14093 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2252–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Stanton Energy Reliability Center, LLC

This is a supplemental notice in the above-referenced proceeding of Stanton Energy Reliability Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14094 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–142–000.
Applicants: Mesquite Star Special, LLC.
Description: Self-Certification of EG of Mesquite Star Special, LLC.
Filed Date: 6/25/19.
Accession Number: 20190625–5141.
Comments Due: 5 p.m. ET 7/16/19.

Docket Numbers: EG19–143–000.
Applicants: Hancock County Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Hancock County Wind, LLC.
Filed Date: 6/25/19.
Accession Number: 20190625–5192.
Comments Due: 5 p.m. ET 7/16/19.

Docket Numbers: EG19–144–000.
Applicants: Stanton Energy Reliability Center, LLC.

Description: Self-Certification of EWG Status of Stanton Energy Reliability Center, LLC.
Filed Date: 6/26/19.
Accession Number: 20190626–5039.
Comments Due: 5 p.m. ET 7/17/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3145–012; ER19–1473–001; ER10–3116–012; ER19–1179–001;ER13–1544–009; ER10–3120–012;ER19–1474–001; ER19–1597–001;ER11–2036–012; ER16–930–006; ER10–3128–012;ER10–1800–013; ER10–3136–012; ER11–2701–014; ER10–1728–012; ER15–1582–015; ER15–1579–014; ER15–1914–016; ER16–1255–013; ER16–2201–009; ER16–1955–010; ER19–846–003; ER18–1667–003; ER17–1864–008; ER17–1871–008; ER17–1909–008; ER17–544–009; ER17–306–009; ER16–1738–010; ER16–474–011; ER16–1901–010; ER16–468–010; ER18–2492–004; ER16–1609–006; ER15–2679–012; ER16–2578–010; ER16–2541–009; ER18–2327–002; ER19–847–003; ER15–2680–012; ER15–762–016; ER16–2224–009; ER16–890–011; ER15–760–015; ER16–1973–010; ER16–1956–010.
Applicants: AES Alamitos, LLC, AES Alamitos Energy, LLC, AES Energy Storage, LLC, AES ES Gilbert, LLC, AES ES Tait, LLC, AES Huntington Beach, L.L.C., AES Huntington Beach Energy, LLC, AES Integrated Energy, LLC, AES Laurel Mountain, LLC, AES Ohio Generation, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, 65HK 8me LLC, 67RK 8me LLC, 87RL 8me LLC, Antelope Big Sky Ranch LLC, Antelope DSR 1, LLC, Antelope DSR 2, LLC, Antelope DSR 3, LLC, Antelope Expansion 2, LLC, Bayshore Solar A, LLC, Bayshore Solar B, LLC, Bayshore Solar C, LLC, Beacon Solar 1, LLC, Beacon Solar 3, LLC, Beacon Solar 4, LLC, Central Antelope Dry Ranch C LLC, FTS Master Tenant 1, LLC, FTS Master Tenant 2, LLC, ID Solar 1, LLC, Latigo Wind Park, LLC, North Lancaster Ranch LLC, Pioneer Wind Park I LLC, Riverhead Solar Farm, LLC, San Pablo Raceway, LLC, Sandstone Solar LLC, Sierra Solar Greenworks LLC, Solverde 1, LLC, Summer Solar LLC, Western Antelope Blue Sky Ranch A LLC, Western Antelope Blue Sky Ranch B LLC, Elevation Solar C LLC, Western Antelope Dry Ranch LLC.
Description: Triennial Market Power Analysis of the AES MBR Affiliates for the Southwest Region.
Filed Date: 6/25/19.
Accession Number: 20190625–5214.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER11–2211–010; ER11–2209–010; ER11–2210–010; ER11–2207–010; ER11–2206–010; ER13–1150–008; ER13–1151–008; ER11–2855–024; ER18–814–001; ER11–3727–016; ER12–1711–016; ER19–672–001; ER11–2856–024; ER19–1061–001; ER19–1062–001; ER19–843–001; ER19–1063–001; ER19–844–001; ER11–2857–024; ER10–2381–009.
Applicants: Alta Wind I, LLC, Alta Wind II, LLC, Alta Wind III, LLC, Alta Wind IV, LLC, Alta Wind V, LLC, Alta Wind X, LLC, Alta Wind XI, LLC, Avenal Park LLC, Carlsbad Energy Center LLC, El Segundo Energy Center LLC, High Plains Ranch II, LLC, Marsh Landing LLC, Sand Drag LLC, Solar Alpine LLC, Solar Avra Valley LLC, Solar Blythe LLC, Solar Borrego I LLC, Solar Roadrunner LLC, Sun City Project LLC, Walnut Creek Energy, LLC.
Description: Updated Market Power Analysis for the Southwest Region of the Clearway Group Sellers.
Filed Date: 6/25/19.
Accession Number: 20190625–5106.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER18–2085–002
Applicants: Cambria CoGen Company.
Description: Compliance filing: Settlement Compliance Filing—Cambria CoGen Reactive Supply Service to be effective 9/1/2018.
Filed Date: 6/25/19.
Accession Number: 20190625–5097.
Comments Due: 5 p.m. ET 7/16/19.

Docket Numbers: ER19–2226–001.
Applicants: Public Service Company of Colorado.
Description: Tariff Amendment: PSC–CSU–A&R O&M-Jcksn Fllr-395-Amnd Filing to be effective 6/22/2019.
Filed Date: 6/25/19.
Accession Number: 20190625–5107.
Comments Due: 5 p.m. ET 7/16/19.

Docket Numbers: ER19–2251–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Rate Schedule No. 325, Line Extension Agreement to be effective 6/14/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5007.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2252–000.
Applicants: Stanton Energy Reliability Center, LLC.
Description: Baseline eTariff Filing: MBR Tariff Authorization to be effective 8/25/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5013.
Comments Due: 5 p.m. ET 7/17/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14091 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14332–004]

Historic Harrisville, Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Exemption.

b. *Project No.:* P–14332–004.

c. *Date Filed:* May 7, 2018 and supplemented on September 21, 2018 and May 6, 2019.

d. *Applicant:* Historic Harrisville, Inc. (exemptee).

e. *Name of Project:* Cheshire Mills Hydroelectric Project.

f. *Location of Project:* The project is located on Nubanusit Brook in the town of Harrisville, Cheshire County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Erin Hammerstedt, Executive Director, Historic Harrisville, Inc., P.O. Box 79, Harrisville, NH 03450, (603) 827–3722.

i. *FERC Contact:* Marybeth Gay; telephone: (202) 502–6125; email address: *Marybeth.gay@ferc.gov*.

j. Deadline for filing comments, motions to interview, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14332–004.

k. *Description of Request:* The exemptee proposes to replace, rather than refurbish, the existing turbine with a horizontal Francis type turbine, and install an induction type generator. To accommodate the smaller turbine and generator, the exemptee would reduce the size of the penstock just outside of the building, and reduce the size of the opening in the floor. As the new, smaller turbine-generator would operate at a wider range of flows, the exemptee proposes to change the minimum and maximum hydraulic capacity of the project to 3 cubic feet per second (cfs) and 36 cfs, respectively. At flows less than 5.6 cfs (the minimum operating capacity of the project plus the minimum flow), the project would not operate and all flow would be released over the spillway. At flows higher than 5.6 cfs, the project would operate and 2.6 cfs would be released over the spillway. The new turbine and generator would have a total installed capacity of 35 kilowatts. Replacement, as proposed, would result in an average generation of between 140,000 and 180,000 kilowatt-hours.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the Docket number (P–14332–004) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the request to upgrade the turbine generator units. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 26, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–14083 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–2253–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–06–26_SA 3325 NSP–WMU T–T (Priam) to be effective 6/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5095.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2254–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2640R1 Sunflower Electric Power Corporation NITSA NOA to be effective 6/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5102.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2255–000.
Applicants: Brookfield Smoky Mountain Hydropower LP.
Description: § 205(d) Rate Filing: Notice of Succession to be effective 6/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5104.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2256–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–06–26_SA 3324 Chandler Solar Project-ATC GIA (J849) to be effective 6/12/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5106.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2257–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2641R1 Sunflower Electric Power Corporation NITSA NOA to be effective 6/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5141.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2258–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC NCEMC NITSA (SA No. 210) Amendment to be effective 7/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5159.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2259–000.

Applicants: Turquoise Nevada LLC.
Description: Baseline eTariff Filing: Turquoise Nevada FERC MBR Application to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5164.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2260–000.
Applicants: Valentine Solar, LLC.
Description: Market-Based Triennial Review Filing: 2019 Triennial Market Power Update for the Southwest Region—Valentine Solar to be effective 8/26/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5166.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER19–2261–000.
Applicants: RE Mustang LLC.
Description: § 205(d) Rate Filing: Request for Cat. 1 Seller Status in the SW Region & Revised MBR Tariff to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5172.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2262–000.
Applicants: RE Mustang 3 LLC.
Description: § 205(d) Rate Filing: Request for Cat. 1 Seller Status in the SW Region & Revised MBR Tariff to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5174.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2263–000.
Applicants: RE Mustang 4 LLC.
Description: § 205(d) Rate Filing: Request for Cat. 1 Seller Status in the SW Region & Revised MBR Tariff to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5178.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2264–000.
Applicants: Northern Indiana Public Service Company.
Description: § 205(d) Rate Filing: Filing of an Amended CIAC Agreement to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5179.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2265–000.
Applicants: TransCanada Energy Sales Ltd.
Description: § 205(d) Rate Filing: TransCanada Energy Sales—Revised Electric MBR Tariff to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5185.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2266–000.
Applicants: Quitman Solar, LLC.
Description: Baseline eTariff Filing: Quitman Solar, LLC Application for Market-Based Rate Authority to be effective 8/26/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5186.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: ER19–2267–000.
Applicants: TransCanada Power Marketing Ltd.
Description: § 205(d) Rate Filing: TransCanada Power Marketing Revised Electric Tariff to be effective 6/27/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5187.
Comments Due: 5 p.m. ET 7/17/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14092 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7153–017]

Consolidated Hydro New York, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Application:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 7153–017.

c. *Date filed:* April 30, 2019.

d. *Submitted by:* Consolidated Hydro New York, LLC (Consolidated Hydro).

e. *Name of Project:* Victory Mills Hydroelectric Project.

f. *Location:* Located on Fish Creek in the Village of Victory, Town of Saratoga, Saratoga County, New York. The project does not occupy any federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Kevin Webb, Hydro Licensing Manager, Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810, Phone: (978) 935–6039, Email: *Kevin.Webb@enel.com.*

i. *FERC Contact:* Laurie Bauer, Phone: (202) 502–6519, Email: *laurie.bauer@ferc.gov.*

j. Consolidated Hydro filed its request to use the Traditional Licensing Process on April 30, 2019. Consolidated Hydro provided public notice of its request on April 25, 2019. In a letter dated June 26, 2019, the Director of the Division of Hydropower Licensing approved Consolidated Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Consolidated Hydro as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Consolidated Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 7153. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2022.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 26, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–14082 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–19–000]

Magnolia LNG, LLC; Notice of Schedule for Environmental Review of the Magnolia LNG Production Capacity Amendment

On November 19, 2018, Magnolia LNG, LLC (Magnolia LNG), filed an application in Docket No. CP19–19–000 requesting an authorization pursuant to Section 3(a) of the Natural Gas Act to amend the authorization granted by the Federal Energy Regulatory Commission (FERC or Commission) on April 15, 2016, in Docket No. CP14–347–000. The proposed project is known as the Magnolia LNG Production Capacity Amendment, and would increase the total production capacity of Magnolia LNG's liquefaction project from the currently authorized 8 million tons per annum (MTPA) to 8.8 MTPA, or 1.4 billion cubic feet per day. Magnolia LNG states that the increased LNG production capacity would be realized through the optimization of its final design and would not require any increase in the authorized feed gas rates. Magnolia LNG's approved terminal site is in Lake Charles, Calcasieu Parish, Louisiana, and no new facilities are proposed.

On December 6, 2018, the Commission issued its Notice of Application for the project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's final environmental document for the project. Subsequent to the issuance of the Notice of Application, staff determined that a supplemental environmental impact statement (EIS) would be necessary for the amended project. This instant notice identifies the FERC staff's planned schedule for completion of the supplemental final EIS, which is based on issuance of the supplemental draft EIS in September 2019.

Schedule for Environmental Review

Notice of Availability of the supplemental final—EIS January 24, 2020

90-day Federal Authorization Decision Deadline—April 23, 2020

If a schedule change becomes necessary for the final supplemental EIS, additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Background

On June 7, 2019, the Commission issued a *Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Proposed Magnolia LNG Production Capacity Amendment and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments received will be addressed in the supplemental EIS.

Additional Information

In order to receive notification of the issuance of the supplemental EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Additional information about the project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP19–19), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–14080 Filed 7–1–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2004–0060; FRL–9995–65–OAR]

Proposed Information Collection Request; Comment Request; Certification and Compliance Requirements for Nonroad Spark-Ignition Engines (Renewal), ICR 1695.11, OMB 2060–0338

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Certification and Compliance Requirements for Nonroad Spark-Ignition Engines (Renewal)'', ICR 1695.11, OMB 2060–0338 to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection request as described below. This notice is a proposed extension of the Nonroad Spark-Ignition Engines ICR, which is currently approved through October 31, 2019. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before September 3, 2019.

ADDRESSES: Submit your comments, referencing the Docket ID No. EPA–HQ–OAR–2004–0060, to the EPA: Online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential

Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Julian Davis, Attorney Adviser, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4029; fax number 734–214–4869; email address: *davis.julian@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting will be available in the public docket, EPA–HQ–OAR–2004–0060, for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This information collection is requested under the authority of Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*) Under this Title, EPA is charged with issuing certificates of conformity for those engines which comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system, and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. The emission values achieved during certification testing may also be used in the Averaging, Banking, and Trading (ABT) Program. The program allows manufacturers to bank credits for engine families that emit below the standard and use the credits for families that emit above the standard. They may also trade banked credits with other manufacturers. Participation in the ABT program is voluntary. Different categories of spark-ignition engines may also be required to comply with production-line testing (PLT) and in-use testing. There are also recordkeeping and labeling requirements. This information is collected electronically by the Gasoline Engine Compliance Center (GECC), Compliance Division, Office of Transportation and Air Quality (OTAQ), Office of Air and Radiation of the U.S. Environmental Protection Agency. GECC uses this information to ensure that manufacturers comply with applicable regulations and the Clean Air Act (CAA). It may also be used by the Office of Enforcement and Compliance Assurance (OECA) and the Department of Justice for enforcement purposes. Non- CBI may be disclosed on OTAQ's website or upon request under the Freedom of Information Act (FOIA) to trade associations, environmental groups, and the public. Any information submitted for which a claim of confidentiality is made is safeguarded according to EPA regulations at 40 CFR 2.201 *et seq.*

Form numbers: The EPA has developed forms, some of which are Excel-based, for the compliance programs in this ICR, such as ABT, PLT and In-use Testing, as well as for production reporting. Manufacturers may download these forms from EPA's website at *https://www.epa.gov/vehicle-and-engine-certification/compliance-reporting-nonroad-spark-ignition-si-engines* and submit these forms through the EPA's engine and vehicle compliance information system's (EV–CIS) document module. All of these forms are available for review in the Docket EPA–HQ–OAR–2004–0060.

Respondents/affected entities: Respondents are manufacturers of nonroad engines within the following North American Industry Classification System (NAICS) code:

333618 Other Engine Equipment Manufacturing
336312 Gasoline Engine and Engine Parts Manufacturing
336999 Other Transportation Equipment Manufacturing
336991 Motorcycle, Bicycle and Parts Manufacturing
333112 Lawn & Garden Tractor and Home Lawn & Garden Equipment Manufacturing
335312 Motor and Generator Manufacturing

Estimated number of respondents: 620 (total).

Frequency of response: yearly for certification, production, ABT, and warranty reports.

Total estimated burden: 249.3 hours (per year). Burden is defined at 5 CFR 1320.3(b)

Total estimated cost: $38,530.31 (per year), includes $17,666.82 annualized capital or operation & maintenance costs.

Changes in estimates: There is a decrease of 16,141 hours (from 265,475 hours to 249,334) in the total estimated burden in this collection from the burden currently identified in the OMB Inventory of Approved ICRs. This reduction is primarily due to an adjustment in the hours required to file a complete application for certification and conduct compliance activities throughout a calendar year.

Dated: June 19, 2019.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, US Environmental Protection Agency.

[FR Doc. 2019–14020 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0895]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0895.

Title: Numbering Resource Optimization.

Form Number: FCC Form 502.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, Local or Tribal Government.

Number of Respondents and Responses: 2,793 respondents; 10,165 responses.

Estimated Time per Response: 1 hour–44.4 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201–205 and 251 of the Communications Act of 1934.

Total Annual Burden: 132,384 hours.

Total Annual Cost: $4,407,451.84.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Disaggregated, carrier specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: The data collected on FCC Form 502 helps the Commission manage the ten-digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given ''exclusive jurisdictions over those portions of the North American Numbering Plan that pertains to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking in March 2000 that the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. The Commission received OMB approval for this requirement and the following:

(1) Utilization/Forecast Report;

(2) Application for initial numbering resource;

(3) Application for growth numbering resources;

(4) Recordkeeping requirement;

(5) Notifications by state commissions;

(6) Demonstration to state commission; and

(7) Petitions for additional delegation of numbering authority.

The data from this information collection is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–14031 Filed 7–1–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1219]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1219.

Title: Connect America Fund-Alternative Connect America Cost Model Support.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,100 unique respondents; 1,100 responses.

Estimated Time per Response: 0.5–2 hours.

Frequency of Response: On occasion and one-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 155, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 410, and 1302.

Total Annual Burden: 700 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Commission is requesting approval for this revised collection. In March 2016, the Commission adopted significant reforms to place the universal service support program on solid footing for the next decade to preserve and advance voice and broadband service in areas served by rate-of-return carriers. Connect America Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime, WC Docket Nos. 10–90, 14–58, 07–135, 05–337, 03–109; CC Docket Nos. 01–92, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16–33 (*2016 Rate-of-Return Reform Order*).

The Commission adopted a voluntary path for rate-of-return carriers to receive model-based support in exchange for making a commitment to deploy broadband-capable networks meeting certain service obligations to a pre-determined number of eligible locations in a state. By creating a voluntary pathway to model-based support, the Commission will spur new broadband deployment in rural areas. In several subsequent orders and public notices, the Commission has further refined this voluntary pathway, and in the December 2018 Rate-of-Return Reform Order, the Commission adopted a second pathway for carriers that did not elect the first pathway. Connect America Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime, WC Docket Nos. 10–90, 14–58, 07–135, 05–337, 03–109; CC Docket Nos. 01–92, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18–176 (*December 2018 Rate-of-Return Reform Order*). Additionally, in the *2016 Rate-of-Return Reform Order,* the Commission also adopted reforms to the universal service mechanisms used to determine support for rate-of-return carriers not electing model-based support. Among other such reforms, the Commission adopted an operating expense limitation to improve carriers' incentives to be prudent and efficient in their expenditures, a capital investment allowance to better target support to those areas with less broadband deployment, and broadband deployment obligations to promote ''accountability from companies receiving support to ensure that public investment are used wisely to deliver intended results.'' In the *December 2018 Rate-of-Return Order,* the Commission further modified or, in the case of the capital investment allowance, eliminated these requirements. This information collection addresses the revised burdens associated with those reforms.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2019–14032 Filed 7–1–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (OMB No. 3064–0174; and –0191)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (3064–0174; and –0191).

DATES: Comments must be submitted on or before August 1, 2019.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

1. *Title:* Funding and Liquidity Risk Management.

OMB Number: 3064–0174.

Form Number: None.

Affected Public: Businesses or other for-profits.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection (IC) description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated number of responses	Estimated time per response (hours)	Frequency of response	Total estimated annual burden (hours)
Par. 14—Strategies, Policies, Procedures and Risk Tolerances.	Recordkeeping	Voluntary	3,483	1	96.42	On Occasion	335,830.86
Par. 20—Liquidity Risk Management, Measurement, Monitoring and Reporting.	Reporting	Voluntary	3,483	12	4	On Occasion	167,184
Total Estimated Annual Burden Hours							503,014.86

General Description of Collection: The information collection includes reporting and recordkeeping burdens related to sound risk management principles applicable to insured depository institutions. To enable an institution and its supervisor to evaluate the liquidity risk exposure of an institution's individual business lines and for the institution as a whole, the Interagency Policy Statement on Funding and Liquidity Risk Management (Interagency Statement) summarizes principles of sound liquidity risk management and advocates the establishment of policies and procedures that consider liquidity costs, benefits, and risks in strategic planning. In addition, the Interagency Statement encourages the use of liquidity risk reports that provide detailed and aggregate information on items such as cash flow gaps, cash flow projections, assumptions used in cash flow projections, asset and funding concentrations, funding availability, and early warning or risk indicators. This is intended to enable management to assess an institution's sensitivity to changes in market conditions, the institution's financial performance, and other important risk factors.

There is no change in the method or substance of the collection. The overall reduction in burden hours is the result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

2. *Title:* Interagency Guidance on Leveraged Lending.

OMB Number: 3064–0191.

Form Number: None.

Affected Public: Insured state nonmember banks and savings associations.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection (IC) description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated number of responses	Estimated time per response (hours)	Frequency of response	Total estimated annual burden (hours)
Interagency Guidance on Leveraged Lending—Implementation.	Recordkeeping	Voluntary	1	1	986.70	On Occasion	986.70
Interagency Guidance on Leveraged Lending—Ongoing.	Recordkeeping	Voluntary	5	1	529.3	On Occasion	2,646.50
Total Estimated Annual Burden Hours							3,633.20

General Description of Collection: The Interagency Guidance on Leveraged Lending (Guidance) outlines for agency-supervised institutions high-level principles related to safe-and-sound leveraged lending activities, including underwriting considerations, assessing and documenting enterprise value, risk management expectations for credits awaiting distribution, stress-testing expectations, pipeline portfolio management, and risk management expectations for exposures held by the institution. This Guidance provides information to all financial institutions supervised by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the FDIC (the Agencies) that engage in leveraged lending activities. The number of community banks with substantial involvement in leveraged lending is small; therefore, the Agencies generally expect community banks to be largely unaffected by this information collection.

There is no change in the method or substance of the collection. The overall reduction in burden hours is the result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on June 27, 2019.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–14084 Filed 7–1–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission

ACTION: Notice

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: William ''Todd'' Cole, Director Office of Human Resources, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

JoAnne D. O'Bryant,

Program Analyst.

The Members of the Performance Review Board Are

1. Louis E. Sola, Commissioner
2. Erin M. Wirth, Chief Administrative Law Judge
3. Mary T. Hoang, Chief of Staff
4. Sandra L. Kusumoto, Director, Bureau of Certification and Licensing
5. Tyler J. Wood, General Counsel
6. Florence A. Carr, Director, Bureau of Trade Analysis
7. Rebecca A. Fenneman, Director, Office of Consumer Affairs & Dispute Resolution Services
8. Karen V. Gregory, Managing Director
9. Peter J. King, Assistant Managing Director

[FR Doc. 2019–14106 Filed 7–1–19; 8:45 am]

BILLING CODE 6731–AA–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 July 29, 2019.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Firstar Financial Corp., Muskogee, Oklahoma;* to acquire voting shares of Fort Gibson State Bank, Fort Gibson, Oklahoma. In connection with this application, Applicant also has applied to acquire the Steve Clinkenbeard Agency, Fort Gibson, Oklahoma, and thereby engage in the sale of insurance in a town of less than 5,000 in population pursuant to 12 CFR 228.28(b)(11)(i) and Tri-Rivers Insurance, LLP, Fort Gibson, Oklahoma, and thereby engage in credit-related insurance activities pursuant to 12 CFR 228.28(b)(11)(i) Regulation Y.

B. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Bank Forward Employee Stock Ownership Plan and Trust, Fargo, North Dakota;* to acquire up to 35 percent of Security State Bank Holding Company, Fargo, North Dakota, and thereby indirectly acquire shares of Bank Forward, Hannaford, North Dakota.

Board of Governors of the Federal Reserve System, June 27, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–14097 Filed 7–1–19; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0274; Docket No. 2019–0001; Sequence No. 2]

Submission for OMB Review; Public Buildings Service; Art-in-Architecture Program National Artist Registry, GSA Form 7437

AGENCY: Public Buildings Service, General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Art-in Architecture Program National Artist Registry, GSA Form 7437.

DATES: Submit comments on or before August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Gibson, Office of the Chief Architect, Art-in-Architecture & Fine Arts Division (PCAC), 1800 F Street, NW, Room 5400 PCAC, Washington, DC 20405, at telephone 202–501–0930 or via email at *jennifer.gibson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437.

Instructions: Please submit comments only and cite Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

The Art-in-Architecture Program actively seeks to commission works from the full spectrum of American artists and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art-in-Architecture Program National Artist Registry, will be used to collect information from artists across the country to participate and to be considered for commissions.

The Art-in-Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator Bernard L. Boudin, who served on the Ad Hoc Committee on Federal Office Space in 1961–1962.

The program has been modified over the years, most recently in 2009, when a requirement was instituted that all artists who want to be considered for any potential GSA commission must be included on the National Artists Registry, which serves as the qualified list of eligible artists. The program continues to commission works of art from living American artists. One-half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

B. Annual Reporting Burden

Respondents: 300.
Responses per Respondent: 1.
Total Responses: .25.
Hours per Response: .25.
Total Burden Hours: 75.

C. Public Comments

A notice was published in the **Federal Register** at 84 FR 14119 on April 9, 2019. No comments were received. Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437, in all correspondence.

Dated: June 25, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–14033 Filed 7–1–19; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0283; Docket No. 2019–0001; Sequence No. 3]

Submission for OMB Review; Contractor Information Worksheet; GSA Form 850

AGENCY: Identity, Credential, and Access Management (ICAM) Division, Office of Security, Office of Mission Assurance (OMA), General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement, with changes, expanding the coverage of the information collection of the Contractor Information Worksheet; GSA Form 850.

GSA requires OMB approval for this collection to make determinations on granting unescorted physical access to GSA-controlled facilities and/or logical access to GSA-controlled information systems. The approval is critical for GSA to continue following contractor onboarding processes required for working on GSA contracts.

DATES: *Submit comments on or before:* August 1, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0283, Contractor Information Worksheet; GSA Form

850''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0283, Contractor Information Worksheet; GSA Form 850'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0283, Contractor Information Worksheet; GSA Form 850.

Instructions: Please submit comments only and cite Information Collection 3090–0283, Contractor Information Worksheet; GSA Form 850, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Phil Ahn, Deputy Director, OMA Identity Credential and Access Management Division, GSA, telephone 202–501–2447 or via email at *phillip.ahn@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

The U.S. Government conducts criminal checks to establish that applicants or incumbents working for the Government under contract may have unescorted access to federally controlled facilities. GSA uses the Contractor Information Worksheet; GSA Form 850, and digitally captured fingerprints to conduct a FBI National Criminal Information Check (NCIC) for each contractor's physical access determination to GSA-controlled facilities and/or logical access to GSA-controlled information systems. Manual fingerprint card SF–87 is used for exception cases such as contractor's significant geographical distance from fingerprint enrollment sites.

The Office of Management and Budget (OMB) Guidance M–05–24 for Homeland Security Presidential Directive (HSPD) 12, authorizes Federal departments and agencies to ensure that contractors have limited/controlled access to facilities and information systems. GSA Directive CIO P 2181.1 Homeland Security Presidential Directive-12, Personal Identity Verification and Credentialing (available at *http://www.gsa.gov/hspd12*), states that GSA contractors must undergo a minimum of an FBI National Criminal Information Check (NCIC) to receive unescorted physical access to GSA-controlled facilities and/or logical access to GSA-controlled information systems.

Contractors' Social Security Number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397, Numbering System for Federal Accounts Relating to Individual Persons, also allows Federal agencies to use this number to help identify individuals in agency records.

B. Annual Reporting Burden

Respondents: 25,000.
Responses per Respondent: 1.
Total Annual Responses: 25,000.
Hours per Response: .25.
Total Burden Hours: 6,250.

C. Public Comments

A notice was published in the **Federal Register** at 84 FR 11418 on April 9, 2019. No comments were received. Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0283, Contractor Information Worksheet; GSA Form 850 in all correspondence.

The form can be downloaded from the GSA Forms Library at *http://www.gsa.gov/forms*. Type GSA 850 in the form search field.

Dated: June 25, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–14035 Filed 7–1–19; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0309; Docket No. 2019–0001; Sequence No. 6]

Information Collection; Simplifying Federal Award Reporting

AGENCY: Federal Acquisition Service; General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding OMB Control No: 3090–0309; Simplifying Federal Award Reporting.

DATES: *Submit comments on or before:* September 3, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by searching for ''Information Collection 3090–0309; Simplifying Federal Award Reporting''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0309; Simplifying Federal Award Reporting''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0309; Simplifying Federal Award Reporting'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0309, Simplifying Federal Award Reporting.

Instructions: Please submit comments only and cite Information Collection 3090–0309; Simplifying Federal Award Reporting, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Goldman, GSA, at telephone 202–779–2265.

SUPPLEMENTARY INFORMATION:

A. Purpose

The President's Management Agenda includes objectives for creating a twenty-first century government that delivers better results to the American people in a more efficient manner. Leveraging information technology capabilities to reduce reporting burden is key to achieving these goals. Section 5 of the Digital Accountability and Transparency Act (Pub. L. 113–101) requires a pilot program to develop recommendations for standardizing reporting, eliminating unnecessary duplication, and reducing compliance costs for recipients of Federal awards.

The pilot participants are required to provide requested reports as well as the cost to collect the data via the pilot. The proposed pilot program will provide an alternative submission method for existing Federal Acquisition Regulation (FAR) requirements, and assess the pilot results against the existing FAR-required method.

B. Annual Reporting Burden

Respondents: 720.

Responses per Respondent: 3 each week.

Total Annual Responses: 2,160.

Hours per Response: .5.

Total Burden Hours: 56,160.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0309, Simplifying Federal Award Reporting, in all correspondence.

Dated: June 25, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–14034 Filed 7–1–19; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2019–06; Docket No. 2019–0002, Sequence No. 13]

Federal Travel Regulation (FTR); Relocation Allowances—Relocation Income Tax Allowance (RITA) Tables

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform agencies that FTR Bulletin 19–05 pertaining to Relocation Allowances—Relocation Income Tax Allowance (RITA) Tables for employees who relocated prior to 2015 with reimbursements received in 2018 and new procedures for employees who relocated prior to 2015 with reimbursements received in 2019 or later is now available online at *www.gsa.gov/ftrbulletin*.

DATES: *Applicable:* This notice is applicable beginning July 2, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Miller, Office of Asset and Transportation Management (MA), at 202–501–3822 or via email at *rodney.miller@gsa.gov*. Please cite FTR Bulletin 19–05.

SUPPLEMENTARY INFORMATION:

FTR Bulletin 19–05: Relocation Allowances—Relocation Income Tax Allowance (RITA) Tables for employees who relocated prior to 2015 with reimbursements received in 2018 and new procedures for employees who relocated prior to 2015 with reimbursements received in 2019 or later is now available and (1) provides the tables necessary to calculate the amount of a transferee's increased tax burden for employees who relocated before January 1, 2015 and received reimbursements during calendar year 2018; (2) informs agencies that for employees who relocated before January 1, 2015, and receive(d) reimbursements in calendar year 2019 or later, GSA has determined that agencies will follow the same procedures for those that relocated after January 1, 2015 in accordance with the current issuance of FTR Part 302–17; and (3) notifies agencies that GSA will no longer issue annual FTR Bulletins for RITA tax tables because all relocations with reimbursements received in 2019 or later will use tables published by the U.S. Internal Revenue Service (IRS), state/district, Puerto Rico, and local tax authorities to compute combined marginal tax rates.

FTR Bulletin 19–05 and all other FTR Bulletins can be found at *www.gsa.gov/ftrbulletin*.

Jessica Salmoiraghi,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2019–14063 Filed 7–1–19; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Healthcare Infection Control Practices Advisory Committee (HICPAC). This meeting is open to the public, limited only by audio phone lines available. The public is also welcome to listen to the meeting by dialing 800–369–3175, passcode: 7383308. A total of 200 lines will be available. Registration is required. To register for this call, please go to *www.cdc.gov/hicpac*. The public may submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt of written public comment is August 6, 2019. All requests must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length. Written comments received in advance of the meeting will be included in the official record of the meeting.

DATES: The meeting will be held on August 20, 2019, 2:00 p.m. to 4:00 p.m., EDT.

ADDRESSES: Teleconference Number: 800–369–3175, passcode: 7383308.

FOR FURTHER INFORMATION CONTACT: Koo-Whang Chung, M.P.H., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, l600 Clifton Road NE, Mailstop H16–3, Atlanta, Georgia 30329; Telephone (404) 498–0730; Email: *HICPAC@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare

Quality Promotion (DHQP), the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters To Be Considered: The agenda will include updates from the following HICPAC workgroups: The Healthcare Personnel Guideline Workgroup and the Neonatal Intensive Care Unit (NICU) Guideline Workgroup. Agenda items are subject to change as priorities dictate.

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–14067 Filed 7–1–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Public Comment Request; Performance Data for the Senior Medicare Patrol (SMP) Program; OMB# 0985–0024

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This Extension without Change (ICR Ext) solicits comments on the information collection requirements related to the Performance Data for the Senior Medicare Patrol (SMP) Program.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by September 3, 2019.

ADDRESSES: Submit electronic comments on the collection of information to: Phillip McKoy, *Phillip.McKoy@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, Washington, D.C. 20201, Attention: Phillip McKoy

FOR FURTHER INFORMATION CONTACT: Phillip McKoy, Office of Healthcare Information and Counseling (OHIC), Administration for Community Living, Washington, DC 20201, Phone: 202–795–7397, Email: *Phillip.Mckoy@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined as and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The purpose of this data collection is to collect annual performance data from grantees. This data collection is required by Congress for program monitoring and Government Performance Results Act (GPRA) purposes. The data collected through this request is used by ACL and the SMP Programs to communicate with Congress and the public on SMP activities. There are 54 programs nationally, one in all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands. It is imperative that data be collected to ensure that grantees' contacts are captured and that Medicare beneficiaries are given the tools to prevent, detect and report health care fraud, error and abuse. The respondents for this data collection are grantees, SMP team members, and volunteers who meet with Medicare beneficiaries in group settings and in one-on-one sessions to educate them on the importance of being aware of Medicare fraud, error and abuse, and having the knowledge to protect the Medicare system.

Under Public Law 104–208, the Omnibus Consolidated Appropriations Act of 1997, Congress established the Senior Medicare Patrol Projects in order to further curb losses to the Medicare program. The Senate Committee noted that retired professionals, with appropriate training, could serve as educators and resources to assist Medicare beneficiaries and others to detect and report error, fraud and abuse.

Among other requirements, it directed the Administration for Community Living to work with the Office of Inspector General (OIG) and the Government Accountability Office (GAO), to assess the performance of the program. The Administration for Community Living has worked with HHS/OIG to develop project-level performance measures. The HHS/OIG has collected SMP performance data and issued SMP performance reports since 1997. The OIG changed the reporting period from twice a year to once a year in 2008.

This information is used by ACL as the primary method for monitoring the SMP Projects. This information collection reports the number of active team members, number of community outreach activities, number of beneficiaries reached by education and outreach activities, and the number of dollars recoverable for the Medicare Trust Fund among other performance measures. The information from the current collection is reported by the OIG to Congress and the public.

Measures as required by Congress and the Government Performance Results Modernization Act of 2010 (GPRMA), are also supported in ACL tracking performance outcomes and efficiency measures with respect to the annual and long-term performance targets established in compliance with the GPRAMA. The Performance Data for the SMP data collection will continue to provide data necessary to determine the effectiveness of the program.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input*.

Estimated Program Burden

ACL estimates the burden associated with this collection of information as follows: The burden hours are based on the number of projects for 54 SMP grantees. With an estimated time of 138 burden hours per response for a total of 7,452 annual burden hours.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SMP grantees	SMP Project annual Report Form	54	1	138	7,452

Dated: June 26, 2019.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2019–14086 Filed 7–1–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–1917]

Drug Abuse and Dependence Section of Labeling for Human Prescription Drug and Biological Products—Content and Format; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Drug Abuse and Dependence Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' This guidance is intended to assist applicants in writing the DRUG ABUSE AND DEPENDENCE section of the labeling, as described in the regulations for the content and format of labeling for human prescription drug and biological products. The recommendations in this draft guidance will help ensure that the labeling is clear, concise, useful and informative, and, to the extent possible, consistent in content and format within and across drug and therapeutic classes.

DATES: Submit either electronic or written comments on the draft guidance by September 3, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–1917 for ''Drug Abuse and Dependence Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the

''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Iris Masucci, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Silver Spring, MD 20993–0002, 301–796–2500; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Drug Abuse and Dependence Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' This draft guidance provides recommendations on the general principles to consider when drafting the DRUG ABUSE AND DEPENDENCE section of the labeling, and how to write, organize, and format the information within the DRUG ABUSE AND DEPENDENCE section of the labeling. The draft guidance provides recommendations on what information to include in the DRUG ABUSE AND DEPENDENCE section, including common terminology and definitions related to abuse and dependence, and how information related to topics presented in the DRUG ABUSE AND DEPENDENCE section should be distributed elsewhere in labeling.

This draft guidance is one in a series of guidances FDA is developing or has developed to assist applicants with the content and format of labeling for human prescription drug and biological products. In the **Federal Register** of January 24, 2006 (71 FR 3922), FDA published a final rule on labeling for human prescription drug and biological products. The final rule and additional guidances on labeling can be accessed at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/LawsActsandRules/ucm084159.htm*. The labeling requirements and these guidances are intended to make information in prescription drug labeling easier for health care practitioners to access, read, and use.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Drug Abuse and Dependence Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910–0572; the collections of information in 21 CFR 312.41 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR 314.126(c), 314.70, and 314.97 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR 601.12 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, or *https://www.regulations.gov*.

Dated: June 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14061 Filed 7–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–1615]

Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format.'' This draft guidance provides recommendations for developing the content and format of an Instructions for Use (IFU) document for human prescription drugs and biological products and drug-device or biologic-device combination products submitted under a new drug application (NDA) or a biologics license application (BLA). The IFU is developed by applicants for patients who use drug products that have complicated or detailed patient-use instructions. The recommendations in this draft guidance are intended to help develop consistent content and format across IFUs and to help ensure that patients receive clear, concise information that is easily understood for the safe and effective use of prescription drug products.

DATES: Submit either electronic or written comments on the draft guidance by September 3, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–1615 for ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Chris Wheeler, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Bldg. 51, Rm. 3330, Silver Spring, MD 20993, 301–796–0151; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format.'' The recommendations in this guidance are intended to help develop consistent content and format across IFUs and to help ensure that patients receive clear, concise information that is easily understood for the safe and effective use of such prescription drug products.

The IFU is a form of prescription drug labeling submitted under a new drug application (NDA), biologics license application (BLA), or abbreviated new drug application (ANDA). The IFU is developed by applicants for patients who use drug products that have complicated or detailed patient-use instructions. For example, an IFU may be appropriate for a drug product with one set of dosing instructions for adult patients and another set for pediatric patients. The IFU is developed by the applicant, reviewed and approved by FDA, and provided to patients when the drug product is dispensed.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 201 have been approved under OMB control number 0910–0572; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm; https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm; https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm;* or *https://www.regulations.gov*.

Dated: June 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14060 Filed 7–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6069]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; De Novo Classification Process (Evaluation of Automatic Class III Designation)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 1, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0844. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

De Novo Classification Process (Evaluation of Automatic Class III Designation)

OMB Control Number 0910–0844—Revision

The draft guidance entitled ''Acceptance Review for De Novo Classification Requests'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/acceptance-review-de-novo-classification-requests*) explains the procedures and criteria FDA intends to use in assessing whether a request for an evaluation of automatic class III designation (De Novo classification request or De Novo request) meets a minimum threshold of acceptability and should be accepted for substantive review. The draft guidance discusses De Novo acceptance review policies and procedures, ''Refuse to Accept'' principles, and the elements of the De Novo Acceptance Checklist and the Recommended Content Checklist and was issued to be responsive to an explicit deliverable identified in the Medical Device User Fee Amendments of 2017.

To aid in the acceptance review, the guidance recommends that requesters complete and submit with their De Novo request an Acceptance Checklist that identifies the location of supporting information for each acceptance element and a Recommended Content Checklist that identifies the location of supporting information for each recommended content element. Therefore, we request revision of OMB control number 0910–0844, ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' to include the Acceptance Checklist and the Recommended Content Checklist in the hourly burden estimate for De Novo requests.

Respondents to the information collection are medical device manufacturers seeking to market medical device products through submission of a De Novo classification request under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(2)).

In the **Federal Register** of October 30, 2017 (82 FR 50135), FDA published a 60-day notice requesting public comment on the draft guidance and the proposed collection of information. We received various comments on the draft guidance. We describe and respond to the comments related to the proposed information collection in the following paragraphs. We have numbered each comment to help distinguish between different comments. We have grouped similar comments together under the same number, and, in some cases, we have separated different issues discussed in the same set of comments and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value or importance or the order in which comments were received.

(Comment 1) One comment proposed that, in section VII.B of the draft guidance (''Prior Submission(s) Relevant to the De Novo Request Under Review''), FDA revise the phrase ''For certain De Novo requests, the requester may have previously provided other submissions for the same device for which FDA provided feedback related to the data or information needed to support De Novo classification (*e.g.,* a pre-submission request, investigational device exemption, prior Not Substantially Equivalent (NSE) determination, or prior 510(k) or De Novo that was deleted or withdrawn)'' to read, ''For certain De Novo requests, the requester may have previously provided other submissions, or there may be related FDA correspondence or other relevant information for the same device, for which FDA provided feedback related to the data or information needed to support De Novo classification . . .'' The commenter noted that there may be informal correspondence that is pertinent to the De Novo and this should be explicitly requested in the ''Recommended Content Checklist'' in Appendix B.

(Response 1) FDA does not agree with the proposed revision. This element was intended to specifically focus on pertinent premarket submissions and formal communications that have undergone supervisory review.

(Comment 2) One comment suggested that elements identified as ''N/A'' should require an accompanying rationale because an inadvertent selection of a N/A answer may result in a ''Refuse to Accept'' (RTA) decision.

(Response 2) We do not agree with this comment. Selection of ''N/A'' for any element would not lead to an RTA decision. As explained in section VI.C of the guidance, ''. . . the item should receive an answer of ''yes'' or ''N/A'' for the De Novo request to be accepted for substantive review.''

(Comment 3) Two commenters suggested that the preliminary questions in Appendix A (''Acceptance Checklist for De Novo Classification Requests'') of the guidance should be removed and included in a document to be used by FDA reviewers or should clarify that these are to be completed by FDA personnel only. FDA recommends that requesters complete the checklists in Appendices A and B (''Recommended Content Checklist for De Novo Classification Requests''); however, the preliminary questions are intended for FDA reviewers.

(Response 3) We do not agree with these commenters. The instructions for the Preliminary Questions within the checklist in Appendix A clearly state that ''Boxes checked in this section represent FDAs preliminary assessment of these questions at the time of administrative review.''

(Comment 4) Two commenters proposed that the Organizational Elements in Appendix A be removed or included in Appendix B instead. The commenters noted that these organizational elements should not result in an RTA designation and, as such, should not be present in Appendix A.

(Response 4) We decline to make this change. These are important administrative elements that will allow the FDA reviewer to determine if the submission is sufficiently organized in order to perform the subsequent RTA review.

(Comment 5) Two commenters proposed that, in Appendix A of the draft guidance, under the section ''Elements of a Complete De Novo Request,'' we remove the second and third paragraphs from Question 1a, or move them to Appendix B. Question 1a requests ''[a] description of the technology (features, materials, and principles of operation) for achieving the intended effect.'' The commenters assert that the second and third paragraphs begin to assess ''the sufficiency'' of the device description by necessitating detailed device information for acceptance of the De Novo request. In addition, the commenter believes the language in the second paragraph (''Where necessary to describe the device, . . .'') is subjective and would necessitate a substantive review of the device description to determine adequacy.

(Response 5) We do not agree with the commenters' description. Because of the wide variety of device types reviewed through the De Novo Program, the reviewer needs flexibility to determine if engineering or representative drawings are necessary for a complete device description. This element is only requesting the inclusion of such information; it is not asking the reviewer to determine the adequacy of the information.

(Comment 6) One comment proposed that, in Appendix A of the draft guidance, under section C of ''Elements of a Complete De Novo Request,'' FDA remove the phrase ''detailed information and'' in the prefaces to questions 3 through 7. The commenter believes that this request for ''detailed information'' exceeds the intention of the RTA review which would simply assess the presence of information or a rationale, if not present.

(Response 6) We do not agree with this suggestion. The language in question states ''To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following . . .''—therefore the request for the purposes of the Checklist is not for the ''detailed information,'' per se, but rather identifying aspects of the submission for which detailed information will be evaluated during substantive review. Consistent with the policy outlined in the guidance, reviewers will not conduct a detailed review of such information during the RTA phase.

(Comment 7) A comment requested clarity on the extent of information, and location of such information, to be included regarding clinical studies conducted outside the United States.

(Response 7) The element requesting a summary and full study report for clinical studies (Appendix B, Section E, Question 6) does not require or specify the source of clinical study information. Therefore, we disagree that additional revision to this element is necessary—this pertains to clinical data from studies conducted either within or outside the United States.

(Comment 8) A comment proposed we remove questions 2b and 2c from section D of the Acceptance Checklist, requesting information to be included as part of the Financial Certification (Form FDA 3454) and Financial Disclosure (Form FDA 3455) forms. The commenter believes that the requested information in these questions should be reviewed during substantive review of the De Novo request.

(Response 8) We do not agree. These questions are ensuring that required content in the Financial Certification Forms are included for review. We are not assessing the adequacy of the content.

(Comment 9) A comment proposed that we move element 1 in Appendix B, Section A, requesting ''all content used to support the De Novo request is written in English,'' to the Acceptance Checklist in Appendix A. One would expect that content be provided in English in order to conduct a substantive review of the De Novo request.

(Response 9) We decline to make this change. There is no statutory requirement for providing documentation in English.

(Comment 10) A comment recommends that further guidance ''explicitly and specifically incorporate least burdensome concepts.'' The commenter believes that the draft guidance outlines processes that may not embody least burdensome principles.

(Response 10) We have not made changes based on this comment. FDA defines least burdensome to be the minimum amount of information necessary to adequately address a regulatory question or issue through the most efficient manner at the right time. The least burdensome provisions and guiding principles do not change the applicable regulatory or statutory requirements. We believe the recommendations in the guidance are consistent with the least burdensome provisions and guiding principles, and we apply them in identifying what FDA believes to be the minimum information that the Agency relies on to complete premarket submission review in the most efficient manner. For information on the least burdensome provisions, refer to FDA's guidance for industry, ''The Least Burdensome Provisions: Concept and Principles'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/least-burdensome-provisions-concept-and-principles*).

(Comment 11) A comment requested that FDA provide clarification on the RTA process, as the draft guidance suggests a De Novo request could be refused based upon ''immaterial issues.'' The commenter recommends addition of a ''materiality standard'' that would limit refusal to accept a De Novo request ''to instances where the missing information is both material and relevant to the assessment of the safety or efficiency [sic]of the device.''

(Response 11) We consider the ''materiality standard'' that the commenter proposes, *i.e.,* that the scope for denial of a review is limited to instances where the missing information is both material and relevant to the assessment of the safety or effectiveness of the device, to be the fundamental basis for the Acceptance Checklist in Appendix A. Elements requested in Appendix A are required by statute and applicable regulations and, as such, we consider these to be material and relevant to the substantive review of the De Novo request.

(Comment 12) One comment proposed that FDA staff should be able to use discretion in order to request missing checklist items interactively, rather than to RTA when there are one or more items missing from the Acceptance Checklist as described in section III.A of the guidance. This would aid in ensuring a least burdensome approach was applied to this process.

(Response 12) We do not believe that revisions are necessary in response to this comment. Within section III.A, the guidance states that ''FDA staff also has discretion to request missing checklist items interactively from requesters during the RTA review. Interaction during the RTA reviews is dependent on FDA staff's determination that outstanding issues are appropriate for interactive review and that adequate time is available for the requester to provide supporting information and for FDA staff to assess responses.''

We believe the recommendations in the guidance are consistent with the least burdensome provisions and guiding principles, and we apply them in identifying what FDA believes to be the minimum information that the Agency relies on to complete premarket submission review in the most efficient manner. For information on the least burdensome provisions, refer to FDA's guidance, ''The Least Burdensome Provisions: Concept and Principles.''

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
De Novo requests						
De Novo request under 21 U.S.C. 513(f)(2)(A)(i):						
CDRH	2	1	2	100	200	
CBER	1	1	1	100	100	
De Novo request under 21 U.S.C. 513(f)(2)(A)(ii):						
CDRH	56	1	56	180	10,080	
CBER	1	1	1	180	180	
Acceptance Checklist	60	1	60	1	60	
Recommended Content Checklist	60	1	60	1	60	
Total De Novo requests			60		10,680	$7,278
Request for withdrawal [2]	5	1	5	10	50	5
Total					10,730	7,283

[1] There are no capital costs associated with this collection of information.
[2] No change from approved information collection. This information is retained for the convenience of the reader.

Based on updated program data and trends, we expect to receive approximately 60 De Novo requests per year. We have not changed our estimates of the Average Burden per Response for De Novo requests.

We estimate that it will take approximately 1 hour to prepare an Acceptance Checklist and 1 hour to prepare a Recommended Content Checklist. Our estimate assumes that each De Novo request will include both checklists.

Approved operating and maintenance costs for a De Novo request include printing, shipping, and eCopy costs. We have updated the operating and maintenance costs to account for the updated burden estimate for De Novo requests (resulting in an increase of $970 to the total estimated operating and maintenance costs). However, we believe any increase of the operating and maintenance cost resulting from the addition of the Acceptance Checklist and Recommended Content Checklist to be de minimis.

The operating and maintenance cost for a De Novo submission includes the cost of printing, shipping, and the eCopy. We estimate the cost burden for a De Novo submission, including the Acceptance Checklist and Recommended Content Checklist, to be $121.30 ($90 printing + $30 shipping + $1.30 eCopy). The annual cost estimate for De Novo submissions is $7,278 (60 submissions × $121.30). We estimate the cost for a request for withdrawal to be $1 (rounded) ($0.09 printing 1 page + $0.03 shipping + $1.30 eCopy). The annual cost estimate for requests for withdrawal is $5.

Our estimated burden for the information collection reflects an overall increase of 3,400 hours. We attribute this adjustment to the addition of the Acceptance Checklist and the Recommended Content Checklist and to an increase in the number of submissions we received during the approval period. For clarity, we have separated the Acceptance Checklist and Recommended Content Checklist into distinct line-items in table 1.

Dated: June 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14066 Filed 7–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request: Information Collection Request Title: Hospital Campaign for Organ Donation Scorecard, OMB No. 0915–0373, Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act

of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than September 3, 2019.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer, at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Hospital Campaign for Organ Donation Scorecard OMB No. 0915–0373, Revision.

Abstract: HRSA's Hospital Campaign for Organ Donation enlists healthcare organizations nationwide to increase the number of registered organ, eye, and tissue donors by hosting education and donor registration events in their facilities and communities. A scorecard identifies activities that participants can implement and assigns points to each activity. Participants that earn a certain number of points annually are recognized by HRSA and the campaign's national partners.

For this information collection request, the proposed change to the Scorecard is the addition of the 2020 date. HRSA also intends to create a new electronic version of the Scorecard for future campaigns that will ultimately reduce the level of burden for participants. The electronic version will be designed to be user friendly, will take less time to complete, and will provide HRSA with data throughout the campaign rather than once a year. Another benefit of an electronic scorecard is that it will eliminate the possibility of human error as information will no longer be manually entered into a database.

Need and Proposed Use of the Information: There is a substantial imbalance in the U.S. between the number of people whose lives depends on organ transplants (currently more than 113,000) and the annual number of organ donors (approximately 14,000 living and deceased donors). This imbalance results in about 7,300 waiting list deaths annually. In response to the need for increased donation, HRSA conducts public outreach initiatives to encourage the American public to enroll on state donor registries as future organ donors.

The Scorecard motivates and facilitates healthcare organizations' participation in the campaign, provides the basis for rewarding participants for their accomplishments, and enables HRSA to measure and evaluate campaign process and outcome. The scorecard also enables HRSA to make data-based decisions and improvements for subsequent campaigns.

Likely Respondents: The likely respondents include the following: Hospital development and public relations staff of organ procurement and other donation organizations; hospital staff such as nurses or public relations/communications professionals and staff members; staff at physician's offices, health clinics, and emergency medical services; or volunteers that work with healthcare organizations on organ donation initiatives.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Activity Scorecard (online)	1,400	1	1,400	.25	350
Total	1,400		1,400		350

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–14078 Filed 7–1–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Scientific Information Reporting System (SIRS) (National Institute of General Medical Sciences)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the

National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received by August 1, 2019.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Ming Lei, Director, Division for Research Capacity Building, NIGMS, NIH, Natcher Building, Room 2AS44C, 9000 Rockville Pike, Bethesda, MD 20892, or call non-toll-free number (301) 827–5323 or Email your request, including your address to: *leim@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on April 4, 2019, pages 13306–13307 (84 FR 13306) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of General Medical Sciences (NIGMS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Scientific Information Reporting System (SIRS), 0925–0735–Resinstatement Without Change—expiration date 03/31/2019, National Institutes of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

Need and Use of Information Collection: The SIRS is an online data collection system whose purpose is to obtain supplemental information to the annual Research Performance Progress Report (RPPR) submitted by grantees of the Institutional Development Award (IDeA) Program and the Native American Research Centers for Health (NARCH) Program. The SIRS will collect program-specific data not requested in the RPPR data collection system. The IDeA Program is a congressionally mandated, long-term interventional program administered by NIGMS aimed at developing and/or enhancing the biomedical research competitiveness of States and Jurisdictions that lag in NIH funding. The NARCH Program is an interagency initiative that provides support to American Indian and Alaska Native (AI/AN) tribes and organizations for conducting research in their communities in order to address health disparities, and to develop a cadre of competitive AI/AN scientists and health professionals. The data collected by SIRS will provide valuable information for the following purposes: (1) Evaluation of progress by individual grantees towards achieving grantee-designated and program-specified goals and objectives, (2) evaluation of the overall program for effectiveness, efficiency, and impact in building biomedical research capacity and capability, and (3) analysis of outcome measures to determine need for refinements and/or adjustments of different program features including but not limited to initiatives and eligibility criteria. Data collected from SIRS will be used for various regular or ad hoc reporting requests from interested stakeholders that include members of Congress, state and local officials, other federal agencies, professional societies, media, and other parties.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 841.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
SIRS	Principal Investigators, COBRE Phase I.	54	1	4	216
SIRS	Principal Investigators, COBRE Phase II.	34	1	4	136
SIRS	Principal Investigators, COBRE Phase III.	54	1	4	216
SIRS	Principal Investigators, INBRE	24	1	6	144
SIRS	Principal Investigators, IDeA–CTR	11	1	4	44
SIRS	Principal Investigators, NARCH	17	1	5	85
Total		194	194		841

Dated: June 18, 2019.

Rusinel Amarante,

Project Clearance Liaison, National Institute of General Medical Sciences, National Institutes of Health.

[FR Doc. 2019–14072 Filed 7–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Mental Health Services: Member Conflict.

Date: July 24, 2019.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Karen Gavin-Evans, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Boulevard, Room 6153, MSC 9606, Bethesda, MD 20892, 301–451–2356, *gavinevanskm@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 26, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14051 Filed 7–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request National Cancer Institute (NCI) a Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI's Communication and Education Resources (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ilene French, Branch Chief, Office of Communication and Public Liaison, National Cancer Institute, 9609 Medical Center Drive, Maryland, 20892 or call non-toll-free number (240) 276–7787 or Email your request, including your address to: *nciocpl@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on April 5, 2019, page 13670, (Vol 84, No. 66, Page 13670) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: A Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI's Communication and Education Resources (NCI), 0925–0046, Expiration Date 07/31/2019, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This information collection request is to approve the Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI's Communication and Education Resources (NCI) for three years. As part of NCI's mandate from Congress to disseminate information on cancer research, detection, prevention, and treatment, the Institute develops a wide variety of messages and materials. Testing these messages and materials assesses their potential effectiveness in reaching and communicating with their intended audience while they are still in the developmental stage and can be revised. The formative research and pretesting process thus contributes to maximizing NCI's limited dollar resources for information dissemination and education. NCI also must ensure the relevance, utility, and appropriateness of the many educational programs and products that the Institute produces. Customer satisfaction studies help NCI identify modifications necessary to meet the needs of NCI's various target audiences. Since the previous submission, there have been 10 approved sub-studies (and 1 pending) with an approved request of 2,426 burden hours over 2.5 years. Approval is requested for the conduct of multiple studies annually using such methods as interviews, focus groups, and various types of surveys. The content, timing, and number of respondents to be included in each sub-study will vary, depending on the nature of the message/material/program being assessed, the methodology selected, and the target audiences.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 7,200.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Focus Groups, Individual In-Depth Interviews, Brief Interviews, Surveys, Website Usability Testing.	Individuals (General Public).	18,000	1	12/60	3,600
Focus Groups, Individual In-Depth Interviews, Brief Interviews, Surveys, Website Usability Testing.	Individuals (Health Care Professionals).	18,000	1	12/60	3,600

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Total		36,000	36,000		7,200

Patricia M. Busche,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2019–14071 Filed 7–1–19; 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 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomaterials and Biointerfaces.

Date: July 22, 2019.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bone and Cartilage Biology.

Date: July 25, 2019.

Time: 1:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892 301–435–1787, *srikanth.ranganathan@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–DA–19–039: Targeting Inflammasomes in Substance Abuse and HIV.

Date: July 30, 2019.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, RKL II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, *alok.mulky@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis/Chronic Fatigue Syndrome.

Date: July 30, 2019.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Regulation.

Date: July 30, 2019.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, RKL II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@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: June 26, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14050 Filed 7–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0008]

Assistance to Firefighters Grant Program; Fire Prevention and Safety Grants

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of guidance.

SUMMARY: This Notice provides guidelines that describe the application process for grants and the criteria the Federal Emergency Management Agency (FEMA) will use for awarding Fire Prevention and Safety (FP&S) grants in the Fiscal Year (FY) 2018 Assistance to Firefighters Grant (AFG) Program. It explains the differences, if any, between these guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held January 16–18, 2018. The application period for the FY 2018 FP&S Grant Program was open from November 12, 2018 to December 21, 2018, and was announced on the AFG website (*www.fema.gov/firegrants*), *www.grants.gov,* and the U.S. Fire Administration website (*www.usfa.fema.gov*).

DATES: Grant applications for the FP&S Grant Program were accepted electronically at *https://portal.fema.gov,* from November 12, 2018 at 8:00 a.m. ET to December 21, 2018 at 5:00 p.m. ET.

ADDRESSES: Assistance to Firefighters Grants Branch, DHS/FEMA, 400 C Street SW, 3N, Washington, DC 20472–3635.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Chief, Assistance to Firefighters Grants Branch, 1–866–274–0960.

SUPPLEMENTARY INFORMATION: The purpose of the FP&S Program is to reduce fire and fire-related injuries and prevent deaths among the public and firefighters by assisting fire prevention programs and supporting firefighter health and safety research and development. The FEMA Grant Programs Directorate administers the FP&S Grant Program as part of the AFG Program.

FP&S Grants are offered to support projects in two activities:

1. Activities designed to reach high-risk target groups and mitigate the incidence of death, injuries, and property damage caused by fire and fire-related hazards (''FP&S Activity'').

2. Projects aimed at improving firefighter safety, health, or wellness through research and development that reduces firefighter fatalities and injuries (''R&D Activity'').

The grant program's authorizing statute requires that DHS publish in the **Federal Register** each year the guidelines that describe the application process and the criteria for grant awards. While the application period has closed, the FY 2018 Fire Prevention and Safety Program Notice of Funding Opportunity (NOFO) and application tools are posted online and available for download at *www.fema.gov/firegrants* and at *www.regulations.gov* under Docket ID: FEMA–2019–0008.

Appropriations

Congress appropriated $350,000,000 for AFG in FY 2018 pursuant to the *Department of Homeland Security Appropriations Act, 2018,* Public Law 115–141. From this amount, $35,000,000 will be made available for FP&S Grant awards, pursuant to 15 U.S.C. 2229(h)(5), which states that not less than 10 percent of available grant funds each year are awarded under the FP&S Grant Program. Funds appropriated for all FY 2018 AFG awards, pursuant to Public Law 115–141, will be available for obligation and award until September 30, 2019.

From the approximately 800 applications that requested assistance, FEMA anticipates that it will award approximately 150 FP&S Grants from available grant funding.

Background of the AFG Program

DHS awards grants on a competitive basis to applicants that best address the FP&S Grant Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

Award Criteria

All applications for grants were prepared and submitted through the AFG e-Grant application portal (*https://portal.fema.gov*).

The FP&S Grant Program panels will review the applications and score them using the following criteria areas:

- Financial Need
- Vulnerability Statement
- Implementation Plan
- Evaluation Plan
- Cost-Benefit
- Funding Priorities

The applications submitted under the R&D Activity will be reviewed first by a panel of fire service members to identify those applications most relevant to the fire service. The following evaluation criteria will be used for this review:

- Purpose
- Potential Impact
- Implementation by the Fire Service
- Partners
- Barriers

The applications that are determined most likely to enable improvement in firefighter safety, health, or wellness will be deemed to be in the ''competitive range'' and forwarded to the second level of application review, which is the scientific panel review process. This panel will be comprised of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

The Scientific Technical Evaluation Panel for the R&D Activity will review the application and evaluate it using the following criteria:

- Project goals, objectives, and specific aims
- Literature Review
- Project Methods
- Project Measurements
- Project Analysis
- Dissemination and Implementation
- Cost vs. Benefit (additional consideration)
- Financial Need (additional consideration)
- Mentoring (additional consideration for Early Career Investigator Projects only)

Eligible Applicants

Under the FY 2018 FP&S Grant Program, eligible applicants were limited to those entities described below within each activity:

1. *Fire Prevention and Safety (FP&S) Activity:* Eligible applicants for this activity included fire departments; and national, regional, State, local, federally recognized tribal, and nonprofit organizations that are recognized for their experience and expertise in fire prevention and safety programs and activities. Both private and public non-profit organizations were eligible to apply for funding in this activity. For-profit organizations, Federal agencies, and individuals were not eligible to receive a FP&S Grant Award under the FP&S Activity.

2. *Firefighter Safety Research and Development (R&D) Activity:* Eligible applicants for this activity included national, State, local, federally recognized tribal, and nonprofit organizations, such as academic (*e.g.,* universities), public health, occupational health, and injury prevention institutions. Both private and public non-profit organizations were eligible to apply for funding in this activity.

The aforementioned entities were encouraged to apply, especially those that are recognized for their experience and expertise in firefighter safety, health, and wellness research and development activities. Fire departments were not eligible to apply for funding in the R&D activity. Additionally, for-profit organizations, Federal agencies, and individuals were not eligible to receive a grant award under the R&D Activity.

Funding Limitations

Awards are limited to a maximum federal share of $1.5 million dollars, regardless of applicant type, in accordance with 15 U.S.C. 2229(d)(2). FP&S Research and Development applicants that applied under the Early Career Investigator category are limited to a maximum federal share of $75,000 per project year.

Cost Sharing

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with 2 CFR 200.101(b)(1), but they were not required to have the cost-share at the time of application nor are they required to have it at the time of award. However, before a grant is awarded, FEMA may contact potential awardees to determine whether the grant recipient has the funding in hand or whether the grant recipient has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking an FP&S grant to carry out an activity shall agree to make available non-Federal funds to carry out such activity in an amount equal to, and not less than, 5 percent of the grant awarded. Cash match and in-kind matches are both allowable in the FP&S

Grant Program. Cash (hard) matches include non-Federal cash spent for project-related costs. In-kind (soft) matches include, but are not limited to, the valuation of in-kind services; complementary activities; and provision of staff, facilities, services, material, or equipment. In-kind is the value of something received or provided that does not have a cost associated with it. For example, where an in-kind match (other than cash payments) is permitted, then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the grant recipient receiving the contributions expends them as allowable costs in compliance with provisions listed above.

Grant recipients under this program must also agree to a maintenance of effort requirement per 15 U.S.C. 2229(k)(3) (referred to as a ''maintenance of expenditure'' requirement in that statute). Per this requirement, a grant recipient shall agree to maintain during the term of the grant, the grant recipient's aggregate expenditures relating to the activities allowable under the FP&S NOFO at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship and upon the request of the grant recipient, the FEMA Administrator may waive or reduce certain grant recipient's cost share or maintenance of expenditure requirements (15 U.S.C. 2229(k)(4)(A)). As required by 15 U.S.C. 2229(k)(4)(B), the Administrator established guidelines for determining what constitutes economic hardship and published these guidelines at FEMA's website *www.fema.gov/grants*. Per 15 U.S.C. 2229(k)(4)(C), FP&S nonprofit organization grant recipients that are not fire departments or emergency medical services organizations are not eligible to receive a waiver of their cost share or economic hardship requirements.

System for Award Management (SAM)

Per 2 CFR 25.200, all grant applicants and recipients were required to register in *https://SAM.gov,* which is available free of charge. They must maintain validated information in SAM that is consistent with the data provided in their AFG grant application and in the Dun & Bradstreet (DUNS) database. FEMA required active SAM registration at the time of application, and will not process any awards, consider any payment or amendment requests, or consider any amendment unless the applicant or grant recipient has complied with the requirements to provide a valid DUNS number and an active SAM registration with current information. The banking information, employer identification number (EIN), organization/entity name, address, and DUNS number provided in the application must match the information that is provided in SAM.

Application Process

Applicants were only permitted to submit one application, but were permitted to submit for up to three projects under each activity (FP&S and R&D). Any applicant that submitted more than one application may have *all* applications deemed ineligible.

Under the FP&S Activity, applicants could apply under the following categories:

- Community Risk Reduction
- Fire & Arson Investigation
- Code Enforcement/Awareness
- National/State/Regional Programs and Studies

Under the R&D Activity, applicants could apply under the following categories:

- Clinical Studies
- Technology and Product Development
- Database System Development
- Dissemination and Implementation Research
- Preliminary Studies
- Early Career Investigator

Prior to the start of the FY 2018 FP&S Grant Program application period, FEMA provided applicants with technical assistance tools (available at the AFG website: *www.fema.gov/firegrants*) and other online information to help them prepare quality grant applications. AFG staffed a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with related questions. The AFG Help Desk can be reached year-round through a toll-free telephone number (1–866–274–0960) or email (*firegrants@fema.dhs.gov*).

Applicants were advised to access the application electronically at *https://portal.fema.gov*. The application was also accessible from the *Grants.gov* website (*http://www.grants.gov*). New applicants were required to register and establish a username and password for secure access to their application. Applicants that applied to any previous AFG or Staffing for Adequate Fire and Emergency Response (SAFER) funding opportunities were required to use their previously established usernames and passwords when applying for an FP&S grant.

In completing an application under this funding opportunity, applicants were asked to provide relevant information on their organization's characteristics and existing capabilities. Those applicants were asked to answer questions about their grant request that reflected the funding priorities, described below. In addition, applicants were required to complete narratives for each project or grant activity requested.

The following are the funding priorities for each category under the FP&S Activity:

- *Community Risk Reduction*—Under the Community Risk Reduction category there are three funding priorities:
  - Priority will be given to programs that target a specific high-risk population to conduct both door-to-door smoke alarm installations and provide home safety inspections, as part of a comprehensive home fire safety campaign.
  - Priority will be given to programs that include sprinkler awareness that affect the entire community, such as educating the public about residential sprinklers, promoting residential sprinklers, and demonstrating working models of residential sprinklers.
  - Priority will be given to programs to conduct community-appropriate comprehensive risk assessments and risk reduction planning.
- *Code Enforcement/Awareness*—These are projects that focus on first time or reinstatement of code adoption and code enforcement, including Wildland Urban Interface (WUI) codes for communities with a WUI-wildfire risk.
- *Fire & Arson Investigation*—These are projects that aim to aggressively investigate every fire.
- *National/State/Regional Programs and Studies*—These are projects that focus on residential fire issues and/or firefighter behavior and wellness.

Under the R&D Activity, in order to identify and address the most important elements of firefighter safety, FEMA looked to the fire service for its input and recommendations. In June 2005, the National Fallen Firefighters' Foundation (NFFF) hosted a working group to facilitate the development of an agenda for the Nation's fire service, and in particular for firefighter safety. In November 2015, the NFFF hosted its third working group to update the agenda with current priorities. A copy of the research agenda is available on the NFFF website at *http://www.everyonegoeshome.com/resources/research-symposium-reports/*.

All proposed projects, regardless of whether they have been identified by this working group, will be evaluated on their relevance to firefighter health and safety, and scientific rigor.

The electronic application process permitted the applicant to enter and save the application data. The system did not permit the submission of incomplete applications. Except for the narrative textboxes, the application contained a ''point-and-click'' selection process or required the entry of data (*e.g.,* name and address). Applicants were encouraged to read the FP&S NOFO for more details.

Criteria Development Process

Each year, DHS convenes a panel of fire service professionals to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is composed of representatives from nine major fire service organizations that are charged with making recommendations to FEMA regarding the creation of new funding priorities, the modification of existing funding priorities, and the development of criteria for awarding grants. The nine major fire service organizations represented on the panel:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2018 criteria development panel meeting occurred January 16–18, 2018. The content of the FY 2018 FP&S Notice of Funding Opportunity reflects the implementation of the Criteria Development Panel's recommendations with respect to the priorities, direction, and criteria for awards. All of the funding priorities for the FY 2018 FP&S Grant Program are designed to address the following:

- First responder safety
- Enhancing national capabilities
- Risk
- Interoperability

Changes for FY 2018

FY 2018 FP&S Notice of Funding Opportunity Announcement

(1) New performance metrics for each Activity within the FP&S Grant Program have been added to better measure the impact of grant funding on fire prevention and firefighter safety.

(2) Under the FP&S Activity, clarification has been provided that Risk Assessments can include Wildland and Wildland Urban Interface Risk Assessments.

Application Review Process and Considerations

The program's authorizing statute requires that each year DHS publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

DHS will review and evaluate all FP&S applications submitted using the funding priorities and evaluation criteria described in this document, which are based on recommendations from the AFG Criteria Development Panel.

Peer Review Process

Peer Review Panel Process—Fire Prevention and Safety Activity

All FP&S activity applications will be evaluated by a peer review process. A panel of peer reviewers is composed of fire service representatives recommended by the Criteria Development Panel. These reviewers will assess each application's merits with respect to the detail provided in the Narrative Statement on the activity, including the evaluation elements listed in the Evaluation Criteria identified below. The panel will independently score each project within the application, discuss the merits and/or shortcomings of the application, and document the findings. A consensus is not required.

Peer Review Panel Process—Research and Development Activity

R&D applications will go through a two-phase review process. First, all applications will be reviewed by a panel of fire service experts to assess the need for the research results and the likelihood that the results would be implemented by the fire service in the United States. Applications that are deemed likely to be implemented to enable improvement in firefighter safety, health, or wellness will be deemed to be in the ''competitive range'' and will be forwarded to the second level of project review, which is the science review panel process. This panel will be composed of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

Scientific reviewers will independently score applications in the competitive range and, if necessary, discuss the merits or shortcomings of the project in order to reconcile any major discrepancies identified by the reviewers. A consensus is not required.

Technical Evaluation Process

The highest ranked projects from both Activities will be deemed in the fundable range. Applications that are in the fundable range will undergo a Technical Review by the FEMA Program Office prior to being recommended for award. The FEMA Program Office will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending any application for award.

Once the review process is complete, each project's score will be determined and a final ranking of project applications will be created. FEMA will award grants based on this final ranking. Award announcements will be made on a rolling basis until all available grant funds have been committed. Awards will not be made in any specified order. DHS will notify unsuccessful applicants as soon as it is feasible.

Evaluation Criteria for Projects—Fire Prevention and Safety Activity

Funding decisions will be informed by an assessment of how well the application addressed the criteria and considerations listed below. Applications will be reviewed by the peer reviewers using weighted evaluation criteria to score the project. These scores will impact the ranking of a project for funding.

The relative weight of the evaluation criteria in the determination of the grant award is listed below.

- *Financial Need (10%):* Applicants should have provided details on the need for financial assistance to carry out the proposed project(s). Included in the description might be other unsuccessful attempts to acquire financial assistance or specific examples of the applicant's operational budget.
- *Vulnerability Statement (25%):* The assessment of fire risk is essential in the development of an effective project goal, as well as meeting FEMA's goal to reduce risk by conducting a risk assessment as a basis for action. Vulnerability is a ''weak link'' demonstrating high risk behavior, living conditions or any type of high risk situation or behavior. The Vulnerability Statement should have included a description of the steps taken to determine the vulnerability (weak link) and identify the target audience. The methodology for determination of vulnerability (*i.e.,* how the weak link

was found) should have been discussed in-depth in the application's Narrative Statement.

◦ The specific vulnerability (weak link) that will be addressed with the proposed project can be established through a formal or informal risk assessment. FEMA encouraged the use of local statistics, rather than national statistics, when discussing the vulnerability.

◦ The applicant should have summarized the vulnerability (weakness) the project will address in a clear, to-the-point statement that addresses who is at risk, what the risks are, where the risks are, and how the risks can be prevented, reduced, or mitigated.

◦ For the purpose of the FY 2018 FP&S NOFO, formal risk assessments must have included either the use of software programs or recognized expert analysis that assess risk trends.

◦ Informal risk assessments could have included an in-house review of available data (*e.g.,* National Fire Incident Reporting System) to determine fire loss, burn injuries or loss of life over a period of time, and the factors that are the cause and origin for each occurrence.

• *Implementation Plan (25%):* Projects should have provided details on the implementation plan, discussing the proposed project's goals and objectives. The following information should have been included to support the implementation plan:

◦ Goals and objectives.

◦ Details regarding the methods and specific steps that will be used to achieve the goals and objectives.

◦ Timelines outlining the chronological project steps.

◦ Where applicable, examples of marketing efforts to promote the project, who will deliver the project (*e.g.,* effective partnerships), and the manner in which materials or deliverables will be distributed.

◦ Requests for props (*i.e.,* tools used in educational or awareness demonstrations), including specific goals, measurable results, and details on the frequency for which the prop will be utilized as part of the implementation plan. Applicants should have included information describing the efforts that will be used to reach the high risk audience and/or the number of people reached through the proposed project.

• *Evaluation Plan (25%):* Projects should have included an evaluation of effectiveness and should have identified measurable goals. Applicants seeking to carry out awareness and educational projects, for example, should have identified how they intend to determine that there has been an increase in knowledge about fire hazards, or measure a change in the safety behaviors of the audience. Applicants should have demonstrated how they will measure risk at the outset of the project in comparison to how much the risk decreased after the project is finished. There are various ways to measure the knowledge gained including the use of surveys, pre- and post-tests, or documented observations.

• *Cost-Benefit (10%):* Projects will be evaluated based on how well the applicant addressed the fire prevention needs of the department or organization in an economical and efficient manner. The applicant should have shown how it will maximize the level of funding that goes directly into the delivery of the project. The costs associated with the project must also be reasonable for the target audience that will be reached, and a description of how the anticipated benefit(s) of their projects outweighs the cost(s) of the requested item(s) should have been included. The application should have provided justification for all costs included in the project in order to assist the FEMA Program Office with the Technical Evaluation Panel review.

• *Funding Priorities (5%):* Applicants will be evaluated on whether the proposed project meets the stated funding priority (listed below) for the applicable category.

◦ *Community Risk Reduction Priority:* Comprehensive home fire safety campaign with door-to-door smoke alarm installations and/or sprinkler awareness and/or community risk assessments.

◦ *Fire/Arson Investigation Priority:* Projects that aim to aggressively investigate every fire.

◦ *Code Enforcement/Awareness Priority:* Projects that focus on first time or reinstatement of code adoption and code enforcement, including Wildland Urban Interface (WUI) codes for communities with a WUI-wildfire risk.

◦ *National/State/Regional Programs and Studies Priority:* Projects that focus on residential fire issues, and/or firefighter safety and wellness projects or strategies that are designed to measurably change firefighter behavior and decision-making.

▪ *Meeting the needs of people with disabilities (additional consideration):* Applicants in the Community Risk Reduction category will receive additional consideration if, as part of their comprehensive smoke alarm installation and education program, they address the needs of people with disabilities (*e.g.,* deaf/hard-of-hearing) in their community.

▪ *Experience and Expertise (additional consideration):* Applicants that demonstrated their experience and ability to conduct fire prevention and safety activities, and to execute the proposed or similar project(s), will receive additional consideration.

Evaluation Criteria—Firefighter Safety Research and Development Activity

Funding decisions will be informed by an assessment of how well the application addresses the criteria and considerations listed below. All applications will be reviewed by a fire service expert panel using weighted evaluation criteria, and those projects deemed to be in the "competitive range" will then be reviewed by a scientific peer review panel evaluation using weighted evaluation criteria to score the project. Scientific evaluations will impact the ranking of the project for funding.

Fire Service Evaluation Criteria

• *Purpose (25%):* Applicants should have clearly identified the benefits of the proposed research project to improve firefighter safety, health, or wellness, and identified specific gaps in knowledge that will be addressed.

• *Implementation by Fire Service (25%):* Applicants should have discussed how the outcomes/products of this research, if successful, are likely to be widely/nationally adopted and accepted by the fire service as changes that enhance firefighter safety, health, or wellness.

• *Potential Impact (15%):* Applicants should have discussed the potential impact of the research outcome/product on firefighter safety by quantifying the possible reduction in the number of fatal or non-fatal injuries, or on the projected wellness by significantly improving the overall health of firefighters.

• *Barriers (15%):* The applicant needed to identify and discuss potential fire service and other barriers to successfully complete the study on schedule, including contingencies and strategies to deal with barriers if they materialize. This may include barriers that could inhibit the proposed fire service participation in the study or the adoption of successful results by the fire service when the project is completed.

• *Partners (20%):* Applicants should have recognized that participation of the fire service as a partner in the research, from development to dissemination, is regarded as an essential part of all projects. Applicants should have described the fire service partners and contractors that will support the project to accomplish the objectives of the study. The specific roles and contributions of the partners should have been described. Partnerships may be formed with local and regional fire departments, and also with national fire-related organizations. Letters of support and letters of commitment to actively participate in the project should have been included in the appendix of the application. Generally, participants of a diverse population, including both career and volunteer firefighters, are expected to facilitate acceptance of results nationally. In cases where this is not practical, due to the nature of the study or other limitations, these circumstances should have been clearly explained.

Science Panel Evaluation Criteria

- *Project goals, objectives, and specific aims (15%):* Applicants should have addressed how the purpose, goals, objectives, and aims of the proposal will lead to results that will improve firefighter safety, health, or wellness. For multi-year projects, greater detail should have been given for the first year, however specific goals and objectives were required for the second and third years (if applicable).
- *Literature Review (10%):* Applicants should have provided a literature review that is relevant to the project's goals, objectives, and specific aims. The citations should have been placed in the text of the narrative statement, with references listed at the end of the Narrative Statement (and not in the Appendix) of the application. The review should have been in sufficient depth to make it clear that the proposed project is necessary, adds to an existing body of knowledge, is different from current and previous studies, and offers a unique contribution.
- *Project Methods (20%):* Applicants should have provided a description of how the project will be carried out, including demonstration of the overall scientific and technical rigor and merit of the project. This includes the operations to accomplish the purpose, goals and objectives, and the specific aims of the project. Plans to recruit and retain human participants for research, where applicable, should have been described. Where human participants are involved in the project, the applicant should have described plans for submission to the Institutional Review Board (for further guidance and requirements, see the FY 2018 FP&S NOFO).
- *Project Measurements (20%):* Applicants should have provided evidence of the technical rigor and merit of the project, such as data pertaining to validity, reliability, and sensitivity (where established) of the facilities, equipment, instruments, standards, and procedures that will be used to carry out the research. The applicant should have discussed the data to be collected to evaluate the performance methods, technologies, and products proposed to enhance firefighter safety, health, or wellness. The applicant should have demonstrated that the measurement methods and equipment selected for use are appropriate and sufficient to successfully deliver the proposed project objectives.
- *Project Analysis (20%):* The applicant should have indicated the planned approach for analysis of the data obtained from measurements, questionnaires, or computations. The applicant should have specified within the plan what will be analyzed, the statistical methods that will be used, the sequence of steps, and interactions as appropriate. It should be clear that the Principal Investigator and research team have the expertise to perform the planned analysis and defend the results in a peer review process.
- *Dissemination and Implementation (15%):* Applicants should have indicated dissemination plans for scientific audiences (such as plans for submissions to specific peer review publications) and for firefighter audiences (such as websites, magazines, and conferences). Also, assuming positive results, the applicant should have indicated future steps that would support dissemination and implementation throughout the fire service, where applicable. These steps are likely to be beyond the current study, so those features of the research activity that will facilitate future dissemination and implementation should have been discussed. All applicants should have specified how the results of the project, if successful, might be disseminated and implemented in the fire service to improve firefighter safety, health, or wellness. It is expected that successful R&D Activity Projects may give rise to future programs including FP&S Activity Projects.
- *Cost vs. Benefit (additional consideration):* Cost vs. benefit in this evaluation element refers to the costs of the grant for the research and development project as it relates to the benefits that are projected for firefighters who would have improved safety, health, or wellness. Applicants should have demonstrated a high benefit for the cost incurred, and effective utilization of Federal funds for research activities.
- *Financial Need (additional consideration):* In the Applicant Information section of the application, applicants should have provided details on the need for Federal financial assistance to carry out the proposed project(s). Applicants may have included a description of unsuccessful attempts to acquire financial assistance. Applicants should have provided detail about the organization's operating budget, including a high-level breakdown of the budget; described the department's inability to address financial needs without Federal assistance; and discussed other actions the department has taken to meet their staffing needs (*e.g.,* State assistance programs, other grant programs, etc.).
- *Mentoring (additional consideration for Early Career Investigator Projects only):* An important part of Early Career Investigator projects is the integration of mentoring for the principal investigator by experienced researchers in areas appropriate to the research project, including exposure to the fire service community as well as support for ongoing development of knowledge and skills. Mentoring is regarded as critical to the research skills development of early career principal investigators. As part of the application Appendix, the applicant should have identified the mentor(s) who have agreed to support the applicant and the expected benefit of their interactions with the researcher. A biographical sketch and letter of support from the mentor(s) were encouraged and should have been included in the Appendix materials.

Other Selection Information

Awards will be made using the results of peer-reviewed applications as the primary basis for decisions, regardless of activity. However, there are some exceptions to strictly using the peer review results. The applicant's prior AFG, SAFER, and FP&S grant management performance will also be taken into consideration when making recommendations for award. All final funding determinations will be made by the FEMA Administrator, or the Administrator's designee.

Fire departments and other eligible applicants that have received funding under the FP&S Grant Program in previous years were eligible to apply for funding in the current year. However, DHS may take into account an applicant's performance on prior grants when making funding decisions on current applications.

Once every application in the competitive range has been through the technical evaluation phase, the applications will be ranked according to the average score awarded by the panel.

The ranking will be summarized in a Technical Report prepared by the AFG Program Office. A Grants Management Specialist will contact the applicant to discuss and/or negotiate the content of the application and *SAM.gov* registration before making final award decisions.

Authority: 15 U.S.C. 2229.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14044 Filed 7–1–19; 8:45 am]

BILLING CODE 9111–64–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2009–0018]

Revision of Agency Information Collection Activity Under OMB Review: Certified Cargo Screening Standard Security Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0053, abstracted below to OMB for a revision in compliance with the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA is seeking the revision of the Certified Cargo Screening Standard Security Program ICR by including a new Certified Cargo Screening Facility (CCSF) under the Third-Party Canine-Cargo (3PK9–C) Program, in order to secure passenger aircraft carrying cargo.

DATES: Send your comments by August 1, 2019. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov*.

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 13, 2018, 80 FR 74786.

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

Title: Certified Cargo Screening Standard Security Program.

Type of Request: Revision of one currently approved ICR.

OMB Control Number: 1652–0053.

Forms(s): The forms used for this collection of information include Letter of Intent (TSA Form 419A); CCSF Profile Application (TSA Form 419B); Department of Homeland Security, Non-Disclosure Agreement (TSA Form 419C); CCSF Principal Attestation (TSA Form 419D); CCSF Security Profile (TSA Form 419E); and the Security Threat Assessment Application (TSA Form 419F).

Affected Public: The collections of information that make up this ICR involve entities other than aircraft operators and include facilities upstream in the air cargo supply chain, such as shippers, manufacturers, warehousing entities, distributors, third party logistics companies, indirect air carriers and 3PK9 Certifiers located in the United States.

Abstract: TSA is seeking continued approval from OMB for the collection of information contained in the ICR. Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 [1] (9/11 Act) required the development of a system to screen 100 percent of such cargo no later than August 2010. This requirement was implemented through TSA's regulations, including amendments to 49 CFR parts 1515, 1520, 1540, 1544, 1546, 1548, and adding part 1549. *See* 76 FR 51848 (Aug. 18, 2011). As required by 49 CFR part 1549, TSA certifies qualified facilities as CCSFs to screen cargo under the of the Certified Cargo Screening Program (CCSP).

In this ICR, TSA is revising the collection to include a new Certified Cargo Screening Facility (CCSF) under the 3PK9–C Program, in order to assist with the mandate of 100 percent screening of air cargo. Section 1941 of the TSA Modernization Act [2] amended provision in the 9/11 Act to require TSA to develop a program to enhance screening of air cargo by leveraging the capabilities of third-party explosives detection canine teams. To meet this requirement, TSA created the 3PK9–C program as an additional air cargo screening method under 49 CFR part 1549.

Persons seeking to become a CCSF are required to submit an application to TSA before commencing operations. Facilities-based CCSFs are required to submit information about the technologies that will be used to screen cargo. CCSF–K9s are required to submit an Operational Implementation Plan that provides relevant details regarding the intended scope of their operations. Prior to certification, TSA will conduct an assessment of the CCSF for approval. Persons interested in becoming 3PK9–C Certifiers must provide information related to their qualifications.

Once certified, the CCSF must operate in accordance with a TSA-approved security program or order. CCSFs must also collect personal identifiable information to submit to TSA so that

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[1] Public Law 110–53; 121 Stat. 266 (Aug. 3, 2007), codified at 49 U.S.C. 44901(g).

[2] Division K of the FAA Reauthorization Act of 2018, Public Law 115–254; Stat. 132–3186 (Oct. 6, 2018).

TSA can conduct security threat assessments on individuals with unescorted access to cargo and those who have responsibility for screening cargo under title 49 CFR parts 1544, 1546, 1548, and 1549. CCSFs must also maintain screening, training, and other security-related records of compliance. Approved 3PK9–C Certifiers must conduct and document certifications of third-party canine teams as required by TSA.

The collection involves: (1) Applications from entities that wish to become CCSFs or 3PK9–C Certifiers; (2) personally identifiable information to allow TSA to conduct security threat assessments (STA) on certain individuals employed by the CCSFs or 3PK9–C Certifiers and those authorized to conduct 3PK9–C Program activities; (3) standard security programs or submission of a proposed modified security program or amendment to a security program by CCSFs, or standards provided by TSA or submission of a proposed modified standard by 3PK9–C Certifiers; (4) recordkeeping requirements for CCSFs and 3PK9–C Certifiers; (5) designation of a Security Coordinator (SC) by CCSFs and 3PK9–C Certifiers; and (6) significant security concerns detailing information of incidents, suspicious activities, and/or threat information by CCSFs and 3PK9–C Certifiers.

Total Estimated Number of Respondents:[3] 2,527.

Total Estimated Annual Burden Hours: 16,189.98 hours annually.

Dated: June 25, 2019.

Christina A. Walsh,

Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2019–13961 Filed 7–1–19; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–27]

30-Day Notice of Proposed Information Collection: Debt Resolution Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 1, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 22, 2019 at 84 FR 10833.

A. Overview of Information Collection

Title of Information Collection: Debt Resolution Program.

OMB Approval Number: 2502–0483.

Type of Request: Revision on a currently approved collection.

Form Number: HUD–56141, HUD–56142, HUD–56146.

Description of the need for the information and proposed use: HUD is required to collect debt owed to the agency. As part of the collection process, demand for repayment is made on the debtor(s).

Respondents: Individuals and Households.

Estimated Number of Respondents: 735.

Estimated Number of Responses: 240.

Frequency of Response: 1.

Average Hours per Response: 1.

Total Estimated Burdens: 754.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: June 13, 2019.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14117 Filed 7–1–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–26]

30-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 1, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management

[3] The annual respondent and burden numbers have been updated since the submission of the 60-day notice, which reported, ''Collectively, these information collections represent an estimated average of 6,966 respondents annually, for an average annual hour burden of 9,175 hours.''

Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 5, 2019 at 84 FR 13694.

A. Overview of Information Collection

T*itle of Information Collection:* Manufactured Home Construction and Safety Standards Program.

OMB Approval Number: 2502–0233.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–101, HUD–203, HUD–203B, HUD–301, HUD–302, HUD–303, HUD –304.

Description of the need for the information and proposed use:

The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for states that choose not to implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Number of Respondents: 145.

Estimated Number of Responses: 4,557.

Frequency of Response: Monthly.

Average Hours per Response: ½-Hour.

Total Estimated Burdens: 2,279.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 13, 2019.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14118 Filed 7–1–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7014–N–19]

60-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing Involving the Loss Mitigation Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* September 3, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Asset Management (OSFAM), Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Ivery Himes at *Ivery.W.Himes@hud.gov* or telephone 202–708–1672. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Himes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing Involving the Loss Mitigation Program.

OMB Approval Number: 2502–0589.

Type of Request: Extension.

Form Numbers: HUD–27011, HUD–90035, HUD–90041, HUD–90045, HUD–90051, HUD–90052.

Description of the need for the information and proposed use: FHA's Loss Mitigation program/options (24 CFR 203.501) and incentives efforts provide mortgagees with reimbursement for using tools to bring a delinquent FHA-insured mortgage loan current in as short a time as possible, to provide an alternative to foreclosure to the extent possible, and to minimize losses to the Mutual Mortgage Insurance Fund. Home retention options promote reinstatement of the mortgage, allowing the mortgagor to retain home ownership, while disposition options assist mortgagors who cannot recover with an alternative to foreclosure. The HUD forms used are part of the collection effort for non-performing insured mortgage loans.

Respondents (*i.e.* affected public): Mortgagees or Mortgagors.

Estimated Number of Respondents: 414,022.

Estimated Number of Responses: 1,205,241.

Frequency of Response: on occasion.

Average Hours per Response: 1.5 hours.

Total Estimated Burdens: 1,896,395.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 7, 2019.

John L. Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2019–14119 Filed 7–1–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–24]

30-Day Notice of Proposed Information Collection: Indian Housing Block Grant (IHBG) Program Information Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: August 1, 2019.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 19, 2019 at 84 FR 10117.

A. Overview of Information Collection

Title of Information Collection: Indian Housing Block Grant (IHBG) Program Information.

OMB Approval Number: 2577–0218.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–4117, HUD–4119, HUD–52736–A, HUD–52736–B, HUD–52737, HUD–53246, HUD–53247.

Description of the need for the information and proposed use: The forms included in this collection are associated with the Indian Housing Block Grant (IHBG) program, as authorized under Title I of the Native American Housing Assistance and Self-Determination Reauthorization Act (NAHASDA) (25 U.S.C. 4101). The IHBG program provides funding to eligible Native American tribes and tribally designated housing entities (TDHEs) in the form of formula-based allocations and competitive awards.

IHBG Formula Allocations

NAHASDA authorizes HUD to allocate IHBG funds by formula annually. Recipients may use their IHBG funds to carry out a range of affordable housing activities that benefit low-income Indian families living on Indian reservations or in other Indian areas. HUD's Fiscal Year 2018 Report to Congress states that there are approximately 592 Indian tribes in 34 states that are eligible to participate in the program.

To receive an IHBG, a recipient is required to submit an Indian Housing Plan (IHP) annually to the Office of Native American Programs (ONAP). The IHP describes its planned affordable housing activities for its upcoming program year. The IHP is due to ONAP at least 75 days before the recipient's program year begins.

Recipients must also submit an Annual Performance Report (APR) to ONAP within 90 days of the end of their program year. The APR details the actual activities and accomplishments of their IHBG-funded housing programs.

IHBG Competitive Awards

In Fiscal Years 2018 and 2019, Congress enacted H.R. 1625-Consolidated Appropriations Act, 2018 (Pub. L. 115–141) (Effective: 3/23/18) that appropriated $99,000,000 each fiscal year for IHBGs awarded on a competitive basis. The IHBG Competitive program will give priority to projects that will spur construction and rehabilitation from NAHASDA-eligible recipients while considering need and administrative capacity. Additionally, applicants may apply for other eligible activities under Section 202 of NAHASDA.

In Fiscal Year 2019, HUD will make nearly $200,000,000 in IHBG Competitive funds available under a Notice of Funding Availability (NOFA) and will award the funds to the applicants with the highest rated applications, particularly those with the greatest housing need and administrative capacity. The regulations and requirements governing the formula-driven IHBG program will apply to the competitive IHBG program.

IHBG Competitive applicants must submit a complete application package which includes a narrative response to the NOFA requirements, Application for Federal Assistance (SF–424), Applicant/Recipient Disclosure/Update Report (HUD–2880), Acknowledgement of Application Receipt (HUD–2993), and two new forms: IHBG Cost Summary (HUD–53246), and IHBG Implementation Schedule (HUD–53247). At the end of the 12-month program year, grant recipients submit APRs describing accomplishments, outcomes, and outputs.

Attached to this submission are copies of the FY 2018 Appropriations language for the competitive IHBG program, FY 2019 IHBG Competitive NOFA, NAHASDA statute, and NAHASDA regulations at 24 CFR part 1000.

HUD–52737: Indian Housing Plan/Annual Performance Report (IHP/APR). A recipient of IHBG funds is required to submit an IHP/APR (HUD–52737) that consists of two components. The Indian Housing Plan (IHP) component describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low- and moderate-income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month program year. At the end of the 12-month period, the recipient submits the Annual Performance Report (APR) component to describe (1) the use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. (NAHASDA §§ 102 and 404).

HUD–4117 and HUD–4119: Formula Response Form and Guidelines for Challenging U.S. Decennial Census Data Document. IHBG recipients are responsible for notifying HUD of changes to the Formula Current Assisted Stock (FCAS) component of the IHBG formula. HUD is notified of changes in the FCAS through the Formula Response Form (HUD–4117). IHBG recipients or HUD may challenge the data from the U.S. Decennial Census or provide an alternative source of data by submitting the Guidelines for Challenging U.S. Decennial Census Data Document. Census challenges (HUD–4119) are due to HUD by March 30th of each fiscal year, as stipulated at 24 CFR 1000.336.

HUD–52736–A and B: Depository Agreements. IHBG recipients have the option of investing IHBG funds in eligible instruments with bankers and brokers by using the Depository Agreement for bankers (HUD–52736–A) and the Depository Agreement for brokers (HUD–52736–B). These agreements may be executed at any time.

Respondents: Native American Tribes, Alaska Native Villages and corporation, tribally designated housing entities, banks and brokers.

Indian Housing Block Grant Program	Form Name	Number of Responses	Frequency of Response	Responses Annually	Burden Hour for Response	Respondent Annual Burden Hours
HUD-52737	IHP/APR	792	2	1,584	62	98,208
HUD-4117	Formula Correction	300	1	300	0.5	150
HUD-4119	Formula Challenge	15	1	15	150	2,250
HUD-52736-A	Depository Agreement (Banker)	394	1	394	0.25	99
HUD-52736-B	Depository Agreement (Broker)	394	1	394	0.25	99
SF-424, HUD-2880, HUD-2993, HUD-53246, HUD-53247	IHBG Competitive Grant Application	500	1	500	80	40,000
Total		2,395	7	3,187	293	140,805

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Date: June 6, 2019.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14120 Filed 7–1–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX19WC00GJNV331; OMB Control Number 1028–0106]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; USGS Ash Fall Report

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 1, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0106 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kristi Wallace by email at *kwallace@usgs.gov,* or by telephone at (907) 786–7109. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 8, 2019, 84 FR 20160. No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS provides notifications and warnings to the public of volcanic activity in the US in order to reduce the loss of life, property, and economic and societal impacts. Ash fallout to the ground can pose significant disruption and damage to buildings, transportation, water and wastewater, power supply, communications equipment, agriculture, and primary production leading to potentially substantial societal impacts and costs, even at thicknesses of only a few millimeters or inches. Additionally, fine grained ash, when ingested can cause health impacts to humans and animals. USGS will use reports entered in real time by respondents of ash fall in their local area to correct or refine ash fall forecasts as the ash cloud moves downwind. Retrospectively these reports will enable USGS to improve their ash fall models and further research into eruptive processes.

This project is a database module and web interface allowing the public and Alaska Volcano Observatory (AVO) staff to enter reports of ash fall in their local area in real time and retrospectively following an eruptive event. Users browsing the AVO website during eruptions will be directed towards a web form allowing them to fill in ash fall information and submit the information to AVO.

Compiled ashfall reports are available in real-time to AVO staff through the AVO internal website. A pre-formatted summary report or table that distills information received online will show ash fall reports in chronological order with key fields including (1) date and time of ash fall, (2) location, (3) positive or negative ash fall (4) name of observer, and (5) contact information is easily viewable internally on the report so that calls for clarification can be made by AVO staff quickly and Operations room staff can visualize ashfall information quickly.

Ashfall report data will also be displayed on a dynamic map interface and show positive (yes ash) and negative (no ash) ash fall reports by location. Ash fall reports (icons) will be publicly displayed for a period of 24 hours and shaded differently as they age so that the age of reports is obvious.

The ashfall report database will help AVO track eruption clouds and associated fallout downwind. These reports from the public will also give scientists a more complete record of the amount and duration and other conditions of ash fall. Getting first-hand accounts of ash fall will support model ash fall development and interpretation of satellite imagery. AVO scientists will—as time allows—be able to contact the individuals using their entered contact information for clarification and details. Knowing the locations from which ash-fall reports have been filed will improve ash fall warning messages, AVO Volcanic Activity Notifications, and make fieldwork more efficient. AVO staff will be able to condense and summarize the various ash fall reports and forward that information on to emergency management agencies and the wider public. The online form will also free up resources during exceedingly busy times during an eruption, as most individuals currently phone AVO with their reports.

Title of Collection: USGS Ash Fall Report.

OMB Control Number: 1028–0106.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: General Public, local governments and emergency managers.

Total Estimated Number of Annual Respondents: We are likely to ask individuals to respond 1–6 times year which is the number of past eruptions we have during any one year in Alaska. Individuals can submit responses more than once during an eruption to report ashfall details.

Total Estimated Number of Annual Responses: Approximately 575 individuals affected by a volcanic ashfall event each year.

Estimated Completion Time per Response: We estimate the public reporting burden will average 5 minutes per response. This includes the time for reviewing instructions and answering a web-based questionnaire.

Total Estimated Number of Annual Burden Hours: 79 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion, after each ashfall event.

Total Estimated Annual Nonhour Burden Cost: $736.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Thomas Murray,

Director, Volcano Science Center.

[FR Doc. 2019–14100 Filed 7–1–19; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N069; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill 2019 Draft Supplemental Restoration Plan; Mississippi Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for public comments.

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 Consent Decree, the Federal and State natural resource trustee agencies for the Mississippi Trustee Implementation Group (Mississippi TIG) have prepared a *Mississippi Trustee Implementation Group 2019 Draft Supplemental Restoration Plan: Grand Bay Land Acquisition and Habitat Management* (SRP) to evaluate funding additional land acquisition from willing sellers and habitat management within the Grand Bay Land Acquisition and Habitat Management project (Grand Bay Project) footprint. The Mississippi TIG originally evaluated and selected the Grand Bay Project as part of the *Mississippi Trustee Implementation Group 2016–2017 Restoration Plan/Environmental Assessment* (2016–2017 RP/EA). The SRP provides for an additional $10,000,000 for the Grand Bay Project. The Grand Bay Project would continue the process of conserving and restoring wetlands, coastal, and nearshore habitats injured as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. We invite comments on the draft SRP.

DATES: *Submitting Comments:* You must submit comments on the draft SRP on or before August 1, 2019.

ADDRESSES: *Obtaining Documents:* You may download the draft SRP from any of the following websites:

- *http://www.gulfspillrestoration.noaa.gov.*
- *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Alternatively, you may request a CD of the SRP (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: You may submit comments on the draft SRP by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/mississippi.*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. In order to be considered, mailed comments must be postmarked on or before the comment deadline given in DATES.

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

In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), the Final PDARP/PEIS, Record of Decision, and Consent Decree, the Federal and State natural resource trustee agencies for the Mississippi TIG have prepared a SRP to evaluate funding additional land acquisition from willing sellers and habitat management within the Grand Bay Land Acquisition and Habitat Management project (Grand Bay Project) footprint. The Mississippi TIG originally evaluated and selected the Grand Bay Project as part of the 2016–2017 RP/EA. The SRP provides for an additional $10,000,000 for the Grand Bay Project. The Grand Bay Project would continue the process of conserving and restoring wetlands, coastal, and nearshore habitats injured as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico.

The Mississippi TIG evaluated and selected several restoration projects from a reasonable range of alternatives described in the 2016–2017 RP/EA. Projects selected for implementation include the Grand Bay Project. As described in Section 3.4 of the 2016–2017 RP/EA, the Mississippi TIG allocated $6 million to initiate the acquisition and to commence management in nearshore coastal and wetland habitats within the Grand Bay Project boundary, which includes the acquisition boundaries of the Grand Bay National Wildlife Refuge (Refuge), the Grand Bay National Estuarine Research Reserve (NERR), and the Grand Bay Savanna Coastal Preserve (Preserve). The final 2016–2017 RP/EA can be found at *https://www.gulfspillrestoration.noaa.gov/2017/07/mississippi-trustee-implementation-group-releases-first-restoration-plan.*

Background

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 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 1990 (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 (MDEQ);

• 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.

On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a Consent Decree resolving civil claims by the *DWH* oil spill trustees against BP Exploration and Production Inc. (BP) arising from the *DWH* oil spill: *United States* v. *BPXP et al., Civ. No. 10–4536, centralized in MDL 2179, In re: Oil Spill by the Oil Rig* ''*Deepwater Horizon*'' *in the Gulf of Mexico, on April 20, 2010 (E.D. La.)* (*http://www.justice.gov/enrd/deepwater-horizon*). Pursuant to that Consent Decree, restoration projects in Mississippi are now selected and implemented by the Mississippi TIG. The Mississippi TIG is composed of one State and four Federal Trustees: MDEQ, DOI, NOAA, USDA, and EPA.

Overview of the Mississippi TIG SRP

The SRP 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.

The MS TIG proposes to allocate an additional $10 million in funding in this Draft SRP to support further acquisition and/or habitat management and project success monitoring within the boundary of the Grand Bay Project originally selected in the 2016–2017 RP/EA.

The proposal is intended to continue the process of using *Deepwater Horizon* restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Details are provided in the SRP. Additional restoration planning for the Mississippi Restoration Area will continue.

Next Steps

After the public comment period ends, the Trustees will consider and address the comments received before issuing a final SRP.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Administrative Record

The documents comprising the Administrative Record for this SRP can be viewed electronically at *https://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,

Department of the Interior, Director of Gulf of Mexico Restoration.

[FR Doc. 2019–14074 Filed 7–1–19; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1165]

Certain Barcode Scanners, Scan Engines, Products Containing the Same, and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 31, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Honeywell International, Inc. of Morris Plains, New Jersey, Hand Held Products, Inc. of Fort Mill, South Carolina, and Metrologic Instruments, Inc. of Fort Mill, South Carolina. Supplements to the Complaint were filed on June 7, 17, and 18, 2019. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain barcode scanners, scan engines, products containing the same, and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,465,970 (''the '970 patent''); U.S. Patent No. 8,978,985 (''the '985 patent''); U.S. Patent No. 7,148,923 (''the '923 patent''); U.S. Patent No. 7,527,206 (''the '206 patent''); U.S. Patent No. 9,659,199 (''the '199 patent''); and U.S. Patent No. 7,159,783 (''the '783 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2019).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 26, 2019, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 4–9, 13–21, 22, 23, 25–30, 34–42, 43, 44, 46–51, 55–63, and 85 of the '970 patent; claims 1, 2, 4–9, 12, 13, 15–21, 22, and 23–27 of the '985 patent; claims

1, 2–6, 8, 10, 19, 20–28, 29, and 30–33 of the '923 patent; claims 1, 2–3, 11, 12–14, 17, 19, 20, 21–23, 26 and 28 of the '206 patent; claims 1, 2–7, 8, 9–13, 14, and 15–20 of the '199 patent; and claims 9, 10–19, and 20 of the '783 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "barcode scanners, barcode readers, barcode decoders, stationary scanners, handheld scanners, companion scanners, cabled scanners, wireless scanners, mobile scanning devices, handheld computers, and/or scan engines";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Honeywell International, Inc., 115 Tabor Road, Morris Plains, NJ 07950
Hand Held Products, Inc., 9680 Old Bailes Road, Fort Mill, SC 29707
Metrologic Instruments, Inc., 9680 Old Bailes Road, Fort Mill, SC 29707

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Opticon, Inc., 2200 Lind Ave. SW, Suite 100, Renton, WA 98057
Opticon Sensors Europe B.V., Opaallaan 35, 2132 XV Hoofddorp, The Netherlands
OPTO Electronics Co., Ltd., 12–17, Tsukagoshi 4-chome, Warabi-city Saitama Pref., 335–0002, Japan
Hokkaido Electronic Industry Co., Ltd., 118–122 Kamiashibetsu-cho, Ashibetsu-shi, Hokkaido, 079–1371, Japan

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be named as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 27, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–14077 Filed 7–1–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–19–025]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 10, 2019 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–453 and 731–TA–1136–1137 (Second Review) (Sodium Nitrite from China and Germany). The Commission is currently scheduled to complete and file its determinations and views of the Commission by July 31, 2019.
5. Outstanding action jackets: None.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 26, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–14170 Filed 6–28–19; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Absolute Standards, 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 September 3, 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: In accordance with 21 CFR 1301.33(a), this is notice that on May 22, 2019, Absolute Standards, Inc., 44 Rossotto Drive, Hamden, Connecticut 06514–1335 applied to be registered as a bulk manufacturer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Pentobarbital	2270	II

The company plans to bulk manufacture the listed controlled substance for distribution to customers.

Dated: June 19, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14029 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Sigma Aldrich Co., LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 1, 2019. Such persons may also file a written request for a hearing on the application on or before August 1, 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 request 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:

In accordance with 21 CFR 1301.34(a), this is notice that on February 18, 2019, Sigma Aldrich Co., LLC, 3500 DeKalb Street, Saint Louis, Missouri 63118 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
Aminorex	1585	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxyamphetamine	7400	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocyn	7438	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
N-Benzylpiperazine	7493	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
Heroin	9200	I
Normorphine	9313	I
Etonitazene	9624	I
Amobarbital	2125	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
Phencyclidine	7471	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Levorphanol	9220	II
Meperidine	9230	II
Thebaine	9333	II
Opium, powdered	9639	II
Levo-alphacetylmethadol	9648	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis. In reference to drug codes 7360 and 7370 the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinol. No other activities for these drug codes are authorized for this registration.

Dated: June 18, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14025 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrant listed below has applied for and been granted registration by the Drug Enforcement

Administration (DEA) as importer of schedule I controlled substances.

SUPPLEMENTARY INFORMATION: The company listed below applied to be registered as an importer of basic class of controlled substances. Information on previously published notice is listed in the table below. No comments or objections were submitted and no requests for a hearing were submitted for this notice.

Company	FR Docket	Published
Sharp (Bethlehem), LLC.	84 FR 9837.	March 18, 2019

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrant to import the applicable basic class of schedule I controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I controlled substances to the above listed company.

Dated: June 3, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14023 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Bellwyck Clinical Services

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 August 1, 2019. Such persons may also file a written request for a hearing on the application on or before August 1, 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: In accordance with 21 CFR 1301.34(a), this is notice that on April 17, 2019, Bellwyck Clinical Services, 8946 Global Way, West Chester, Ohio 45069 applied to be registered as an importer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
Amphetamine ...	1100	II
Methylphenidate	1724	II
Oxycodone	9143	II

The company plans to import the listed controlled substances in dosage form to conduct clinical trials. Approval of permit applications will occur only when the registrant's activity is consistent with what is authorized under 21 U.S.C. 952(a) (2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: June 18, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14027 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Pisgah Laboratories, 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 September 3, 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: In accordance with 21 CFR 1301.33(a), this is notice that on March 5, 2019, Pisgah Laboratories, Inc., 3222 Old Hendersonville Highway, Pisgah Forest, North Carolina 28768 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Difenoxin	9168	I
Diphenoxylate ...	9170	II
Levorphanol	9220	II
Meperidine intermediate-B.	9233	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: June 19, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14028 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Lipomed

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 August 1, 2019. Such persons may also file a written request for a hearing on the application on or before August 1, 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 hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for 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: In accordance with 21 CFR 1301.34(a), this is notice that on March 28, 2019, Lipomed, 150 Cambridge Park Drive, Suite 705, Cambridge, Massachusetts 02140 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR–144 and XLR11 ([1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone)	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB–AMB, MMB–FUBINACA, AMB–FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F–AB–PINACA (N-(1-amino-3methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7025	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB; 5F–MDMB–PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
MMB–CHMICA , AMB–CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F–CUMYL–P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4–CN–CUMYL–BUTINACA, 4-cyano-CUMYL–BUTINACA, 4–CN–CUMYL BINACA, CUMYL–4CN–BINACA, SGT–78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboximide).	7089	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7221	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7)	7348	I
Marihuana extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2C–T–2, (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I

Controlled substance	Drug code	Schedule
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C–D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C–E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C–H (2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C–I (2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C–C (2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C–N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C–P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C–T–4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B–NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C–NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I–NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethylpentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
α-PVP (alpha-pyrrolidinopentiophenone)	7545	I
α-PBP (alpha-pyrrolidinobutiophenone)	7546	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT–45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I

Controlled substance	Drug code	Schedule
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-Methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Valeryl fentanyl	9840	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide)	9843	I
Cyclopropyl Fentanyl	9845	I
Cyclopentyl fentanyl	9847	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II

Controlled substance	Drug code	Schedule
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Dronabinol in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration	7365	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine-intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized in 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: June 18, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–14026 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0001]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Application for Cancellation of Removal (42A) for Certain Permanent Residents; and Application for Cancellation of Removal and Adjustment of Status (42B) for Certain Nonpermanent Residents

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, 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 an additional 30 days until August 1, 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 Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov*.

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 agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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:* Extension with changes to a currently approved collection.

2. *The Title of the Form/Collection:* Application for Cancellation of Removal for Certain Permanent Residents; and Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form numbers are EOIR–42A and EOIR–42B, Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual aliens determined to be removable from the United States. Other: None. Abstract: This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 27,999 respondents will complete the form annually with an average of 5 hours and 50 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 162,394 hours.

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.405B, Washington, DC 20530.

Dated: June 27, 2019.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–14064 Filed 7–1–19; 8:45 am]

BILLING CODE 4410–30–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Passive Residual Heat Removal Instrumentation Minimum Inventory Displays

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 162 and 160 to Combined Licenses (COLs), NPF–91 and NPF–92. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and

amendment are being issued concurrently.

DATES: The exemption and amendment were issued on June 12, 2019.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking website:* Go to *https://www.regulations.gov/*and search for Docket ID NRC–2008–0252. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was designated License Amendment Request (LAR) 18–030 and submitted by letter dated December 13, 2018 (ADAMS Accession No. ML18347B484).

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jennivine Rankin, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1530; email: *Jennivine.Rankin@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing License Amendment Nos. 162 and 160 to COLs NPF–91 and NPF–92 and is granting an exemption from Tier 1 information in the plant-specific DCD for the AP1000. The AP1000 DCD is incorporated by reference in appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR). The exemption, granted pursuant to paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' of 10 CFR part 52, appendix D, allows the licensee to depart from the Tier 1 information. With the requested amendment, SNC sought proposed changes that would revise the COL and licensing basis documents to identify passive residual heat removal (PRHR) heat exchanger (HX) inlet isolation valve status and PRHR HX control valve status as requiring main control room and remote shutdown workstation display and alert indications. Additionally, a change was proposed to remove duplicate Tier 2 information from Technical Report WCAP–15776, ''Safety Criteria for the AP1000 Instrumentation and Control Systems,'' Revision 0, that is incorporated by reference into the updated final safety analysis report.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in sections 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML19133A175.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML19133A169 and ML19133A170, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML19133A171 and ML19133A173, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated December 13, 2018, the SNC requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of LAR 18–030, ''Changes to Passive Residual Heat Removal (PRHR) Instrumentation Minimum Inventory Displays.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found at ADAMS Accession Number ML19133A175, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the licensee's request dated December 13, 2018. This exemption is related to, and necessary for the granting of License Amendment No. 162 [for Unit 3, 160 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML19133A175), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated December 13, 2018 (ADAMS Accession No. ML18347B484), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this document.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on February 12, 2019 (84 FR 3504). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on December 13, 2018. The exemption and amendment were issued on June 12, 2019, as part of a combined package to SNC (ADAMS Accession No. ML19133A167).

Dated at Rockville, Maryland, this 26th day of June, 2019.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 2, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2019–14039 Filed 7–1–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0140]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from June 4, 2019, to June 17, 2019. The last biweekly notice was published on June 18, 2019.

DATES: Comments must be filed by August 1, 2019. A request for a hearing must be filed by September 3, 2019.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0140. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001; telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0140, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0140.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0140, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html*. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html*. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 18, 2019. A publicly-available version is in ADAMS under Accession No. ML19049A027.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to permit one train of the Essential Services Chilled Water System (ESCWS) to be inoperable for up to 7 days, from the current 72 hours allowed outage time. In addition, the amendment would remove an expired note previously added to TSs by implementation of License Amendment 153.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

[*Response:* No.]

The operable train of the ESCWS and supported equipment will remain fully operable during the 7-day allowed outage time. The unavailable train of the ESCWS and supported equipment function as accident mitigators. The removal of a train of the ESCWS from service for a limited period of time does not affect any accident initiator and therefore cannot change the probability of an accident. The proposed change has been evaluated to assess the impact on systems affected and the upon design basis safety functions.

The activities covered by this LAR [license amendment request] also include defense-in-depth compensatory measures. There will be no effect on the analysis of any accident or the progression of the accident since the operable ESCWS train is capable of serving 100 percent of all the required heat loads. As such, there is no impact on consequence mitigation for any transient or accident.

The proposed changes to TS 3.1.2.4, TS 3.5.2, TS 3.6.2.1, TS 3.6.2.2, TS 3.6.2.3, TS 3.7.1.2, TS 3.7.3, TS 3.7.4, TS 3.7.6, TS 3.7.7, TS 3.7.13, and TS 3.8.1.1 that remove an expired note are administrative, non-technical changes which remove temporary TS requirements added as part of the HNP License Amendment 153 issued on September 16, 2016 (Agencywide Documents Access and Management System Accession No. ML16253A059), that are currently obsolete.

As a result, operation of the facility in accordance with the proposed changes will not significantly increase the consequences of accidents previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

[*Response:* No.]

The proposed amendment is an extension of the allowed outage time from 72 hours to 7 days for the ESCWS and its supported TS systems that includes Charging Pumps, ECCS [emergency core cooling system] subsystems, Containment Spray System, Containment Cooling System, and the Emergency Service Water System, 'B' Train. The requested change does not involve the addition or removal of any plant system, structure, or component.

The proposed TS changes do not affect the basic design, operation, or function of any of the systems associated with the TS impacted by the amendment. Implementation of the proposed amendment will not create the possibility of a new or different kind of accident from that previously evaluated.

The proposed changes to TS 3.1.2.4, TS 3.5.2, TS 3.6.2.1, TS 3.6.2.2, TS 3.6.2.3, TS 3.7.1.2, TS 3.7.3, TS 3.7.4, TS 3.7.6, TS 3.7.7, TS 3.7.13, and TS 3.8.1.1 that remove an expired note are administrative, non-technical changes which remove temporary TS requirements added as part of the HNP License Amendment 153 issued on September 16, 2016, that are currently obsolete.

In conclusion, this proposed LAR does not impact any plant systems that are accident initiators and does not impact any safety analysis. Therefore, operation of the facility in accordance with the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

[*Response:* No.]

The margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident condition. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of the fuel cladding, reactor coolant, and containment systems will not be impacted by the proposed LAR.

Additionally, the proposed amendment does not involve a change in the operation of the plant. The activity only extends the amount of time a train of the ESCWS is allowed to be inoperable to complete maintenance for equipment reliability. The incremental conditional core damage probability (ICCDP) and incremental conditional large early release probability (ICLERP) calculated for the 7-day AOT are within the limits presented in Regulatory Guides 1.174 and 1.177.

The proposed changes to TS 3.1.2.4, TS 3.5.2, TS 3.6.2.1, TS 3.6.2.2, TS 3.6.2.3, TS 3.7.1.2, TS 3.7.3, TS 3.7.4, TS 3.7.6, TS 3.7.7, TS 3.7.13, and TS 3.8.1.1 that remove an expired note are administrative, non-technical changes which remove temporary TS requirements added as part of the HNP License Amendment 153 issued on September 16, 2016, that are currently obsolete.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David Cummings, Associate General Counsel, Duke Energy Corporation, Mail Code DEC45, 550 South Tryon St., Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant (PNP), Van Buren County, Michigan

Date of amendment request: March 28, 2019, as supplemented by letter dated May 6, 2019. Publicly-available versions are in ADAMS under Accession Nos. ML19098A966, and ML19127A018, respectively.

Description of amendment request: The amendment would revise and modify the PNP technical specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program with the implementation of Technical Specifications Task Force (TSTF) Traveler TSTF–425, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b,'' Revision 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program [SFCP]. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the technical specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the Final Safety Analysis Report and Bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Entergy will perform a probabilistic risk evaluation using the guidance contained in NRC approved [Nuclear Energy Institute] NEI 04–10, Revision 1 in accordance with the TS SFCP. NEI 04–10, Revision 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna V. Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Acting Branch Chief: Lisa M. Regner.

Entergy Operations, Inc. (Entergy), Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 (ANO–1) and 2 (ANO–2), Pope County, Arkansas

Date of amendment request: April 29, 2019. A publicly-available version is in ADAMS under Accession No. ML19119A090.

Description of amendment request: The amendments would revise the license basis documents for ANO–1 and ANO–2, to utilize the Tornado Missile Risk Evaluator (TMRE) methodology as the licensing basis to qualify several components that have been identified as not conforming to the unit-specific current licensing basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment is to revise the ANO–1 and ANO–2 unit-specific SARs [Safety Analysis Reports] by reflecting the results of the TMRE analysis, which demonstrated that tornado-generated missile protection is not required for identified nonconforming structures, systems, and components (SSCs) on each unit. TMRE is an alternative methodology which can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The proposed amendment does not involve an increase in the probability of an accident previously evaluated. The relevant accident previously evaluated is a Design Basis tornado impacting the ANO site. The probability of a Design Basis tornado is driven by external factors and is not affected by the proposed amendment. There are no changes required to any of the previously evaluated accidents in the SAR.

The proposed amendment does not involve a significant increase in the consequences of a Design Basis tornado. TMRE is a risk-informed methodology for determining whether certain safety-related features that are currently not protected from tornado-generated missiles require such protection. The criteria for significant increase in consequences was established in the NRC Policy Statement on probabilistic risk assessment, which were incorporated into Regulatory Guide (RG) 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-specific Changes to the Licensing Basis.'' The TMRE calculations performed by Entergy meet the acceptance criteria of RG 1.174.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment is to revise the ANO–1 and ANO–2 unit-specific SARs by reflecting the results of the TMRE analysis, which demonstrated that tornado-generated missile protection is not required for identified nonconforming SSCs on each unit. TMRE is an alternative methodology which can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The proposed amendment involves no physical changes to the existing plants; therefore, no new malfunctions could create the possibility of a new or different kind of accident. The proposed amendment makes no changes to conditions external to the plants that could create the possibility of a new or different kind of accident. The proposed change does not create the possibility of a new or different kind of accident due to new accident precursors, failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases. The existing unit-specific SAR accident analyses will continue to meet requirements for the scope and type of accidents that require analysis.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is to revise the ANO–1 and ANO–2 unit-specific SARs by reflecting the results of the TMRE analysis, which demonstrated that tornado-generated missile protection is not required for identified nonconforming SSCs on each unit. TMRE is an alternative methodology which can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The change does not exceed or alter any controlling numerical value for a parameter established in the ANO–1 or ANO–2 SAR or elsewhere in the ANO unit-specific licensing basis related to design basis or safety limits. The change does not impact any unit specific accident analyses, and those analyses remain valid. The change does not reduce diversity or redundancy as required by regulation or credited in the unit-specific SAR. The change does not reduce defense-in-depth as described in the unit-specific SAR.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One (ANO), Unit 2, Pope County, Arkansas

Date of amendment request: April 30, 2019. A publicly-available version is in ADAMS under Accession No. ML19120A086.

Description of amendment request: The amendment would modify the ANO, Unit 2, Technical Specifications (TSs) by adopting Technical Specifications Task Force (TSTF)–563, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program,'' which would revise the definitions of Channel Calibration and Channel Functional Tests in the ANO, Unit 2 TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP [surveillance frequency control program]. All components in the channel continue to be tested. The frequency at which a channel test is performed is not an initiator of any accident previously evaluated; therefore, the probability of an accident is not affected by the proposed change. The channels surveilled in accordance with the affected definitions continue to be required to be operable and the acceptance criteria of the surveillances are unchanged. As a result, any mitigating functions assumed in the accident analysis will continue to be performed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP. The design function or operation of the components involved are not affected and there is no physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed). No credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases are introduced. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP. The SFCP assures sufficient safety margins are maintained, and that the design, operation, surveillance methods, and acceptance criteria specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plants' licensing basis. The proposed change does not adversely affect existing plant safety margins, or the reliability of the equipment assumed to operate in the safety analysis. As such, there are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change. Margins of safety are unaffected by method of determining surveillance test intervals under an NRC-approved licensee-controlled program.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant (CCNPP), Units 1 and 2, Calvert County, Maryland

Date of amendment request: May 6, 2019. A publicly-available version is in ADAMS under Accession No. ML19127A076.

Description of amendment request: The amendments would revise CCNPP, Units 1 and 2, Technical Specification Limiting Condition for Operation 3.4.15, ''RCS [Reactor Coolant System] Specific Activity,'' and associated surveillance requirements. The proposed changes would replace the current technical specification limit on reactor coolant system gross specific activity with a new limit on reactor coolant system noble gas specific activity. The noble gas specific activity limit would be based on a new definition of ''DOSE EQUIVALENT XE–133'' that would replace the current definition of ''Ē-AVERAGE DISINTEGRATION ENERGY.'' Also, the current definition of ''DOSE EQUIVALENT I–131'' would be revised. The proposed changes are consistent with NRC-approved Technical Specifications Task Force (TSTF) Traveler, TSTF–490, Revision 0, ''Deletion of E Bar Definition and Revision to RCS Specific Activity Tech Spec.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Reactor coolant specific activity is not an initiator for any accident previously evaluated. The Completion Time when primary coolant gross activity is not within limit is not an initiator for any accident previously evaluated. The current variable limit on primary coolant iodine concentration is not an initiator to any accident previously evaluated. As a result, the proposed change does not significantly increase the probability of an accident. The proposed change will limit primary coolant noble gases to concentrations consistent with the accident analyses. The proposed change to the Completion Time has no impact on the consequences of any design basis accident since the consequences of an accident during the extended Completion Time are the same as the consequences of an accident during the Completion Time. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change in specific activity limits does not alter any physical part of the plant nor does it affect any plant operating parameter. The change does not create the potential for a new or different kind of accident from any previously calculated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the limits on noble gas radioactivity in the primary coolant. The proposed change is consistent with the assumptions in the safety analyses and will ensure the monitored values protect the initial assumptions in the safety analyses. Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: James G. Danna.

Florida Power & Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: May 20, 2019. A publicly-available version is in ADAMS under Accession No. ML19140A100.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) by relocating the requirements for the Motor Operated Valve (MOV) Thermal Overload Protection Bypass Devices to licensee-controlled documents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the MOV Thermal Overload Protection Bypass Devices requirements to licensee control whereby future changes are subject to the regulatory controls of 10 CFR 50.59. Relocating the MOV Thermal Overload Protection Bypass Devices requirements neither affects the physical design of any plant structure, system, or component (SSC), nor the manner in which SSCs are operated and controlled. MOV thermal overload protection, and the need to bypass the protection, do not satisfy the four 10 CFR 50.36c(2)(ii) criterion for TS inclusion and are thereby appropriate for relocation, consistent with the NRC Final Policy Statement on TS Improvements. Implementing NRC policies developed to assure compliance with applicable regulations cannot adversely affect the likelihood or outcome of any design basis accident.

Therefore, the proposed license amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to relocate the MOV Thermal Overload Protection Bypass Devices requirements to licensee control does not install new plant equipment or modify existing plant equipment or modify the manner in which existing plant equipment is operated and controlled. Hence no new failures modes can result from the proposed change. MOV Thermal Overload Protection and the need to bypass the protection during accident conditions are not credited in safety analyses and therefore cannot alter or create new inputs, assumptions or limits associated with accident analyses. MOV thermal overload protection, and the need to bypass the protection, do not satisfy the four 10 CFR 50.36c(2)(ii) criterion for TS inclusion and are thereby appropriate for relocation consistent with the NRC Final Policy Statement on TS Improvements. Implementing NRC policies developed to assure compliance with applicable regulations cannot create new. or different kinds of accidents.

Therefore, the proposed license amendments would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change relocates the MOV Thermal Overload Protection Bypass Devices requirements to licensee control whereby future changes will be subject to the regulatory controls of 10 CFR 50.59. The proposed change does not involve changes to any safety analyses, safety limits or limiting safety system settings. The proposed change does not adversely impact plant operating margins or the reliability of equipment credited in safety analyses. The proposed change implements the NRC Final Policy Statement on TS Improvements for the MOV thermal overload protection bypass devices. Implementing NRC policies developed to assure compliance with applicable regulations cannot result in a reduction in the margin of safety.

Therefore, the proposed license amendment would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Undine Shoop.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: April 19, 2019. A publicly-available version is in ADAMS under Accession No. ML19109A031.

Description of amendment request: The licensee proposes to change the technical specifications (TSs) for DAEC to permit changes in plant operations when the plant is permanently defueled in the fourth quarter of 2020. Specifically, the licensee proposes to revise the TSs to support the implementation of the certified fuel handler and non-certified operator positions. In addition, certain organization, staffing, and training requirements in the TSs will be revised. The proposed amendment would also make other administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve any physical changes to plant Structures, Systems, and Components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. The proposed changes do not involve a change to any safety limits, limiting safety system settings, limiting control settings, limiting conditions for operation, surveillance requirements, or design features.

The deletion and modification of provisions of the administrative controls do not directly affect the design of SSCs necessary for safe storage of spent irradiated fuel or the methods used for handling and storage of such fuel in the Spent Fuel Pool (SFP). The proposed changes are administrative in nature and do not affect any accidents applicable to the safe management of spent irradiated fuel or the permanently shutdown and defueled condition of the reactor.

DAEC's accident analyses are contained in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). In a permanently defueled condition, the only credible UFSAR described accident that remains is the Fuel Handling Accident (FHA). Other Chapter 15 accidents will no longer be applicable to a permanently defueled reactor plant.

The probability of occurrence of previously evaluated accidents is not increased, since extended operation in a permanently defueled condition will be the only operation allowed, and therefore, bounded by the existing analyses. Additionally, the occurrence of postulated accidents associated with reactor operation is no longer credible in a permanently defueled reactor. This significantly reduces the scope of applicable accidents.

Therefore, the proposed changes do not involve an increase in the probability or consequences of a previously evaluated accident.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on facility SSCs affecting the safe storage of the spent irradiated fuel, or on the methods of operation of such SSCs, or on the handling and storage of spent irradiated fuel itself. The proposed changes do not result in different or more adverse failure modes or accidents than previously evaluated because the reactor will be permanently shut down and defueled and DAEC will no longer be authorized to operate the reactor.

The proposed changes do not affect systems credited in the accident analysis for the FHA at DAEC. The proposed changes will continue to require proper control and monitoring of safety significant parameters and activities.

The proposed changes do not result in any new mechanisms that could initiate damage to the remaining relevant safety barriers in support of maintaining the plant in a permanently shutdown and defueled condition (*e.g.,* fuel cladding and SFP cooling). Since extended operation in a defueled condition will be the only operation allowed, and therefore bounded by the existing analyses, such a condition does not create the possibility of a new of different kind of accident.

The proposed changes do not alter the protection system design, create new failure modes, or change any modes of operation. The proposed changes do not involve a physical alteration of the plant, and no new or different kind of equipment will be installed. Consequently, there are no new initiators that could result in a new or different kind of accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes involve adding TS definitions and deleting and/or modifying certain TS administrative controls once the DAEC facility has been permanently shut down and defueled. As specified in 10 CFR 50.82(a)(2), the 10 CFR 50 license for DAEC will no longer authorize operation of the reactor or emplacement or retention of fuel into the reactor vessel following submittal of the certifications required by 10 CFR 50.82(a)(1). As a result, the occurrence of certain design basis postulated accidents are no longer considered credible when the reactor is permanently defueled.

The only remaining credible UFSAR described accident is a FHA. The proposed changes do not adversely affect the inputs or assumptions of any of the design basis analyses that impact the FHA.

The proposed changes are limited to those portions of the TS definitions and administrative controls that are related to the safe storage and maintenance of spent irradiated fuel. The requirements that are proposed to be revised and/or deleted from the DAEC TS are not credited in the existing accident analysis for the remaining postulated accident (*i.e.,* FHA); therefore, they do not contribute to the margin of safety associated with the accident analysis. Certain postulated DBAs [design-basis accidents] involving the reactor are no longer possible because the reactor will be permanently shut down and defueled and DAEC will no longer be authorized to operate the reactor.

Therefore, the proposed changes have no impact to the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Steven Hamrick, Managing Attorney—Nuclear, Florida Power Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Acting Branch Chief: Lisa M. Regner.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: May 10, 2019. A publicly-available version is in ADAMS under Accession No. ML19134A059.

Description of amendment request: The amendment request proposes changes to the Combined License (COL) Numbers NPF–91 and NPF–92 for VEGP Units 3 and 4. The requested amendment proposes to delete redundant plant-specific emergency planning Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) from VEGP Units 3 and 4 COL Appendix C that are bounded by other ITAAC or redundant to document submittal regulatory requirements. The proposed changes do not involve changes to the approved emergency plan, the plant-specific Tier 2 Design Control Document, or the VEGP Unit 3 and 4 emergency preparedness exercise schedule requirements prescribed in 10 CFR part 50, Appendix E, Sections IV.F.2.a.ii, IV.F.2.a.iii, IV.F.2.b and IV.F.2.c for multi-unit sites.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The VEGP Unit 3 and 4 emergency planning Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The proposed changes do not affect the design of a system, structure, or component (SSC) used to meet the design bases of the nuclear plant. The changes do not affect the construction or operation of the nuclear plant itself, so there is no change to the probability or consequences of an accident previously evaluated. The deletion of redundant VEGP Unit 3 and 4 emergency planning ITAAC does not affect prevention and/or mitigation of abnormal events (*e.g.,* accidents, anticipated operational occurrences, earthquakes, floods, or turbine missiles) or the applicable safety and design analyses. No safety-related SSC or function is adversely affected. The changes do not involve or interface with any SSC accident initiator or initiating sequence of events, so the probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected.

The proposed activity will not allow for a new fission product release path, nor will it result in a new fission product barrier failure mode or create a new sequence of events that would result in fuel cladding failures. The changes do not involve any safety-related SSC or function used to mitigate an accident. Therefore, the consequences of accidents previously evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The VEGP Unit 3 and 4 emergency planning ITAAC provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The deletion of redundant VEGP Unit 3 and 4 emergency planning ITAAC does not affect the design of a system, structure, or component (SSC) used to meet the design bases of the nuclear plant.

The changes do not affect the construction or operation of any systems or equipment such that a new or different kind of accident, failure mode, or malfunction is created, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The VEGP Unit 3 and 4 emergency planning ITAAC provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The deletion of redundant VEGP Unit 3 and 4 emergency planning ITAAC does not adversely affect safety-related equipment or fission product barriers. No safety analysis or design basis acceptance limit or criterion is challenged or exceeded by the proposed change.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer L. Dixon-Herrity.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: April 23, 2019. A publicly-available version is in ADAMS under Accession No. ML19113A282.

Description of amendment request: The amendments would revise the technical specification (TS) safety limit (SL) on minimum critical power ratio (MCPR) to reduce the need for cycle-specific changes to the value, while still meeting the regulatory requirement for an SL, by adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–564, Revision 2, ''Safety Limit MCPR,'' which is an approved change to the Improved Standard Technical Specifications, into the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment revises the TS [safety limit MCPR] SLMCPR and the list of core operating limits to be included in the Core Operating Limits Report (COLR). The SLMCPR is not an initiator of any accident previously evaluated. The revised safety limit values continue to ensure for all accidents previously evaluated that the fuel cladding will be protected from failure due to transition boiling. The proposed change does not affect plant operation or any procedural or administrative controls on plant operation that affect the functions of preventing or mitigating any accidents previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment revises the TS SLMCPR and the list of core operating limits to be included in the COLR. The proposed change will not affect the design function or operation of any structures, systems or components (SSCs). No new equipment will be installed. As a result, the proposed change will not create any credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment revises the TS SLMCPR and the list of core operating limits to be included in the COLR. This will result in a change to a safety limit, but will not result in a significant reduction in the margin of safety provided by the safety limit. As discussed in the application, changing the SLMCPR methodology to one based on a 95% probability with 95% confidence that no fuel rods experience transition boiling during an anticipated transient instead of the current limit based on ensuring that 99.9% of the fuel rods are not susceptible to boiling transition does not have a significant effect on plant response to any analyzed accident. The SLMCPR and the TS Limiting Condition for Operation (LCO) on MCPR continue to provide the same level of assurance as the current limits and do not reduce a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.

NRC Branch Chief: Michael T. Markley.

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and

Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: May 17, 2018, as supplemented by letter dated February 26, 2019.

Brief description of amendments: The amendments revise Technical Specification (TS) 3.8.1, ''AC [Alternating Current] Sources—Operating,'' by adding a surveillance requirement that verifies the ability of the Keowee Hydroelectric Unit auxiliary power system to automatically transfer from its normal auxiliary power source to its alternate auxiliary power source.

Date of issuance: June 14, 2019.

Effective date: As of its date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 411, 413, and 412. A publicly-available version is in ADAMS under Accession No. ML19140A026; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–38, DPR–47 and DPR–55: Amendments revised the Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register***: August 28, 2018 (83 FR 43904). The supplemental letter dated February 26, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 14, 2019.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC, Docket No. 50–416, Grand Gulf Nuclear Station (Grand Gulf), Unit 1, Claiborne County, Mississippi

Date of amendment request: April 12, 2018, as supplemented by letters dated June 7, 2018, November 30, 2018, and March 6, 2019.

Brief description of amendment: The amendment revised the Grand Gulf Technical Specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program with the adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b.'' Additionally, the amendment added a new program, the Surveillance Frequency Control Program to TS Chapter 5.0, ''Administrative Controls.''

Date of issuance: June 11, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No: 219. A publicly-available version is in ADAMS under Accession No. ML19094A799; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–29: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register***: July 31, 2018 (83 FR 36975). The supplemental letters dated November 30, 2018, and March 6, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 2019.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station (Oyster Creek), Ocean County, New Jersey

Date of amendment request: October 22, 2018, as supplemented by letters dated November 6, 2018, and February 13, 2019.

Brief description of amendment: The amendment revised the effective and implementation dates of Amendment No. 294 for the Oyster Creek Permanently Defueled Emergency Plan (PDEP) and Emergency Action Level (EAL) scheme for the permanently defueled condition.

Date of issuance: June 11, 2019.

Effective date: As of June 29, 2019, and shall be implemented within 30 days of the effective date.

Amendment No.: 296. A publicly available version is in ADAMS under Accession No. ML19098A258; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–16: The amendment revised the Renewed Facility Operating License.

Date of initial notice in ***Federal Register***: December 18, 2018 (83 FR 64894). The supplemental letter dated February 13, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 2019.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station (CPS), Unit No. 1, DeWitt County, Illinois

Date of amendment request: September 17, 2018. A publicly-available version is in ADAMS under Accession No. ML18260A307.

Brief description of amendment: The amendment recaptured low-power testing time to extend the full-power operating license (FPOL) to expire on April 17, 2027, instead of the current expiration date of September 29, 2026.

Date of issuance: June 12, 2019.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No: 224. A publicly-available version is in ADAMS under Accession No. ML19109A001; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–62: The amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register***: January 31, 2019 (84 FR 813).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 12, 2019.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: June 26, 2018.

Brief description of amendment: The amendments revised TS 1.3, ''Completion Times'' Example 1.3–3, TS 3.6.5, ''Containment Spray and Cooling Systems,'' TS 3.7.5, ''Auxiliary Feedwater (AFW) System,'' TS 3.7.8, ''Cooling Water (CL) System,'' TS 3.8.1, ''AC Sources—Operating,'' and TS 3.8.9, ''Distribution Systems—Operating'' by eliminating the second completion time in accordance with Technical Specifications Task Force (TSTF)–439, Revision 2, ''Eliminate Second Completion Times Limiting Time from Discovery of Failure to Meet an LCO [limiting condition for operation].''

Date of issuance: June 6, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 227–Unit 1; 215–Unit 2. A publicly-available version is in ADAMS under Accession No. ML19128A133; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–42 and DPR–60: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register***: August 14, 2018 (83 FR 40351)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 6, 2019.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: September 27, 2018.

Brief description of amendment: The amendments revised Surveillance Requirement 4.7.7.b of TS Section 3/4.7.7, ''Control Room Makeup and Cleanup Filtration System,'' to operate for at least 15 continuous minutes at a frequency controlled in accordance with the Surveillance Frequency Control Program by adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 Hours per Month.'' The NRC approved TSTF–522, Revision 0, as a part of the consolidated line item improvement process on September 20, 2012 (77 FR 58421).

Date of issuance: June 6, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: Unit 1—215; Unit 2—201. A publicly-available version is in ADAMS under Accession No. ML19067A222; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register***: January 2, 2019 (84 FR 25)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 6, 2019.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant, Unit 2, Rhea County, Tennessee

Date of amendment request: May 14, 2018, as supplemented by letter dated November 8, 2018.

Brief description of amendment: The amendment revised the Technical Specifications to implement a voltage-based alternate repair criteria (ARC) for degraded steam generator (SG) tubes in the Unit 2 Westinghouse Model D3 SGs. The ARC follow the guidelines set forth in NRC Generic Letter 95–05, ''Voltage-Based Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.''

Date of issuance: June 3, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 28. A publicly-available version is in ADAMS under Accession No. ML19063B721; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–96: Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register***: November 20, 2018 (83 FR 58618). The supplemental letter dated November 8, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 2019.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–390 and 50–391, Watts Bar Nuclear Plant, Units 1 and 2, Rhea County, Tennessee

Date of amendment request: February 28, 2018, as supplemented by letters dated November 9, 2018, and March 21, 2019.

Brief description of amendment: The amendments revised Technical Specification 3.8.9 to add a new Condition C with an 8-hour completion time for performing maintenance on the opposite unit's vital bus when the opposite unit is in Mode 5, Mode 6, or defueled.

Date of issuance: June 7, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 126 and 29. A publicly-available version is in ADAMS under Accession No. ML19098A774; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–90 and NPF–96: Amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register***: November 20, 2018 (83 FR 58619). The supplemental letters dated November 9, 2018, and March 21, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 7, 2019.

No significant hazards consideration comments received: No.

United States Maritime Administration (MARAD), Docket No. 50–238, Nuclear Ship SAVANNAH (NSS), Baltimore, Maryland

Date of application for amendment: June 19, 2018.

Brief description of amendment: The amendment revised the Technical Specifications to establish and incorporate reporting requirements for a Process Control Program, an Offsite Dose Calculation Manual, a Radioactive Effluent Controls Program, and a Radiological Environmental Monitoring Program.

Date of issuance: June 18, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 17. A publicly-available version is in ADAMS under Accession No. ML19085A482. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 26, 2018.

Facility Operating License No. NS–1: This amendment revises the Technical Specifications of the License.

Date of initial notice in ***Federal Register***: August 14, 2018 (83 FR 40352).

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of amendment request: March 2, 2018, as supplemented by letter dated October 25, 2018.

Brief description of amendments: The amendments revised the Surry Power Station (SPS), Unit Nos. 1 and 2 Technical Specifications consistent with Revision 0 to the Technical Specification Task Force (TSTF) Traveler, TSTF–490, ''Deletion of E Bar Definition and Revision to RCS [reactor coolant system] Specific Activity Tech Spec.'' The amendments adopted TSTF–490, Revision 0, and made associated changes, which included replacing the current limits on primary coolant gross specific activity with limits on primary coolant noble gas specific activity. The amendments also updated the Alternative Source Term (AST) analyses bases for new codes, revised atmospheric dispersion factors, new fuel handling accident fuel rod gap fractions and control room isolation operator action time, and elimination of the locked rotor accident dose consequences.

Date of issuance: June 12, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 295 and 295. A publicly-available version is in ADAMS under Accession No. ML19028A384; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register***: June 19, 2018, 83 FR 28465. The supplemental letter dated October 25, 2018 provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 12, 2019.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 26th day of June 2019.

For the Nuclear Regulatory Commission.

Blake D. Welling,

Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–14001 Filed 7–1–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of July 1, 8, 15, 22, 29, August 5, 12, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 1, 2019

There are no meetings scheduled for the week of July 1, 2019.

Week of July 8, 2019—Tentative

There are no meetings scheduled for the week of July 8, 2019.

Week of July 15, 2019—Tentative

There are no meetings scheduled for the week of July 15, 2019.

Week of July 22, 2019—Tentative

There are no meetings scheduled for the week of July 22, 2019.

Week of July 29, 2019—Tentative

There are no meetings scheduled for the week of July 29, 2019.

Week of August 5, 2019—Tentative

There are no meetings scheduled for the week of August 5, 2019.

Week of August 12, 2019—Tentative

Wednesday, August 14, 2019

9:00 a.m. Hearing on Early Site Permit for the Clinch River Nuclear Site: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Mallecia Sutton: 301–415–0673)

This hearing will be webcast live at the web address—*http://www.nrc.gov/*.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov*. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov*.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–14181 Filed 6–28–19; 11:15 am]

BILLING CODE 7590–01–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:* July 2, 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 June 25, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 63 to Competitive Product List*. Documents are available at *www.prc.gov,* Docket Nos. MC2019–158, CP2019–177.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–14116 Filed 7–1–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86203; File No. SR–BX–2019–021]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize the Exchange's By-Law Provisions Regarding the Size of the Exchange's Board of Directors to Those of the Other Nasdaq, Inc.-Owned U.S. Exchanges

June 26, 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 June 17, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to harmonize the Exchange's By-Law provisions regarding the size of the Exchange's Board of Directors (''Board'') to those of the other Nasdaq, Inc.-owned U.S. exchanges, The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''Phlx''), Nasdaq ISE, LLC (''ISE''), Nasdaq GEMX, LLC (''GEMX''), and Nasdaq MRX, LLC (''MRX'') (together, ''Affiliated Exchanges'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its By-Laws at Article IV, Section 4.2 [3] to conform its provisions regarding the size of the Exchange's Board to those of the Affiliated Exchanges.[4]

By-Law Article IV contains provisions regarding the powers and composition of the Board, which are generally aligned with similar provisions in the Limited Liability Company (''LLC'') Agreements and By-Laws of the Affiliated Exchanges. For instance, as is the case with the Affiliated Exchanges, the composition of the Exchange's Board is required to reflect a balance among Industry Directors,[5] Member Representative Directors,[6] and Non-Industry Directors,[7] including Public Directors [8] and Director representatives of issuers and investors (''issuer representatives''). Specifically, the number of Non-Industry Directors, including at least one Public Director and at least one issuer representative, shall equal or exceed the sum of the number of Industry Directors and Member Representative Directors. In addition, at least 20% of the Directors shall be Member Representative Directors.[9]

Furthermore, consistent with the Affiliated Exchanges, the Exchange's By-Laws presently allow the stockholders [10] to set the exact number of Directors.[11] Unlike the Affiliated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Exhibit 5, the references to ''Corporation'' mean the Exchange.

[4] *See* Nasdaq Second Amended Limited Liability Company Agreement (''Nasdaq LLC Agreement''), Section 9(a); Phlx Second Amended Limited Liability Company Agreement (''Phlx LLC Agreement''), Section 8(a); and ISE, GEMX, and MRX Limited Liability Company Agreements, Section 9(a).

[5] ''Industry Director'' means a Director (excluding any two officers of the Exchange, selected at the sole discretion of the Board, amongst those officers who may be serving as Directors (the ''Staff Directors'')), who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (iii) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (iv) provides professional services to brokers or dealers, and such services constitute twenty percent or more of the professional revenues received by the Director or twenty percent or more of the gross revenues received by the Director's firm or partnership; (v) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns fifty percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute twenty percent or more of the professional revenues received by the Director or twenty percent or more of the gross revenues received by the Director's firm or partnership; or (vi) has a consulting or employment relationship with or provides professional services to the Exchange or any affiliate thereof or to FINRA or has had any such relationship or provided any such services at any time within the prior three years. *See* By-Law Article I(t).

[6] ''Member Representative Director'' means a Director who has been elected by the stockholders after having been nominated by the Member Nominating Committee or voted upon by Exchange Members pursuant to the By-Laws (or elected by the stockholders without such nomination or voting in the case of the Member Representative Directors elected pursuant to Section 4.3(b)). A Member Representative Director may, but is not required to be, an officer, director, employee, or agent of an Exchange Member. *See* By-Law Article I(x). Member Representative Directors are directors that meet the fair representation requirement in Section 6(b)(3) of the Act, which requires that the ''rules of the Exchange assure a fair representation of its members in the selection of its directors and administration of its affairs. . .''

[7] ''Non-Industry Director'' means a Director (excluding Staff Directors) who is (i) a Public Director; (ii) an officer or employee of an issuer of securities listed on the Exchange; or (iii) any other individual who would not be an Industry Director. *See* By-Law Article I(bb).

[8] ''Public Director'' means a Director who has no material business relationship with a broker or dealer, the Exchange or its affiliates, or FINRA. *See* By-Law Article I(gg).

[9] *See* By-Law Article IV, Section 4.3. The Affiliated Exchanges have substantially similar board composition requirements, including the requirement that at least 20% of the directors be Member Representative Directors. In addition, the By-Laws of Nasdaq, ISE, GEMX, and MRX each have an additional board composition requirement of at least two issuer representatives if the board consists of ten or more directors. *See* Nasdaq LLC Agreement, Section 9(a) and Nasdaq By-Laws, Article III, Section 2(a); Phlx LLC Agreement, Section 8(a) and Phlx By-Laws, Article III, Section 3–2(a); and ISE, GEMX, and MRX LLC Agreements, Section 9(a) and ISE, GEMX, and MRX By-Laws, Article III, Section 2(a).

[10] Nasdaq, Inc. is the sole stockholder of the Exchange.

[11] *See* By-Law Article IV, Section 4.2. *See supra* note 4.

Exchanges, however, the Exchange's By-Laws require that the minimum Board size be fixed at ten Directors.[12] The Exchange now proposes to remove the minimum threshold of ten Directors contained in the By-Laws to align with the provisions in the LLC Agreements of the Affiliated Exchanges. The Exchange does not seek to amend the Board's authority or qualification requirements in the By-Laws other than to remove this minimum threshold. As such, the current requirements that the number of Non-Industry Directors (including at least one Public Director and at least one issuer representative) equal or exceed the sum of the number of Industry Directors and Member Representative Directors, and at least 20% of the Directors be Member Representative Directors, would continue to apply.

The practical effect of the proposed rule change is to enable the size of the Board to be set below ten members. The Exchange believes that a Board consisting of less than ten members is sufficiently large to effectively perform the Board's oversight responsibilities, and when combined with the current Board composition requirements discussed above, is consistent with the Act. Furthermore, as noted above, while the Affiliated Exchanges have substantially similar provisions in their respective LLC Agreements authorizing the sole member to determine the number of directors, these LLC Agreement provisions do not have a strict minimum threshold on Board size like BX.[13] As such, the proposed changes will further streamline the rules governing the organization and administration across BX and the Affiliated Exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(1) of the Act,[15] which requires that the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange; Section 6(b)(3) of the Act,[16] which requires that the rules of a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer; and Section 6(b)(5) of the Act,[17] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed changes will eliminate the requirement for a minimum of ten Directors on the Board currently in Article IV, Section 4.2 of the Exchange's By-Laws. As discussed above, the current Board composition requirements in the By-Laws remain unchanged under this proposal, and the requirements that the number of Non-Industry Directors (including at least one Public Director and at least one issuer representative) equal or exceed the sum of the number of Industry Directors and Member Representative Directors, and at least 20% of the Directors be Member Representative Directors, would continue to apply. Accordingly, the Exchange believes that the proposed removal of the minimum threshold will improve administrative efficiency and effectiveness by operating with a smaller number of directors while continuing to fulfill its statutory obligations regarding the fair representation of members of the Exchange. In addition, the proposed amendments will have the additional benefit of bringing the Exchange's requirements on Board size into greater conformity with those of the Affiliated Exchanges, which allow for discretion as to the size of their boards, thereby creating more consistent standards among the affiliated exchanges owned by Nasdaq, Inc.[18] As such, the Exchange believes that its proposal will bring greater consistency to its rules, which is beneficial to both investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates solely to the administration and governance of the Exchange and will have no effect on the Exchange's business operations or competitive position.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6)[21] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[22] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that the annual meeting of the stockholder will take place in June 2019 to address the election of Directors as well as certain housekeeping items, which has historically included setting the size of the Board. The Exchange states that the waiver of the operative delay will allow the Exchange to harmonize its rules across the Affiliated Exchanges in a timely manner, thereby creating more consistent standards for the administration and governance across the Nasdaq, Inc.-owned affiliated exchanges. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the

[12] *See* By-Law Article IV, Section 4.2. Section 4.2 also provides that no decrease in the number of Directors shall shorten the term of any incumbent Director.

[13] *See supra* note 4.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(1).

[16] 15 U.S.C. 78f(b)(3).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* note 4.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change as operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2019–021 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–BX–2019–021. 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–BX–2019–021 and should be submitted on or before July 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–14053 Filed 7–1–19; 8:45 am]

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[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86204; File No. SR–BYX–2012–019]

Self-Regulatory Organization; Cboe BYX Exchange, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program

June 26, 2019.

On November 27, 2012, the Securities and Exchange Commission (''Commission'') issued an order pursuant to its authority under Rule 612(c) of Regulation NMS (''Sub-Penny Rule) [1] that granted the BATS BYX-Exchange, Inc. (k/n/a ''Cboe BYX'' or the ''Exchange'') a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement (''RPI'') Program (the ''Program''). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.[2] The exemption was granted coterminous with the effectiveness of the pilot Program and has been extended seven times; [3] both the pilot Program and exemption are scheduled to expire on December 31, 2018.

The Exchange now seeks to extend the exemption until September 30, 2019.[4] The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until September 30, 2019.[5] In its request to extend the exemption, the Exchange notes that the Program was implemented gradually over time. Accordingly, the Exchange has asked for additional time to allow itself and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the

[1] 17 CFR 242.612(c).

[2] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (''RPI Approval Order'') (SR–BXY–2012–019).

[3] *See* Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2012) (SR–BYX–2014–001) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 71250 (January 7, 2014), 79 FR 2234 (January 13, 2012) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 74111 (January 22, 2015), 80 FR 4598 (January 28, 2015) (SR–BYX–2015–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); and 74115 (January 22, 2015), 80 FR 4324 (January 27, 2015) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 76965 (January 22, 2016), 81 FR 4682 (January 27, 2016) (SR–BYX–2016–01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 76953 (January 21, 2016), 81 FR 4728 (January 27, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 78180 (June 28, 2016), 81 FR 43306 (July 1, 2016) (SR–BYX–2016–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 78178 (July 5, 2016), 81 FR 43689 (July 5, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 81368 (August 10, 2017), 82 FR 38960 (August 16, 2017) (SR-BatsBYX–2017–18) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 81364 (August 8, 2018), 82 FR 38733 (August 15, 2017) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 83758 (August 1, 2018), 83 FR 38757 (August 7, 2018) (SR-CboeBYX–2018–015) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 83756 (August 1, 2018), 83 FR 38748 (August 7, 2018) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 84830 (December 17, 2018) 83 FR 65769 (December 21, 2018) (SR-CboeBYX–2018–025) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 84845 (December 18, 2018), 83 FR 66329 (December 26, 2018) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program). The Exchange filed to make the pilot program permanent, but subsequently withdrew that filing. *See* Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR-CboeBYX–2018–014); 85586 (April 10, 2019), 84 FR 15657 (April 16, 2019) (SR–CBOE–2018–014).

[4] *See* letter from Adrian Griffiths, Assistant General Counsel, Cboe BYX, to Vanessa Countryman, Secretary, Commission, dated June 25, 2019.

[5] *See* SR-CboeBYX–2019–010.

Commission, as well as to allow additional opportunities for greater participation in the Program.[6] For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

Therefore, it is hereby ordered, that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612(c) of Regulation NMS that allows it to accept and rank orders priced equal to or greater than $1.00 per share in increments of $0.001, in connection with the operation of its RPI Program.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14059 Filed 7–1–19; 8:45 am]

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[6] *See* RPI Approval Order, *supra* note 2, at 77 FR at 71657.

[7] 17 CFR 200.30–3(a)(83).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33535; 812–15039]

WicShares Trust and Water Island Capital, LLC; Notice of Application

June 27, 2019.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

APPLICANTS: WicShares Trust (the ''Trust''), a Delaware statutory trust, that intends to register under the Act as a series open-end management investment company, and Water Island Capital, LLC (the ''Initial Adviser''), a Delaware Limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on June 11, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 22, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: WicShares Trust and Water Island Capital, LLC, 41 Madison Avenue, 42nd Floor, New York, New York 10010; Counsel for Applicants: Fatima S. Sulaiman, Esq. and Stacy L. Fuller, Esq., K&L Gates LLP, 1601 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Edward J. Rubenstein, Senior Special Counsel, at (202) 551–6854, or Nadya B. Roytblat, Assistant Director, at (202) 551–6823 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor

[1] Applicants request that the order apply to the initial series of the Trust and any additional series of the Trust, and any other existing or future open-end management investment company or existing or future series thereof (each, included in the term ''Fund''), each of which will operate as an ETF, and their respective existing or future master funds, and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index'' Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each of the foregoing and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

will compile, create, sponsor, or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed, or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (the ''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14112 Filed 7–1–19; 8:45 am]

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[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by, or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–537, OMB Control No. 3235–0597]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 31 and Form R31

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'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 31 (17 CFR 240.31) and Form R31 (17 CFR 249.11) under the Securities Exchange Act of 1934 (15 U.S.C. 78ee) (''Exchange Act'').

Section 31 of the Exchange Act requires the Commission to collect fees and assessments from national securities exchanges and national securities associations (collectively, ''self-regulatory organizations'' or ''SROs'') based on the volume of their securities transactions. To collect the proper amounts, the Commission adopted Rule 31 and Form R31 under the Exchange Act whereby each SRO must report to the Commission the volume of its securities transactions and the Commission, based on those data, calculates the amount of fees and assessments that each SRO owes pursuant to Section 31. Rule 31 and Form R31 require each SRO to provide these data on a monthly basis.

Currently, there are 26 respondents subject to the collection of information requirements of Rule 31: 22 national securities exchanges, one security futures exchange, one national securities association, and two registered clearing agencies that are required to provide certain data in their possession needed by the SROs to complete Form R31, although these two clearing agencies are not themselves required to complete and submit Form R31. The Commission estimates that the total burden for all 26 respondents is 390 hours per year. Based on previous and current experience, the Commission estimates that three additional national securities exchanges will become registered and subject to the reporting requirements of Rule 31 over the course of the authorization period and collectively incur a burden of 18 hours per year. Thus, the Commission estimates the total burden for the existing and expected new respondents to be 408 hours per year.

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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; or by sending an email to: Abate, Lindsay M. EOP/OMB *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 27, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14111 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86202; File No. SR–CboeEDGX–2019–028]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 21.22 (Complex Automated Improvement Mechanism)

June 26, 2019.

On April 26, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 21.22, Complex Automated Improvement Mechanism (''C–AIM'' or ''C–AIM Auction''), to permit the use of the Exchange's Automated Improvement Mechanism auction for complex orders. The proposed rule change was published for comment in the **Federal Register** on May 16, 2019.[3] On June 14, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comments regarding the proposal.

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 30, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change, as modified by Amendment No. 1. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1.

Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates August 14, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 1 (File No. SR–CboeEDGX–2019–028).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–14057 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85831 (May 10, 2019), 84 FR 22178.

[4] Amendment No. 1 revises the proposal to (1) cap the prices of C–AIM responses based on the Synthetic Best Bid or Offer and the prices of orders resting on the top of the Complex Order Book at the conclusion of the C–AIM Auction, rather than at the beginning of the C–AIM Auction; (2) incorporate the new defined terms ''C–AIM Auction period'' and ''final auction price'' into the proposed rule text; (3) provide additional justification for the proposal to allow an Options Market Maker registered in the applicable series on the Exchange to be solicited to participate in a C–AIM Auction for a complex order that includes those series; (4) provide additional justification for the proposal to allow Agency Orders to execute only against complex interest at the conclusion of a C–AIM Auction; (5) make non-substantive simplifying, clarifying, and correcting changes to the proposed rule text; and (6) make non-substantive clarifications and corrections to the Form 19b–4 discussion of the proposed rule change. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2019-028/srcboeedgx2019028-5679914-185869.pdf*.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86199; File No. SR–NYSEArca–2018–83]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 3, Regarding Changes to Investments of the iShares Bloomberg Roll Select Commodity Strategy ETF

June 26, 2019.

On December 19, 2018, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding changes to investments of the iShares Bloomberg Roll Select Commodity Strategy ETF, shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on December 31, 2018.[3] On February 13, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On March 6, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. On March 14, 2019, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 1. On March 21, 2019, the Commission published for comment the proposed rule change, as modified by Amendment No. 2, and instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On March 29, 2019, the Exchange filed Amendment No. 3 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 2.[7] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on December 31, 2018. June 29, 2019 is 180 days from that date, and August 28, 2019 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[9] designates August 28, 2019 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEArca–2018–83), as modified by Amendment No. 3.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–14056 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84931 (December 21, 2018), 83 FR 67741.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 85117, 84 FR 5124 (February 20, 2019). The Commission designated March 31, 2019, as the date by which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] *See* Securities Exchange Act Release No. 85385, 84 FR 11582 (March 27, 2019).

[7] Amendment No. 3 is available at: *https://www.sec.gov/comments/sr-nysearca-2018-83/srnysearca201883-5296847-183766.pdf.*

[8] 15 U.S.C. 78s(b)(2).

[9] *Id.*

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86201; File No. SR–NYSEArca–2013–107]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Liquidity Program Until September 30, 2019

June 26, 2019.

On December 23, 2013, the Securities and Exchange Commission (''Commission'') issued an order pursuant to its authority under Rule 612(c) of Regulation NMS (''Sub-Penny Rule'')[1] that granted NYSE Arca, Inc. (''Exchange'') a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Liquidity Program (''Program'').[2] The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt its Program for a one-year pilot term.[3] The exemption was granted coterminous with the effectiveness of the pilot Program; both the pilot Program and exemption are scheduled to expire on June 30, 2019.[4]

[1] 17 CFR 242.612(c).

[2] See Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107) (''Order'').

[3] *See id.*

[4] On March 19, 2015, the Exchange requested an extension of the exemption for the Program. *See* letter from Martha Redding, Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated March 19, 2015. The pilot period for the Program was extended until September 30, 2015. *See* Securities Exchange Act Release No. 74572 (Mar. 24, 2015), 80 FR 16705 (Mar. 30, 2015) (SR–NYSEArca–2015–22). On September 17, 2015, the Exchange requested another extension of the exemption for the Program. *See* letter from Martha Redding, Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated September 17, 2015. The pilot period for the Program was extended until March 31, 2016. *See* Securities Exchange Act Release Nos. 75994 (Sept. 28, 2015), 80 FR 59834 (Oct. 2, 2015) (SR–NYSEArca–2015–84) and 77236 (Feb. 25, 2016), 81 FR 10943 (Mar. 2, 2016) (SR–NYSEArca–2016–30). On March 17, 2016, the Exchange requested another extension of the exemption for the Program. *See* letter from Martha Redding, Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated March 17, 2016. The pilot period for the Program was extended until August 31, 2016. *See* Securities Exchange Act Release No. 77425 (Mar. 23, 2016), 81 FR 17523 (Mar. 29, 2016) (SR–NYSEArca–2016–47). On August 8, 2016, the Exchange requested another extension of the exemption for the Program. *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated August 8, 2016. The pilot period for the Program was extended until December 31, 2016. *See* Securities Exchange Act Release No. 78601 (Aug. 17, 2016), 81 FR 57632 (Aug. 23, 2016) (SR–NYSEArca–2016–113). On

Continued

The Exchange now seeks to extend the exemption until September 30, 2019.[5] The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program through the same date.[6] In its request to extend the exemption, the Exchange notes that the participation in the Program has increased more recently with additional Retail Liquidity Providers. Accordingly, the Exchange has asked for additional time to both allow for additional opportunities for greater participation in the Program and allow for further assessment of the results of such participation. For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

Therefore, it is hereby ordered that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612 of Regulation NMS that allows it to accept and rank orders priced equal to or greater than $1.00 per share in increments of $0.001, in connection with the operation of its Retail Liquidity Program, until September 30, 2019.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the Federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14058 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

November 28, 2016, the Exchange requested another extension of the exemption for the program. *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated November 28, 2016. The pilot period for the Program was extended until June 30, 2017. *See* Securities Exchange Act Release No. 79495 (Dec. 7, 2016), 81 FR 90033 (Dec. 13, 2016) (SR–NYSEArca–2016–157). On May 23, 2017, the Exchange requested another extension of the exemption for the program. *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated May 23, 2017. The pilot period for the Program was extended until December 31, 2017. *See* Securities Exchange Act Release No.80851 (June 2, 2017), 82 FR 26722 (June 8, 2017) (SR–NYSEArca–2017–63). On November 30, 2017, the Exchange requested another extension of the exemption to the program. *See* Letter from Martha Redding, Assistant Secretary, NYSE, to Brent J. Fields, Secretary, Commission, dated November 30, 2017. The pilot period for the Program was extended until June 30, 2018. *See* Securities Exchange Act Release No. 82289 (December 11, 2017), 82 FR 59677 (December 15, 2017) (SR–NYSEArca–2017–137). On June 14, 2018, the Exchange requested another extension of the exemption for the Program. *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE to Brent J. Fields, Secretary, Commission, dated June 14, 2018. The pilot period for the Program was extended until December 31, 2018. *See* Securities Exchange Act Release No. 83538 (June 28, 2018), 83 FR 31210 (July 3, 2018) (SR–NYSEArca–2018–46). On November 30, 2018, the Exchange requested another extension of the exemption for the Program. *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE to Brent J. Fields, Secretary, Commission, dated November 30, 2018. The pilot period for the Program was extended until June 30, 2019. *See* Securities Exchange Act Release No. 84773 (December 10, 2018), 83 FR 64419 (December 14, 2018) (SR–NYSEArca–2018–89).

[5] *See* Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE to Vanessa Countryman, Secretary, Commission, dated June 19, 2019.

[6] *See* SR–NYSEArca–2019–45.

[7] 17 CFR 200.30–3(a)(83).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86198; File No. SR–NYSEArca–2019–45]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange Retail Liquidity Program Until September 30, 2019

June 26, 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 June 19, 2019, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on June 30, 2019, until September 30, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on June 30, 2019, until September 30, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the pilot period of the Retail Liquidity Program, currently scheduled to expire on June 30, 2019,[3] until September 30, 2019.

Background

In December 2013, the Commission approved the Retail Liquidity Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84773 (December 10, 2018), 83 FR 64419 (December 14, 2018) (SR–NYSEArca–2018–89).

[4] *See* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107) (''RLP Approval Order'').

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE Arca Rule 7.44–E(m), the pilot period for the Program is scheduled to end on June 30, 2019.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[5] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[6] Through this filing, the Exchange seeks to amend NYSE Arca Rule 7.44–E(m) and extend the current pilot period of the Program until September 30, 2019.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional six months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because waiver would allow the pilot period to continue uninterrupted after its current expiration date of September 30, 2019, thereby avoiding any potential investor confusion that could result from temporary interruption in the pilot program. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2019–45 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.

[5] *See id.*, 78 FR at 79529.

[6] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Martha Redding, Asst. Corporate Secretary, NYSE Group, Inc. to Secretary, Securities and Exchange Commission, dated June 19, 2019.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to File Number SR–NYSEArca–2019–45. 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 offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–45, and should be submitted on or before July 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–14054 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–656, OMB Control No. 3235–0715]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rules 3a71–6

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 (''SEC'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for Rule 3a71–6 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 3a71–6 provides that non-U.S. security-based swap dealers and major security-based swap participants may comply with certain Exchange Act requirements via compliance with requirements of a foreign financial regulatory system that the Commission has determined by order to be comparable to those Exchange Act requirements, taking into account the scope and objectives of the relevant foreign requirements, and the effectiveness of supervision and enforcement under the foreign regulatory regime.

Requests for substituted compliance may come from parties or groups of parties that may rely on substituted compliance, or from foreign financial authorities supervising such parties or their security-based swap activities. In practice, the Commission expects that the greater portion of any such substituted compliance requests will be submitted by foreign financial authorities. For purposes of the Paperwork Reduction Act, the Commission estimates that three security-based swap dealers or major security-based swap participants will submit substituted compliance applications.

The Commission staff estimates that the one-time reporting burden associated with making each substituted compliance request pursuant to Rule 3a71–6 would occur in the first year and would be approximately 80 hours of in-house counsel time, or 240 aggregate hours across the three entities. The Commission staff estimates that the total costs associated with each substituted compliance request would occur in the first year and would be appropriately $84,000 for outside counsel, or $252,000 in the aggregate across the three entities. Annualized over three years, the time burden is 26.67 hours per respondent per year for a total burden of 80 hours per year for all respondents. Annualized over three years, the cost burden is $28,000 per respondent per year for a total cost burden of $84,000 per year for all respondents.

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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Lindsay Abate *Lindsay.M.Abate@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 27, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14110 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86206; File No. SR-CboeBYX–2019–010]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Exchange's Retail Price Improvement Program

June 26, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 25, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[16] 17 CFR 200.30–3(a)(12), (59).

[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 BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to extend the pilot period for the Exchange's Retail Price Improvement Program. 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://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), 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 the proposed rule change is to extend the pilot period for the Exchange's Retail Price Improvement Program (the ''Program''). The Program is currently set to expire on the earlier of approval of the filing to make the Program permanent or June 30, 2019.[5] The Exchange now proposes to extend the Program until the earlier of approval of the filing to make the Program permanent or September 30, 2019.

Background

In November 2012, the Commission approved the Program on a pilot basis.[6] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, all Exchange Users[7] are permitted to provide potential price improvement for Retail Orders[8] in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (''Protected NBB'') or the national best offer that is a Protected Quotation (''Protected NBO'', and together with the Protected NBB, the ''Protected NBBO'').[9]

The Program was approved by the Commission on a pilot basis running one year from the date of implementation.[10] The Commission approved the Program on November 27, 2012.[11] The Exchange implemented the Program on January 11, 2013, and has extended the pilot period seven times.[12] The pilot period for the Program is currently set to expire on the earlier of approval of the filing to make this rule permanent or June 30, 2019. This filing seeks to extend the pilot until the earlier of approval of the filing to make the Program permanent or September 30, 2019.

Proposal To Extend the Operation of the Program

The Exchange established the Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit Retail Price Improvement Orders (''RPI Orders'')[13] to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to gather and analyze data regarding the Program that the Exchange has committed to provide.[14] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[15] Through this filing, the Exchange seeks to extend the current pilot period of the Program until the earlier of approval of the filing to make the Program permanent or September 30, 2019.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[16] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[17] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities,

[5] The Exchange filed to make the pilot program permanent but that filing was subsequently withdrawn. *See* Securities Exchange Act Release Nos. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018); 85586 (April 10, 20119), 84 FR 15657 (April 16, 2019) (SR-CboeBYX–2018–014). The Exchange intends to file a replacement filing to make the pilot program permanent.

[6] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (''RPI Approval Order'') (SR–BYX–2012–019).

[7] A ''User'' is defined in BYX Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[8] A ''Retail Order'' is defined in Rule 11.24(a)(2) as an agency order that originates from a natural person and is submitted to the Exchange by a RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology. *See* Rule 11.24(a)(2).

[9] The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (''NBB'') and national best offer (''NBO'', together with the NBB, the ''NBBO'') will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

[10] *See* RPI Approval Order, *supra* note 6 at 71652.

[11] *Id.*

[12] *See* Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR–BYX–2014–001); 74111 (January 22, 2015), 80 FR 4598 (January 28, 2015) (SR–BYX–2015–05); 76965 (January 22, 2016), 81 FR 4682 (January 27, 2016) (SR–BYX–2016–01); 78180 (June 28, 2016), 81 FR 43306 (July 1, 2016) (SR–BatsBYX–2016–15); 81368 (August 10, 2017), 82 FR 38960 (August 16, 2017) (SR–BatsBYX–2017–18); 83758 (August 1, 2018), 83 FR 38757 (August 7, 2018) (SR–CboeBYX–2018–015); 84845 (December 18, 2018), 83 FR 66329 (December 26, 2018) (SR–CboeBYX–2018–025).

[13] A ''Retail Price Improvement Order'' is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such. *See* Rule 11.24(a)(3).

[14] *See* RPI Approval Order, *supra* note 6 at 71655.

[15] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the RPI orders in sub-penny increments. *See* Letter from Adrian Griffiths, Assistant General Counsel, Cboe BYX Exchange, Inc. to Vanessa Countryman, Secretary, Securities and Exchange Commission dated June 25, 2019.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change extends an established pilot program, thus allowing the Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f)(6) of Rule 19b–4 thereunder,[19] the Exchange has designated this rule filing as non-controversial.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[20] However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest and will allow the Exchange to extend the Program, which will ensure that the Program continues while the Exchange and Commission continue to analyze data regarding the Program.

The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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–CboeBYX–2019–010 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–CboeBYX–2019–010. 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–CboeBYX–≤2019–010 and should be submitted on or before July 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–14055 Filed 7–1–19; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4. As required under Rule 19b–4(f)(6)(iii), the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16004 and #16005; Texas Disaster Number TX–00518]

Administrative Declaration of a Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas, Dated 06/24/2019.

Incident: Severe Storms and Tornadoes. Incident.

Period: 05/18/2019 through 05/19/2019.

DATES: Issued on 06/24/2019.

Physical Loan Application Deadline Date: 08/23/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Taylor, Tom Green

Contiguous Counties:

Texas: Callahan, Coke, Coleman, Concho, Fisher, Irion, Jones, Menard, Nolan, Reagan, Runnels, Schleicher, Sterling

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16004 B and for economic injury is 16005 0.

The States which received an EIDL Declaration # are Texas.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–14104 Filed 7–1–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16002 and #16003; TENNESSEE Disaster Number TN–00107]

Administrative Declaration of a Disaster for the State of Tennessee

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Tennessee Dated 06/21/2019.

Incident: Severe Storms and Flooding.

Incident Period: 02/06/2019 through 02/24/2019.

DATES: Issued on 06/21/2019.

Physical Loan Application Deadline Date: 08/20/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/23/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Decatur, Hardin, Humphreys, Perry, Sevier.

Contiguous Counties:

Tennessee: Benton, Blount, Carroll, Chester, Cocke, Dickson, Henderson, Hickman, Houston, Jefferson, Knox, Lewis, McNairy, Wayne.

Alabama: Lauderdale.

Mississippi: Alcorn, Tishomingo.

North Carolina: Haywood, Swain.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16002 6 and for economic injury is 16003 0.

The States which received an EIDL Declaration # are Tennessee, Alabama, Mississippi, North Carolina.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–14105 Filed 7–1–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16010 and #16011; NEW YORK Disaster Number NY–00189]

Administrative Declaration of a Disaster for the State of New York

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New York Dated 06/24/2019.

Incident: Apartment Fire.

Incident Period: 04/03/2019.

DATES: Issued on 06/24/2019.

Physical Loan Application Deadline Date: 08/23/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Kings.
Contiguous Counties:
New York: New York, Queens, Richmond.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16010 5 and for economic injury is 16011 0.

The States which received an EIDL Declaration # are New York.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher M. Pilkerton,
Acting Administrator.

[FR Doc. 2019–14103 Filed 7–1–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.63 percent for the July—September quarter of FY 2019.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Dianna L. Seaborn,
Director, Office of Financial Assistance.

[FR Doc. 2019–14107 Filed 7–1–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 10811]

E.O. 13224 Designation of Husain Ali Hazzima, aka Hussein Ali Hazime, aka Mourtada as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Husain Ali Hazzima, also known as Hussein Ali Hazime, also known as Mourtada, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: March 6, 2019.

Michael R. Pompeo,
Secretary of State.

Editorial note: This document was received for publication by the Office of the Federal Register on June 27, 2019.

[FR Doc. 2019–14113 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 10812]

Designation of Balochistan Liberation Army as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Balochistan Liberation Army, also known as Baloch Liberation Army, also known as BLA, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: June 10, 2019.

Michael R. Pompeo,
Secretary of State.

[FR Doc. 2019–14108 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 10808]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: Exhibition of Two Early Twentieth Century Works

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that two particular objects to

be exhibited in the Collection Galleries: 1880s-1940s of The Museum of Modern Art, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display, at The Museum of Modern Art, New York, New York, of the first exhibit object, from on or about October 21, 2019, until on or about July 1, 2020, and of the second exhibit object, from on or about October 21, 2019, until on or about July 1, 2024; and of both exhibit objects thereof at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, D.C. 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–28 of June 10, 2019.

Rick A. Ruth,

Senior Advisor, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–14062 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10810]

In the Matter of the Amendment of the Designation of Jundallah (and other aliases) as a Specially Designated Global Terrorist

Based on a review of the administrative record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that Jundallah, also known as People's Resistances Movement of Iran (PMRI), also known as Jonbesh-i Moqavemat-i-Mardom-i Iran, also known as The Popular Resistance Movement of Iran, also known as Soldiers of God, also known as Fedayeen-e-Islam, also known as Former Jundallah of Iran, also known as Jundullah, also known as Jondullah, also known as Jundollah, also known as Jondollah, also known as Jondallah, also known as Army of God (God's Army), also known as the Baloch Peoples Resistance Movement (BPRM), uses the additional alias Jaysh al-Adl, also known as Jeysh al-adl, also known as Army of Justice, also known as Jaish ul-Adl, also known as Jaish al-Adl, also known as Jaish Aladl, also known as Jeish al-Adl, as its primary name.

Therefore, pursuant to Section 1(b) of Executive Order 13224, I hereby amend the designation of Jundallah as a Specially Designated Global Terrorist to include the following new aliases: Jaysh al-Adl, Jeysh al-adl, Army of Justice, Jaish ul-Adl, Jaish al-Adl, Jaish Aladl, Jeish al-Adl,

This notice shall be published in the **Federal Register**.

Dated: November 26, 2018.

Michael R. Pompeo,

Secretary of State.

Editorial note: This document was received for publication by the Office of the Federal Register on June 27, 2019.

[FR Doc. 2019–14114 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 10791]

60-Day Notice of Proposed Information Collection: Application To Determine Returning Resident Status

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *September 3, 2019*.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2019–0018'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PRA_BurdenComments@state.gov*.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Taylor Beaumont, who may be reached over telephone at (202) 485–8910 or email at *PRA_BurdenComments@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application to Determine Returning Resident Status.
- *OMB Control Number:* 1405–0091.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–0117.
- *Respondents:* Immigrant Visa Petitioners.
- *Estimated Number of Respondents:* 4,400.
- *Estimated Number of Responses:* 4,400.
- *Average Time per Response:* 30 Minutes.
- *Total Estimated Burden Time:* 2,200 Hours.
- *Frequency:* Once.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Under Section 101(a)(27)(A) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101, an immigrant may be issued a returning resident special immigrant visa if he or she remained out of the United States for more than one year due to circumstances outside of his or her control. The DS–0117 is used, in addition to a personal interview, to collect information necessary to determine a returning resident's eligibility for a special immigrant visa.

Methodology

Applicants will submit the DS–0117 electronically via email, or print the form and submit it at the time of their interview at a U.S. embassy or consulate.

Edward J. Ramatowski,

Deputy Assistant Secretary.

[FR Doc. 2019–14102 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 10809]

In the Matter of the Review and Amendment of the Designation of Jundallah (and Other Aliases) as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and National Act, as Amended

Based on a review of the Administrative Record assembled pursuant to Section 219 of the Immigration and National Act, as amended (8 U.S.C. 1189) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization (and other aliases) as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation. I also conclude there is a sufficient factual basis to find that the aforementioned organization (and other aliases) uses the additional alias Jaysh al-Adl, also known as Jeysh al-adl, also known as Army of Justice, also known as Jaish ul-Adl, also known as Jaish al-Adl, also known as Jaish Aladl, also known as Jeish al-Adl, as its primary name.

Therefore, I hereby determine that the designation of the aforementioned organization (and other aliases) as a Foreign Terrorist Organization, pursuant to Section 219 of the INA, as amended (8 U.S.C. 1189), shall be maintained. Additionally, pursuant to Section 219(b) of the INA, as amended (8 U.S.C. 1189(b)), I hereby amend the designation of the aforementioned organization as a Foreign Terrorist Organization to include the following new aliases: Jaysh al-Adl, Jeysh al-adl, Army of Justice, Jaish ul-Adl, Jaish al-Adl, Jaish Aladl, Jeish al-Adl, This notice shall be published in the **Federal Register**.

Dated: February 12, 2019.

Michael R. Pompeo,

Secretary of State.

Editorial note: This document was received for publication by the Office of the Federal Register on June 27, 2019.

[FR Doc. 2019–14115 Filed 7–1–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Land Use Changes to Surplus Property at the Mobile Downtown Airport, Mobile, Alabama

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on land use change request.

SUMMARY: Under the provisions of Title 49, Notice is being given that the FAA is considering a request from the Mobile Airport Authority to waive the requirement that 6.00 acres of airport property located at the Mobile Downtown Airport in Mobile, Alabama, be used for aeronautical purposes.

DATES: Comments must be received on or before *August 1, 2019*.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office Attn: Graham Coffelt, Program Manager, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mobile Airport Authority, Attn: Mr. Chris Curry, Executive Director, PO Box 880004, Mobile, AL 36608.

FOR FURTHER INFORMATION CONTACT: Graham Coffelt, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9886. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Mobile Airport Authority to designate 6.00 acres of land for non-aeronautical use on the airport layout plan. The airport layout plan update, if approved as submitted, would change the use of 6.00 aces on the Mobile Downtown Airport from aeronautical to non-aeronautical. The property will be leased for Commercial Development. The location of the land relative to existing or anticipated aircraft noise contours greater than 65ldn are not considered to be an issue. The proceeds from the lease of this property will be used for airport purposes. The proposed use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Mobile Downtown Airport (BFM).

Issued in Jackson, Mississippi on June 18, 2019.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 2019–14134 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Land Use Changes to Surplus Property at the Mobile Downtown Airport, Mobile, Alabama

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on land use change request.

SUMMARY: Notice is being given that the FAA is considering a request from the Mobile Airport Authority to waive the requirement that 7.50 acres of airport property located at the Mobile Downtown Airport in Mobile, Alabama, be used for aeronautical purposes.

DATES: Comments must be received on or before *August 1, 2019*.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office, Attn: Graham Coffelt, Program Manager, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mobile Airport Authority, Attn: Mr. Chris Curry, President, P.O. Box 880004, Mobile, AL 36608.

FOR FURTHER INFORMATION CONTACT: Graham Coffelt, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9886. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: Under the provisions of Title 49, U.S.C. Section 47153(c). The FAA is reviewing a request by the Mobile Airport Authority to designate 7.50 acres of land for non-aeronautical use on the airport layout plan. The airport layout plan update, if approved as submitted, would change the use of 7.50 aces on the Mobile Downtown Airport from aeronautical to non-aeronautical. The property will be leased for Commercial Development. The location of the land relative to existing or anticipated aircraft noise contours greater than 65ldn are not considered to be an issue. The proceeds from the lease of this property will be used for airport purposes. The proposed use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Mobile Downtown Airport (BFM).

Issued in Jackson, Mississippi, on June 18, 2019.

Rans D. Black,

Manager, Jackson Airports District Office Southern Region.

[FR Doc. 2019–14135 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2019–0008]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Bus Testing Program.

DATES: Comments must be submitted before September 3, 2019.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*. Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Bus Testing Program—Mr. Marcel Belanger, Office of Research, Demonstration and Innovation (202) 366–0725, or email: *marcel.belanger@dot.gov*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Bus Testing Program

(OMB Number: 2132–0550)

Background: 49 U.S.C. Section 5318(e) provides that Federal funds appropriated or otherwise made available under 49 U.S.C. Chapter 53 [FTA funding] may not be obligated or expended for the acquisition of a new bus model unless a bus of that model has been tested for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise at a bus testing facility authorized under 49 U.S.C. Section 5318(a).

At this time, there is one active Bus Testing Center operated by the Thomas D. Larson Pennsylvania Transportation Institute of the Pennsylvania State University (LTI). LTI operates and maintains the Center under a cooperative agreement with FTA, and establishes and collects fees for the testing of the vehicles at the facility. Two additional bus testing facilities authorized to test low and no-emission (LoNo) buses have been authorized by Congress. FTA is working with Auburn University and The Ohio State University to establish those facilities, which are not yet operational. The nature and quantity of the information that must be collected to operate the Bus Testing Program will not change significantly when these additional centers become operational. Auburn and Ohio State separately received appropriations to conduct testing of components for LoNo buses. Those projects are separate from Bus Testing and FTA does not expect them to affect the paperwork burden for the Bus Testing Program. Upon completion of the testing of the vehicle at the Center with a passing test score, a draft Bus Testing Report is provided to the manufacturer of the new bus model. If the manufacturer approves the Report for publication, the bus model becomes eligible for FTA funding. 49 CFR 665.7 requires a recipient of FTA funds to certify that a bus model has been tested at the bus testing facility, that the bus model received a passing score, and that the recipient has a copy of the applicable Bus Testing Report(s) on a bus model before final acceptance of any buses of that model. Recipients are strongly encouraged to review the Bus Testing Report(s) relevant to a bus model before final acceptance and/or selection of that bus model.

Respondents: Bus manufacturers and recipients of FTA funds.

Estimated Annual Number of Respondents: 40 testing determination requirements requests at 32 hours each, 20 testing authorization requests at 32 hours each, 16 tests scheduled at 10 hours each, and 3 retest requests at 17 hours each.

Estimated Total Annual Burden: 2,131 hours.

Frequency: On Occasion.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2019–14037 Filed 7–1–19; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Education

34 CFR Parts 200 and 299

Title I—Improving the Academic Achievement of the Disadvantaged and General Provisions; Technical Amendments; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 200 and 299

[Docket ID ED–2018–OESE–0106]

RIN 1810–AB47, 1810–AB55

Title I—Improving the Academic Achievement of the Disadvantaged and General Provisions; Technical Amendments

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final rule with request for comments.

SUMMARY: The Secretary is issuing this rule to align the regulations with the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).

DATES:

Effective date: These regulations are effective July 1, 2019.

Comment due date: We must receive your comments on or before August 1, 2019.

Approval of information collection requests: As of July 1, 2019, the information collection requests associated with §§ 200.83, 200.85, and 200.89 have been approved by OMB (OMB Control Numbers 1810–0662, 1810–0683, and 1810–0662, respectively).

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to use *Regulations.gov*.''

• *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these final regulations, address them to Melissa Siry, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W104, Washington, DC 20202–5900.

Privacy Note: The Department's policy for comments received from members of the public is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Melissa Siry, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W104, Washington, DC 20202–5900. Telephone: (202) 260–0926. Email: *Melissa.Siry@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: These regulations do not establish substantive policy changes, but instead make technical changes to existing regulations. However, we are interested in whether any additional technical changes are necessary to align these regulations with the ESEA, as amended by the ESSA, and thus we are inviting your comments. We will consider these comments in determining whether to make further technical changes to the regulations or engage in additional rulemaking. To ensure that your comments have maximum effect, we urge you to identify clearly the specific section or sections of the regulations that each of your comments addresses and to arrange your comments in the same order as the regulations. See **ADDRESSES** for instructions on how to submit comments.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirements of reducing regulatory burden that might result from these regulations. Please let us know of any additional ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about these regulations by accessing *Regulations.gov.* You may also inspect the comments in person in Room 3W104, 400 Maryland Avenue SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays. If you want to schedule time to inspect comments, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Significant Regulations

Executive Summary

Purpose of This Regulatory Action: The Secretary is issuing this final rule to align the regulations in 34 CFR part 200 relating to Title I of the ESEA and part 299 relating to general provisions of the ESEA with changes made to the ESEA by the ESSA. These regulations make only technical changes to existing regulations to align them with statutory changes in the amended ESEA, along with one additional change to align § 200.64(b)(3)(ii)(A) with the U.S. Constitution in light of the Supreme Court's decision in *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017).

Summary of the Major Provisions of This Regulatory Action: As described fully in the Background section below, for each change, we summarize the current regulation, describe the change in these final regulations, and explain the reasons for the change.

Costs and Benefits: Through this final rule, we make only technical changes to align Department regulations with current law; we do not establish any substantive requirements or policies beyond those in the authorizing statute. Accordingly, the regulations do not impose any costs, nor generally confer any benefits, that are not attributable to statute. The technical amendments in this document serve in some cases to revise existing regulations to conform with minor language updates in statute, and in others to add to the regulations substantially new statutory provisions, albeit verbatim and without interpretation. The Department expects that States and local educational agencies (LEAs) will use ESEA program funds, including funds reserved for administration, to cover the estimated costs, and that any costs that cannot be met with Federal resources will generally be minimal. Moreover, we believe that the costs of these technical amendments are outweighed by their anticipated benefits, which include, among other things, consistency between the authorizing statute and implementing regulations; increased transparency in State and local implementation of Title I and other

ESEA programs; greater flexibility in the use of Federal program funds to address local educational needs and improve educational outcomes; improved services for students, including for eligible students in private schools; and better student preparedness for college and the workforce.

We discuss the technical amendments under the sections of the regulations to which they pertain. We do not discuss changes to correct cross-references to regulatory provisions and citations that are no longer accurate due to statutory changes in the ESEA. We also do not discuss renumbered paragraphs that are necessary to reflect other technical changes.

I. Title I—Improving the Academic Achievement of the Disadvantaged

Background: The regulations in 34 CFR part 200 establish the regulatory requirements for Title I of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB). In December 2015, Congress reauthorized the ESEA through the ESSA. As a result of the amendments to the statute through the reauthorization, some of the part 200 regulatory requirements were superseded and were, therefore, rescinded by a rule published in the **Federal Register** on August 22, 2018 (Outdated or Superseded Regulations: Title I, Parts A through C; Christa McAuliffe Fellowship Program; and Empowerment Zone or Enterprise Community-Priority, 83 FR 42438). Other requirements in part 200 need minor modification to remain aligned with the statute; we are making those minor modifications through these technical amendments.

34 CFR Part 200

Cross-Cutting

Current Regulations: Multiple provisions in part 200 establish requirements related to a State's ''challenging academic content standards'' and ''student academic achievement standards'' or, collectively, its ''challenging academic content and student academic achievement standards.''

Final Regulations and Reasons: In multiple provisions in part 200, we are revising references to a State's ''challenging academic content standards'' and ''student academic achievement standards,'' or to its ''challenging academic content and student academic achievement standards'' to refer to a State's ''challenging academic content standards and aligned academic achievement standards'' or ''challenging State academic standards.'' The ESEA, as amended by the ESSA, requires that a State adopt ''challenging academic content standards and aligned academic achievement standards'' (ESEA section 1111(b)(1)(A)). For provisions that follow § 200.2 and that establish requirements for challenging academic content standards and aligned academic achievement standards, collectively, we use ''challenging State academic standards.'' Per § 200.2(b)(3)(i)(A) and consistent with ESEA section 1111(b)(1)(A), ''challenging State academic standards'' is the regulatory shorthand (for all regulatory provisions after § 200.2(b)(3)(i)(A)) for ''challenging academic content standards and aligned academic achievement standards.'' We are making this change in the following sections:

- § 200.25(a)(1);
- § 200.26(a)(1)(i) introductory text;
- § 200.26(a)(1)(i)(B);
- § 200.26(b);
- § 200.26(c)(2);
- § 200.61(c)(2)(ii)(C);
- § 200.79(b)(1)(ii);
- § 200.79(b)(1)(iii); and
- § 200.79(b)(2)(i).

Standards and Assessments

§ 200.1 State responsibilities for developing challenging academic standards.

Current Regulations: Current § 200.1 establishes a State's responsibilities with respect to the development of academic content and academic achievement standards.

Final Regulations and Reasons: We make the following changes to § 200.1:

(1) Revise the language in § 200.1(a)(2) establishing the requirement that, except as provided in § 200.1(d), a State's academic achievement standards include the same knowledge and skills expected of all students and the same levels of achievement expected of all students. We are revising this language to use the precise statutory language in ESEA section 1111(b)(1)(B)(ii), which requires a State's academic achievement standards to ''include the same knowledge, skills, and levels of achievement expected of all public school students in the State.''

(2) Delete the language in § 200.1(a)(3) indicating that a State's academic standards must include science ''beginning in the 2005–2006 school year,'' and in § 200.1(b)(3) that a State's academic content standards must define the knowledge and skills that all high school students are expected to know and be able to do in science ''beginning in the 2005–2006 school year.'' These references are outdated; the amended ESEA does not include a reference to the 2005–2006 school year with respect to academic standards for science.

(3) Using the statutory language in ESEA section 1111(b)(1)(D)(i), add language to § 200.1(c)(1)(i) to clarify that a State's challenging academic achievement standards must be aligned ''with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards.''

(4) Add language to § 200.1(c)(1)(ii)(A) to clarify that a State's academic achievement standards must include, for each content area, ''[n]ot less than three'' achievement levels. ESEA section 1111(b)(1)(A) requires each State to adopt challenging academic content standards and aligned academic achievement standards, ''which achievement standards shall include not less than 3 levels of achievement.''

(5) Delete § 200.1(c)(3), which was related to the adoption of achievement levels in science by the 2005–2006 school year and the establishment of cut scores for science assessments no later than the 2007–2008 school year. These references are outdated; the amended ESEA does not contain references to the 2005–2006 or 2007–2008 school year in relation to standards or assessments in science.

(6) Revise § 200.1(d)(2), using the statutory language in ESEA section 1111(b)(1)(E)(i)(II), to clarify that a State's alternate academic achievement standards must promote access to the general curriculum ''consistent with the IDEA'' (Individuals with Disabilities Education Act).

(7) Revise the language in § 200.1(d)(3) to use the precise statutory language in ESEA section 1111(b)(1)(E)(i)(III), which requires alternate academic achievement standards to reflect professional judgment as to the ''highest possible standards achievable by such students.''

(8) Add § 200.1(d)(4) and (5) to incorporate the requirements in ESEA section 1111(b)(1)(E)(i)(IV) and 1111(b)(1)(E)(i)(V), respectively. ESEA section 1111(b)(1)(E)(i)(IV) requires that a State's alternate academic achievement standards be designated in the individualized education program developed under section 614(d)(3) of the IDEA for each such student as the academic achievement standards that will be used for the student. ESEA section 1111(b)(1)(E)(i)(V) requires that a State's alternate academic achievement standards be aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue

postsecondary education or employment, consistent with the purposes of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, as in effect on July 22, 2014. We also clarify that this requirement is consistent with § 200.2(b)(3)(ii)(B)(*2*), which also incorporates the requirement of ESEA section 1111(b)(1)(E)(i)(V).

(9) Revise the reference to ''students with disabilities'' in § 200.1(e) to refer to ''children with disabilities.'' ESEA section 1111(b)(1)(E)(ii), which prohibits the development and implementation of alternate or modified academic achievement standards that do not meet the requirements in section 1111(b)(1)(E)(i), refers to ''children with disabilities.''

(10) Clarify in § 200.1(e) that a State may not define ''or implement for use under subpart A of this part any alternate or'' modified academic achievement standards for children with disabilities ''that are not alternate academic achievement standards that meet the requirements of'' § 200.1(d). The updates parallel the requirement in ESEA section 1111(b)(1)(E)(ii) that a State shall not develop, or implement for use under this part, any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of ESEA section 1111(b)(1)(E)(i).

(11) Replace current § 200.1(f) with a provision that incorporates the requirements of ESEA section 1111(b)(1)(F) regarding English language proficiency standards. ESEA section 1111(b)(1)(F) requires that a State adopt English language proficiency standards that ''are derived from the 4 recognized domains of speaking, listening, reading, and writing''; ''address the different proficiency levels of English learners''; and ''are aligned with the challenging State academic standards.'' The current § 200.1(f), which establishes requirements for State guidelines for alternate academic achievement standards, is no longer necessary because those requirements have been updated and incorporated into § 200.6(d), which was revised in December 2016.

(12) Revise § 200.1(a) introductory text, (a)(1), (c)(1), and (d)(1) with minor conforming edits to be consistent with the amended ESEA.

Participation in National Assessment of Educational Progress (NAEP)

§ 200.11 Participation in NAEP.

Current Regulations: Current § 200.11 establishes requirements related to a State's and an LEA's responsibilities with respect to participation in NAEP and with respect to reporting results on NAEP.

Final Regulations and Reasons: We make the following changes to § 200.11:

(1) Delete the language in § 200.11(a) indicating that a State must participate in NAEP ''[b]eginning in the 2002–2003 school year.'' This language is outdated; the amended ESEA does not contain a reference to the 2002–2003 school year in relation to a State's obligation to participate in NAEP.

(2) Revise § 200.11(b) to update the statutory reference that authorizes NAEP.

(3) Revise § 200.11(c) to incorporate the statutory language in ESEA section 1111(h)(1)(C)(xii) clarifying that a State and an LEA, respectively, must report on its report card the most recent available academic achievement results on the State's NAEP ''compared to the national average of such results.''

(4) Revise the reference in § 200.11(c)(1) to reporting NAEP results in the aggregate and disaggregated for each subgroup described in § 200.13(b)(7)(ii) to instead refer to reporting disaggregated NAEP results for each subgroup described in ESEA section 1111(c)(2). Section 200.13 was rescinded on August 22, 2018; ESEA section 1111(c)(2) is the equivalent statutory reference.

(5) Revise § 200.11(c)(2) to require that a State and an LEA report the NAEP participation rates for ''children with disabilities'' and ''English learners.'' Current § 200.11(c)(2) requires reporting the participation rates of ''students with disabilities'' and ''limited English proficient students.'' The amended ESEA uses the terms ''children with disabilities'' and ''English learners'' to refer to these subgroups of students (ESEA section 1111(c)(2)).

Schoolwide Programs

§ 200.25 Schoolwide programs in general.

Current Regulations: Current § 200.25 establishes general requirements for schoolwide programs, including the purpose of a schoolwide program and the requirements for a school to be eligible to operate a schoolwide program.

Final Regulations and Reasons: We make the following changes to § 200.25 (in addition to the change previously described in the Cross-Cutting section):

(1) Add § 200.25(b)(1)(iii), and a reference to § 200.25(b)(1)(iii) in § 200.25(b)(1)(ii), to incorporate the flexibility provided in ESEA section 1114(a)(1)(B) for a school that does not meet the 40 percent poverty threshold established in ESEA section 1114(a)(1)(A) and set forth in § 200.25(b)(1)(ii) to operate a schoolwide program if the school receives a waiver from the State to do so. ESEA section 1114(a)(1)(B) provides that a school that does not meet the 40 percent poverty threshold may operate a schoolwide program if the school receives a waiver from the State educational agency to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school served under the part in improving academic achievement and other factors.

(2) Revise § 200.25(c) to align with the language of ESEA section 1114(a)(2)(A), which provides that no school participating in a schoolwide program shall be required to identify ''(i) particular children under this part as eligible to participate in a schoolwide program; or (ii) individual services as supplementary.''

(3) Revise § 200.25(d) to add the statutory language in ESEA section 1114(a)(2)(B), which provides that a school operating a schoolwide program must use funds available to carry out ESEA section 1114 to supplement non-Federal funds ''[i]n accordance with the method of determination described in section 1118(b)(2).''

(4) Revise the reference in § 200.25(d) to ''children with limited English proficiency'' to refer, instead, to ''English learners.'' ESEA section 1114(a)(2)(B) uses the term ''English learners.''

(5) Delete, in § 200.25(f), the language referring to the ''Even Start'' and ''Early Reading First'' programs. These programs are no longer authorized under the ESEA.

200.26 Core elements of a schoolwide program.

Current Regulations: Current § 200.26 establishes the requirements for the core elements of a schoolwide program, including a comprehensive needs assessment of the entire school, a comprehensive plan based on data from the comprehensive needs assessment, and an annual evaluation of the schoolwide program.

Final Regulations and Reasons: We make the following changes to § 200.26 (in addition to the changes described in the Cross-Cutting section):

(1) Revise the language in § 200.26(a)(1)(i) to align with ESEA section 1114(b)(6), which provides that a schoolwide program plan must be based on a comprehensive needs assessment of the school ''that takes into account information on the academic

achievement'' of students in the school ''in relation to the challenging State academic standards'' and ''any other factors as determined by the [LEA].''

(2) Revise the language in § 200.26(a)(1)(i)(B) to align with, and incorporate the language from, ESEA section 1114(b)(6), which provides, in pertinent part, that a schoolwide program plan must be based on a comprehensive needs assessment that takes into account information on the academic achievement of students, particularly the needs of those students ''who are failing, or are at-risk [sic] of failing, to meet the challenging State academic standards and any other factors as determined by the local educational agency.''

(3) Replace the reference to § 200.28 in § 200.26(a)(1)(ii) with a reference to section 1114(b)(7) of the ESEA. Section 200.28 was rescinded on August 22, 2018; section 1114(b)(7) of the ESEA includes the equivalent plan requirements.

(4) Revise the language in § 200.26(b) regarding a comprehensive schoolwide plan that describes how the school will improve academic achievement of ''students furthest away from demonstrating proficiency'' to refer, instead, to ''all students in the school, but particularly the needs of those students at risk of failing to meet the challenging State academic standards,'' to align with the language in ESEA section 1114(b)(6) and § 200.26(a)(1)(i)(B).

(5) Revise the language in § 200.26(c)(1) and (3) requiring that a school operating a schoolwide program ''[a]nnually evaluate'' the schoolwide program and revise the plan, as necessary, based on the results of the ''evaluation'' to align with the statutory language in ESEA section 1114(b)(3). ESEA section 1114(b)(3) provides that a schoolwide program plan must be ''regularly monitored and revised as necessary.''

§ 200.29 Consolidation of funds in a schoolwide program.

Current Regulations: Current § 200.29 establishes requirements related to the consolidation of funds in a schoolwide program.

Final Regulations and Reasons: We make the following changes to § 200.29:

(1) Add to § 200.29(c)(2) the statutory requirements in ESEA section 6115(c). ESEA section 6115(c) provides that a school may consolidate funds received under subpart 1 of part A of title VI of the ESEA if (1) the parent committee established by the LEA under ESEA section 6114(c)(4) approves the inclusion of these funds; (2) the schoolwide program is consistent with the purpose described in section 6111; and (3) the LEA identifies in its application how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program.

(2) Delete § 200.29(e)(1), which requires a State to encourage schools to consolidate funds from other Federal, State, and local sources in their schoolwide programs. This is no longer a requirement in the ESEA.

(3) Add to § 200.29(e) the statutory language from ESEA section 1111(g)(2)(E), which provides that a State must modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources ''to improve educational opportunities and reduce unnecessary fiscal and accounting requirements.''

§ 200.61 Parents' right to know.

Current Regulations: Current § 200.61 establishes requirements regarding certain information to which parents are entitled, including information regarding the professional qualifications of their child's classroom teachers as well as information regarding their child's level of achievement on the State academic assessments.

Final Regulations and Reasons: We make the following changes to § 200.61:

(1) Revise § 200.61(a)(1), as redesignated, by providing that, in notifying parents of their right to request certain information, an LEA must inform parents that it will provide the information ''in a timely manner.'' ESEA section 1112(e)(1)(A) provides that, at the beginning of each school year, an LEA that receives funds under subpart A of this part must notify parents of each student attending a Title I school that the parents may request certain information regarding the professional qualifications of their student's classroom teachers, and the agency will provide the information on request ''and in a timely manner.''

(2) Revise § 200.61(a)(1)(iii), as redesignated, to align with the statutory language in ESEA section 1112(e)(1)(A)(i)(III), which provides that among the information parents may request and that an LEA must provide upon such request is information regarding whether a student's teacher ''is teaching in the field of discipline of the certification of the teacher.''

(3) Revise § 200.61(a)(2)(i), as redesignated, to clarify that, in addition to providing information on a student's level of achievement on the State academic assessments, a school that participates under subpart A of this part must also provide information on academic growth, if applicable and available. ESEA section 1112(e)(1)(B)(i) provides that, in addition to the information parents may request, a school that participates under subpart A of this part must provide to each parent ''information on the level of achievement and academic growth of the student, if applicable and available,'' on the State academic assessments.

(4) Revise § 200.61(a)(2)(ii), as redesignated, to delete the reference to a teacher ''who is not highly qualified'' and to align that provision with ESEA section 1112(e)(1)(B)(ii). The ESEA no longer uses the term ''highly qualified teacher.'' ESEA section 1112(e)(1)(B)(ii) provides that, in addition to the information parents may request, a school that participates under subpart A of this part must provide to each parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher ''who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.''

(5) Remove current § 200.61(c), which is related to the format in which notice must be provided to parents. The information in current paragraph (c) is contained in new paragraph (d), which applies to current paragraph (a) and new paragraphs (b) and (c).

(6) Add a new paragraph (b) to align with section 1112(e)(2) of the ESEA, which sets out notice requirements for parents regarding testing transparency.

(7) Add a new paragraph (c) to align with section 1112(e)(3) of the ESEA, which sets out requirements regarding notice to parents of English learners who are identified for participation or participating in a language instruction educational program supported with funds under title I, part A or title III of the ESEA; and requirements for outreach to parents of English learners, including regular parent meetings.

(8) Add a new paragraph (d) to align with ESEA section 1112(e)(4) and 34 CFR 200.2(e). Those provisions ensure that notice and information to parents is provided in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand.

Participation of Eligible Children in Private Schools

§ 200.62 Responsibilities for providing services to private school children.

Current Regulations: Current § 200.62 establishes an LEA's responsibilities for providing services to eligible private school children and establishes which children constitute ''eligible private school children.''

Final Regulations and Reasons: We make the following changes to § 200.62:

(1) Add clarifying language to § 200.62(a)(1) to incorporate the statutory language in ESEA section 1117(a)(1)(A), which provides that an LEA must, after timely and meaningful consultation with appropriate private school officials, provide individually or in combination, as requested by the private school officials to best meet the needs of eligible children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under subpart A of the part (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs on an equitable basis.

(2) Revise § 200.62(a)(2) to align with the statutory language in ESEA section 1117(a)(1)(B), which provides that an LEA must ensure that teachers and families of participating private school children participate, ''on an equitable basis, in services and activities developed pursuant to section 1116'' of the ESEA.

§ 200.63 Consultation.

Current Regulations: Current § 200.63 establishes requirements for consultation with private school officials regarding equitable services for eligible children who are enrolled in private schools, including the topics on which an LEA must consult and the timing of the consultation.

Final Regulations and Reasons: We make the following changes to § 200.63:

(1) Add to § 200.63(a) language clarifying the goal of consultation and implementing the requirement that the results of the agreement reached between the LEA and private school officials must be transmitted to the ombudsman, as newly added in ESEA section 1117(b)(1). ESEA section 1117(b)(1) provides that an LEA and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman. We incorporate the statutory requirement for the ombudsman in § 200.68, and discuss that change in greater detail under the heading for that section.

(2) Add to § 200.63(b)(6) the requirement that, among other topics, an LEA must consult on how it determines the proportion of funds that it will allocate for equitable services for eligible private school children. This language is added to align with ESEA section 1117(b)(1)(E), which provides that an LEA must consult on the size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated for such services, and how that proportion of funds is determined.

(3) Add § 200.63(b)(8) to incorporate the statutory requirement in ESEA section 1117(b)(1)(I). Section 1117(b)(1)(I) provides that an LEA must consult on ''whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor.''

(4) Move current § 200.64(a)(2)(ii) to new § 200.63(b)(9) to reflect its placement within the consultation requirements in the statute and revise to incorporate the new statutory language in ESEA section 1117(b)(1)(J). Section 1117(b)(1)(J) provides that an LEA must consult on whether to provide equitable services to eligible private school children: (i) By creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools; or (ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools.

(5) Add § 200.63(b)(10) to incorporate the statutory requirement in ESEA section 1117(b)(1)(K). Section 1117(b)(1)(K) provides that an LEA must consult on ''when, including the approximate time of day, services will be provided.''

(6) Add § 200.63(b)(11) to incorporate the statutory requirement in ESEA section 1117(b)(1)(L). Section 1117(b)(1)(L) provides that an LEA must consult on whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) to provide services to eligible private school children participating in programs.

(7) Add § 200.63(e)(1)(ii) to incorporate the requirement in ESEA section 1117(b)(5) that an LEA's written affirmation that the required consultation has occurred must provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children.

(8) Add § 200.63(f)(1)(iii) to incorporate the statutory language in ESEA section 1117(b)(6)(A), providing that an official of a private school has the right to complain to the State educational agency (SEA) that an LEA did not ''make a decision that treats the private school students equitably'' among the other topics about which a private school official may file a complaint.

(9) Add § 200.63(f)(2) to incorporate the requirements in ESEA section 1117(b)(6)(B) related to the procedure for a private school official to file a complaint with an SEA. ESEA section 1117(b)(6)(B) provides that, if the private school official wishes to file a complaint, the official shall provide the basis of the noncompliance by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(10) Add § 200.63(f)(3) to incorporate the requirements in ESEA section 1117(b)(6)(C) related to SEAs and the provision of equitable services. ESEA section 1117(b)(6)(C) provides that an SEA shall provide equitable services directly or through contracts with public or private agencies, organizations, or institutions, if the appropriate private school officials have: (i) Requested that the State educational agency provide such services directly; and (ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.

§ 200.64 Factors for determining equitable participation of private school children.

Current Regulations: Current § 200.64 sets forth the factors for determining equitable participation of private school children, including requirements for equal expenditures and equitable services.

Final Regulations and Reasons: We make the following changes to § 200.64:

(1) Revise § 200.64(a)(1) to align with ESEA section 1117(a)(4)(A)(i), which requires that funds expended by an LEA for equitable services be equal to the ''proportion'' of funds allocated to

participating school attendance areas based on the number of children from low-income families who attend private schools. The current regulations do not align precisely with the statute—neither the ESEA as amended by the ESSA nor the ESEA as amended by NCLB. Although ''amount'' of funds generated by private school children from low-income families is not incorrect, we revise the regulations to be more precise, given the new proportional share requirement in ESEA section 1117(a)(4)(A)(ii).

(2) Revise § 200.64(a)(1) to clarify that the private school children who generate funds for equitable services are those ''who reside in participating public school attendance areas'' consistent with the statutory language in ESEA section 1117(a)(4)(A)(i) that speaks to ''funds allocated to participating [public] school attendance areas based on the number of children from low-income families who attend private schools.''

(3) Replace current § 200.64(a)(2)(i) with new § 200.64(a)(2) to align with the new proportional share requirement in ESEA section 1117(a)(4)(A)(ii), which states that the proportional share of funds available for equitable services shall be determined based on the total amount of funds received by the local educational agency under title I, part A prior to any allowable expenditures or transfers by the local educational agency.

(4) Move current § 200.78(a)(2)(ii) to § 200.64(a)(3) because it now more appropriately fits in § 200.64, which governs factors for determining equitable participation of private school children. Section 200.78 governs within-district allocations to public school attendance areas and schools, which under NCLB included funds based on the number of private school children from low-income families who resided in participating school attendance areas. Those same private school children are now counted to determine the new proportional share for equitable services prior to an LEA's making within-district allocations to public school attendance areas and schools. Section 200.64(a)(3) does not include current § 200.78(a)(2)(i) because it is no longer needed given the new proportional share requirement.

(5) Add § 200.64(a)(4) to incorporate ESEA section 1117(a)(4)(C), which requires each SEA to provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under title I, part A, that the local educational agencies have determined are available for eligible private school children.

(6) Add § 200.64(a)(5) to incorporate ESEA section 1117(a)(4)(B), which states that funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(7) Move current § 200.64(a)(2)(ii) to § 200.63(b)(9) regarding consultation on pooling of funds to provide equitable services consistent with ESEA section 1117(b)(1)(J) and revise, as noted in the discussion under § 200.63, to reflect the new statutory language.

(8) Delete the phrase ''and of any religious organization'' in § 200.64(b)(3)(ii)(A). The Department, in consultation with the U.S. Department of Justice, has determined that the statutory provision in ESEA section 1117(d)(2)(B) and a similar provision in ESEA section 8501(d)(2)(B) requiring an equitable services provider be ''independent of . . . any religious organization'' are unconstitutional because they categorically exclude religious organizations (or affiliated persons) based solely on their religious identity from providing equitable services. These provisions therefore run afoul of the principles set forth in the Supreme Court's decision in *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017), which held that, under the Free Exercise Clause of the First Amendment of the U.S. Constitution, otherwise eligible recipients cannot be disqualified from a public benefit solely because of their religious character. As a result, pursuant to 28 U.S.C. 530D, the Department has notified Congress by letter (available at *www.ed.gov/policy/elsec/guid/secletter/190311.html*) that it is no longer implementing these provisions. That means an LEA may enter into a contract with a religious organization to provide equitable services on the same basis as any other entity. Those services still must be secular, neutral, and non-ideological under ESEA section 1117(a)(2).

§ 200.65 Determining equitable participation of teachers and families of participating private school children.

Current Regulations: Section 200.65 contains provisions related to determining the equitable participation of teachers and families of participating private school children.

Final Regulations and Reasons: We make the following changes to § 200.65:

(1) Revise § 200.65(a) to clarify that funds for equitable services for teachers and families of participating private school children come from the proportional share of funds calculated consistent with ESEA section 1117(a)(4)(A)(ii), the requirements of which are included in § 200.64(a). Under NCLB, funds for such equitable services came from required reservations for those purposes at the LEA level and were determined in proportion to the number of private school children from low-income families residing in participating private school attendance areas.

(2) Revise § 200.65(a) and (b) to align with the statutory language in ESEA section 1117(a)(1)(B), which requires an LEA to ''ensure that teachers and families of the children participate, on an equitable basis, in services and activities'' developed under title I, part A.

(3) Delete § 200.65(c) because it is no longer necessary to clarify that private school teachers are not subject to highly qualified teacher requirements. Public school teachers are also no longer subject to those requirements under the amended ESEA.

§ 200.68 Ombudsman.

Current Regulations: None.

Final Regulations and Reasons: We add § 200.68 to incorporate the new requirement in ESEA section 1117(a)(3)(B) that to help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of title I, part A. Given the importance of this new requirement, we incorporate it in the regulations on equitable services for private school children.

Allocations to LEAs

§ 200.73 Applicable hold-harmless provisions.

Current Regulations: Section 200.73 contains applicable hold-harmless provisions that affect the allocation of title I, part A funds to LEAs.

Final Regulations and Reasons: We make the following changes to § 200.73:

(1) In § 200.73(a)(4) regarding the variable hold harmless based on percentages of poverty, add a citation to the hold-harmless provision for Education Finance Incentive Grants in ESEA section 1125A(f)(3), which is not new but was inadvertently omitted in the current regulations.

(2) Add § 200.73(e) to incorporate new ESEA section 4306(c), which provides that, for purposes of implementing the hold harmless protections in sections 1122(c) and 1125A(g)(3) for a newly opened or significantly expanded

charter school under title IV, part C, a State educational agency shall calculate a hold-harmless base for the prior year that, as applicable, reflects the new or significantly expanded enrollment of the charter school.

§ 200.77 Reservation of funds by an LEA.

Current Regulations: Section 200.77 contains both mandatory and permissible reservations off the top of an LEA's title I, part A allocation.

Final Regulations and Reasons: We make the following changes to § 200.77:

(1) Revise § 200.77(a)(1) regarding homeless children and youths to delete the phrase ''who do not attend participating schools'' to align with ESEA section 1113(c)(3)(A)(i), which does not include that phrase.

(2) Add paragraph § 200.77(a)(1)(ii) to incorporate new ESEA section 1113(c)(3)(C), which specifies allowable uses of title I, part A funds to serve homeless children and youths.

(3) Add paragraph § 200.77(a)(4) to incorporate ESEA section 1113(c)(3)(B), which requires an LEA to determine the share of funds reserved for homeless children and youths, children in local institutions for neglected children, and, if appropriate, children in local institutions for delinquent children and neglected or delinquent children in community day programs ''based on the total allocation received by the local educational agency; and . . . prior to any allowable expenditures or transfers by the local educational agency.''

(4) Revise § 200.77(b) to incorporate ESEA section 1113(c)(4), which authorizes the use of title I, part A funds for incentives and rewards for teachers in title I schools identified for comprehensive or targeted support and improvement activities.

(5) Delete current paragraphs (c) and (d), which deal with required reservations for choice-related transportation and supplemental educational services and professional development, because those reservations are no longer required under the amended ESEA.

(6) Add a new § 200.77(d) to require a reservation for the provision and administration of equitable services for private school children, their teachers, and their families given the new proportional share requirement in ESEA section 1117(a)(4)(A)(ii) and § 200.64(a).

(7) Revise § 200.77(e), as redesignated, to clarify that a reservation for administrative expenses now pertains to programs for public school children because funds for administration for equitable services for private school children come from the reservation under § 200.77(d). We also revise § 200.77(e), as redesignated, to delete special capital expenses incurred in providing equitable services. The list of expenses came from ESEA section 5595, as amended by NCLB, which was part of a special grant program that is no longer authorized under the amended ESEA. To the extent capital expenses are needed to provide equitable services to eligible private school children, they remain allowable absent the specific list in the regulations.

(8) Revise § 200.77(f), as redesignated, to add ''early childhood education'' to align with ESEA section 1113(c)(5), which authorizes an LEA to reserve funds ''to provide early childhood education programs for eligible children.''

§ 200.78 Allocation of funds to school attendance areas and schools.

Current Regulations: Section 200.78 sets forth regulations governing the allocation of title I, part A funds to school attendance areas and schools within an LEA.

Final Regulations and Reasons: We make the following changes to § 200.78:

(1) Consistent with ESEA sections 1113(c)(1) and 1117(a)(4)(A)(ii), revise § 200.78(a)(1) to clarify that allocations to school attendance areas and schools take place after an LEA makes the appropriate reservations, including reserving the proportional share for equitable services for private school children, their teachers, and their families. Because the proportional share for equitable services is already reserved, allocations to school attendance areas and schools under ESEA section 1113(c)(1) are then made on the ''basis of the total number of public school children from low-income families in each area or school.''

(2) Delete § 200.78(a)(2). Paragraph (a)(2), which addresses various ways to obtain a poverty count of private school children, has been moved to § 200.64(a)(2) where it more appropriately belongs in light of the new proportional share requirement.

(3) Add a new § 200.78(a)(2) to incorporate the provisions in ESEA section 1113(a)(5)(B) and (C) regarding feeder patterns for determining the poverty percentages in secondary schools.

Subpart C—Migrant Education Program

§ 200.81 Program definitions.

Current Regulations: Current § 200.81 sets forth the definitions that apply to programs and projects operated under title I, part C.

Final Regulations and Reasons: We make the following changes to § 200.81:

(1) Revise § 200.81(a) to add ''or employment'' to the defined term ''Agricultural work'' to align with the definition of ''migratory agricultural worker'' in ESEA section 1309(2), which refers to ''temporary or seasonal employment.'' We also add specific reference to ''raw agricultural products'' to align with the definition of ''Migratory agricultural worker'' in ESEA section 1309(2), which refers to ''initial processing of raw agricultural products'' as an example of temporary or seasonal employment in agriculture. We remove specific reference to ''cultivation'' and ''harvesting'' of trees, as such activities are considered production or initial processing of trees, and trees are listed as one example of raw agricultural products.

(2) Revise § 200.81(c) to add ''or employment'' to the defined term ''Fishing work'' to align with the definition of ''Migratory fisher'' in ESEA section 1309(4), which refers to ''temporary or seasonal employment.''

(3) Revise § 200.81(f) to add the definition of ''Migratory agricultural worker'' in ESEA section 1309(2). The definition of ''Migratory agricultural worker'' in current § 200.81(f) was superseded by the amendments to the ESEA and therefore rescinded on August 22, 2018.

(4) Revise § 200.81(g) to add the definition of ''Migratory child'' in ESEA section 1309(3). The definition of ''Migratory child'' in current § 200.81(g) was superseded by the amendments to the ESEA and therefore rescinded on August 22, 2018.

(5) Revise § 200.81(h) to add the definition of ''Migratory fisher'' in ESEA section 1309(4). The definition of ''Migratory fisher'' in current § 200.81(h) was superseded by the amendments to the ESEA and therefore rescinded on August 22, 2018.

(6) Revise § 200.81(k) to change the defined term from ''MSIX Interconnection Agreement'' to ''MSIX Memorandum of Understanding (MOU)'' to be consistent with current practice.

(7) Revise § 200.81(l) to modify the reference to ''MSIX Interconnection Agreement'' to refer to ''MSIX MOU.''

§ 200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.

Current Regulations: Current § 200.83 sets forth regulations governing the comprehensive needs assessment and comprehensive State plan for service delivery that SEA recipients of title I, part C funding must conduct and develop.

Final Regulations and Reasons: We revise § 200.83 to add ''for service delivery'' after ''comprehensive State plan'' in paragraphs (a), (b), and (c). As drafted, the regulatory language does not match the title of the section. These additions make the regulatory language consistent with the title and consistent with ESEA section 1306.

§ 200.85 Responsibilities of SEAs for the electronic exchange through MSIX of specified educational and health information of migratory children.

Current Regulations: Current § 200.85 sets forth the responsibilities of SEAs for the electronic exchange of specified educational and health information of migratory children through the Migrant Student Information Exchange (MSIX).

Final Regulations and Reasons: To be consistent with current practice, we modify the reference to ''MSIX Interconnection Agreement'' in § 200.85(f)(1) and (2) to refer to ''MSIX MOU.''

§ 200.89 Re-interviewing; Eligibility documentation; and Quality control.

Current Regulations: Section 200.89 sets forth the responsibilities of SEAs for re-interviewing to ensure eligibility of children under the Migrant Education Program (MEP), the responsibilities of SEAs to document the eligibility of migratory children, and the responsibilities of SEAs to establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children.

Final Regulations and Reasons: We make the following changes to § 200.89:

(1) Revise § 200.89(b)(1)(i) to remove the requirements for SEAs based on timelines associated with the initial passage of the regulation. The language is no longer applicable.

(2) Revise § 200.89(b)(1)(iii)(C) to remove the reference to § 200.89(a), which was rescinded on August 22, 2018.

(3) Revise § 200.89(c)(2) to include a reference to the eligibility definitions in ESEA section 1309 in addition to the regulatory eligibility definitions in § 200.81.

Subpart D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out

§ 200.90 Program definitions.

Current Regulations: Current § 200.90 sets forth the definitions that apply to programs and projects operated under title I, part D.

Final Regulations and Reasons: We make the following changes to § 200.90:

(1) Revise § 200.90(b) to change the reference to ''vocationally oriented subjects'' in the definition of ''Regular program of instruction'' to ''career and technical education.'' The amended ESEA uses the term ''career and technical education'' rather than ''vocational'' education (see, *e.g.,* ESEA section 1414(a)(1)(E)(ii)).

(2) Revise § 200.90(c) to remove the definitions of ''Immigrant children and youth and limited English proficiency'' and ''Migrant youth.'' Part D, subpart 1 of the amended ESEA does not use these or related terms. Thus, these definitions are no longer necessary.

Subpart E—General Provisions

§ 200.100 Reservation of funds for school improvement, State administration, and direct student services.

Current Regulations: Current § 200.100 sets out regulations governing the required State reservation for school improvement in ESEA section 1003 and permissive reservations for State administration in ESEA section 1004 and for State academic achievement awards in ESEA section 1117(c)(2), as amended by NCLB.

Final Regulations and Reasons: We make the following changes to § 200.100:

(1) Revise the section heading and the introductory language to delete ''State academic achievement awards program'' because it is no longer authorized in the amended ESEA and add ''direct student services'' because it is a new permissible reservation in amended ESEA section 1003A.

(2) Revise § 200.100(a)(1) to incorporate statutory language in ESEA section 1003(a). Section 1003(a) states that, to carry out the State's school improvement activities and the State's ''statewide system of technical assistance and support for local educational agencies,'' a State must reserve the greater of (1) seven percent of the amount the State receives under subpart 2 of part A of title I; or (2) the sum of the amount the State reserved for fiscal year 2016 under ESEA section 1003(a), as amended by NCLB, and the amount the State received for fiscal year 2016 under ESEA section 1003(g), as amended by NCLB.

(3) Revise § 200.100(a)(2) to make clear that, in reserving funds for school improvement activities under § 200.100(a)(1), the special rule in ESEA section 1003(h) applies beginning in fiscal year 2018 and subsequent years.

(4) Remove the language in current § 200.100(c) regarding the State academic achievement awards program, because it is no longer authorized under the amended ESEA.

(5) Revise § 200.100(c) to incorporate the authority for direct student services in ESEA section 1003A. ESEA section 1003A provides that a State, after meaningful consultation with geographically diverse local educational agencies, may reserve not more than 3 percent of the amount the State educational agency receives under subpart 2 of part A for each fiscal year to carry out direct student services.

§ 200.103 Definitions.

Current Regulations: Current § 200.103 contains definitions that apply to programs operated under part 200.

Final Regulations and Reasons: We revise § 200.103(c) to change ''Student with a disability'' to ''Child with a disability'' to align with the definitions in ESEA section 8101(4) and section 602(3) of the IDEA.

II. General Provisions

Background: The regulations in 34 CFR part 299 establish regulatory requirements that apply to programs in the ESEA in general. As noted earlier in this document, in December 2015, Congress reauthorized the ESEA through the ESSA. As a result of the amendments to the statute through the reauthorization, some of the regulations in part 299 need minor modification to remain aligned with the statute; we are making those minor modifications through these technical amendments.

34 CFR Part 299

Subpart A—Purpose and Applicability

§ 299.2 What general administrative regulations apply to ESEA programs?

Current Regulations: Current § 299.2 clarifies the applicability of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) in 2 CFR part 200 to ESEA programs.

Final Regulations and Reasons: We make the following changes to § 299.2:

(1) Revise the introductory text in § 299.2 to clarify that 2 CFR part 200 applies to all ESEA programs except for Impact Aid in title VIII of the ESEA.

(2) Delete paragraph (a), which is no longer needed because grantees under direct grant programs are covered in the change to the introductory text.

(3) Delete paragraph (b) and the corresponding note to remove language exempting, under certain circumstances, grantees from the requirements of the Uniform Guidance. This flexibility is no longer applicable following the

Department's repeal of 34 CFR part 80 and adoption of the Uniform Guidance.

Subpart D—Fiscal Requirements

§ 299.5 What maintenance of effort requirements apply to ESEA programs?

Current Regulations: Current § 299.5 describes the maintenance of effort requirement that applies to certain ESEA programs and identifies the programs to which the requirement applies.

Final Regulations and Reasons: We revise § 299.5(b) to align with changes to the covered programs as defined in ESEA section 8101(11). We also add the formula grant program under title VI, because the amended ESEA made the maintenance of effort requirement in ESEA section 8521 applicable to that program. For title III, part A, we exclude section 3112 from coverage, because under that section the Department provides grants on a competitive basis directly to Indian Tribes and certain other eligible entities. Only the formula grants to States, which are described in the remainder of part A, subpart 1 of title III, are covered by the maintenance of effort requirement in ESEA section 8521, which requires SEAs to reduce payments to LEAs if they fail to maintain effort. We also revise the example in paragraph (c) to update the referenced years.

Subpart E—Services to Private School Students and Teachers

§ 299.6 What are the responsibilities of a recipient of funds for providing services to children and teachers in private schools?

Current Regulations: Current § 299.6 establishes an agency's, consortium's, or entity's responsibilities for providing services to eligible private school children, their teachers, and other educational personnel. It also identifies the programs to which this subpart applies.

Final Regulations and Reasons: We make the following changes to § 299.6:

(1) Revise § 299.6(a) to replace the phrase ''agency or consortium of agencies'' with ''agency, consortium, or entity,'' in accordance with ESEA section 8501(a)(1), which, in addition to agencies and consortia of agencies, refers to other entities receiving funds under applicable programs. We make conforming changes, as applicable, in §§ 299.6 through 299.9.

(2) Revise § 299.6(a) to include the phrase ''served by such agency, consortium, or entity,'' in accordance with ESEA section 8501(a)(1), which states that equitable services must be provided in areas served by an applicable agency, consortium, or entity.

(3) Revise § 299.6(b) to align with changes to the applicable programs under ESEA section 8501(b)(1).

§ 299.7 What are the factors for determining equitable participation of children and teachers in private schools?

Current Regulations: Current § 299.7 sets forth the factors for determining equitable participation of private school children and teachers, including requirements for equal expenditures and equitable services.

Final Regulations and Reasons: We make the following changes to § 299.7:

(1) Add § 299.7(a)(3) to incorporate the language of ESEA section 8501(a)(4)(B), which requires that funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(2) Add § 299.7(a)(4) to incorporate the language of ESEA section 8501(a)(4)(C), which requires each SEA to provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under title VIII, part F, that the local educational agencies have determined are available for eligible private school children.

(3) Delete § 299.7(b)(2)(iv)(B) to align with the requirements in ESEA section 8506. Under the statutory requirements, private school children are not subject to challenging State academic standards.

§ 299.9 What are the requirements concerning property, equipment, and supplies for the benefit of private school children and teachers?

Current Regulations: Current § 299.9 sets forth the requirements regarding property, equipment, and supplies an agency, consortium, or other entity acquires in providing equitable services under applicable ESEA programs.

Final Regulations and Reasons: We make the following changes to § 299.9:

(1) Revise § 299.9(a) through (d) to replace the phrase ''public agency'' with ''agency, consortium, or entity,'' in accordance with ESEA section 8501(a)(1) and to maintain consistency with §§ 299.6 through 299.8.

(2) Remove § 299.9(f) because it is no longer necessary to define ''public agency'' in light of the change described above.

§ 299.10 What are the requirements for a State ombudsman?

Current Regulations: None.

Final Regulations and Reasons: We add § 299.10 to incorporate the new requirement in ESEA section 8501(a)(3)(B) that to help ensure equitable services are provided to private school children, teachers, and other educational personnel under this section, the State educational agency involved shall direct the ombudsman designated by the agency under section 1117 to monitor and enforce the requirements of this section. Given the importance of this new requirement, we incorporate it in the regulations on equitable services for private school students and teachers.

Subpart F—Complaint Procedures

§ 299.11 What complaint procedures shall an SEA adopt?

Current Regulations: Current § 299.10 requires an SEA to adopt written procedures for the receipt, resolution, appeal, and investigation of complaints regarding the administration of certain ESEA programs. It also establishes the programs to which such procedures apply.

Final Regulations and Reasons: We redesignate current § 299.10 as § 299.11 and revise § 299.11(b), as redesignated, to reflect changes to the applicable programs under ESEA section 8304(a)(3)(C), which requires an SEA to assure it will adopt written procedures for the receipt and resolution of complaints for each program included in its consolidated State plan. For title III, part A, we exclude section 3112 from coverage because under that section the Department provides grants on a competitive basis directly to Indian Tribes and certain other eligible entities. For title III, only the formula grants to States, which are described in the remainder of part A, subpart 1 of title III, are covered by the statutory requirements in ESEA section 8304.

§ 299.12 What items are included in the complaint procedures?

Current Regulations: Current § 299.11 establishes what must be included in an SEA's complaint procedures.

Final Regulations and Reasons: We redesignate current § 299.11 as § 299.12 and add § 299.12(a)(2), as redesignated, to incorporate the requirement in ESEA section 8503(a) that for complaints involving the participation of private school children an SEA must provide a written resolution within 45 days.

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice and comment rulemaking when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). There is good cause here for waiving rulemaking because these regulations make technical changes only to align with current law and do not establish substantive policy. However, the Department is providing a 30-day comment period and invites interested persons to participate in this rulemaking by submitting written comments. The Department will consider the comments received and may conduct additional rulemaking based on the comments.

The APA also generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because these final regulations are merely technical, there is good cause to make them effective on the day they are published.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on an analysis of anticipated costs and benefits, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For Fiscal Year 2019, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. These final regulations are not a significant regulatory action. Therefore, the requirements of Executive Order 13771 do not apply.

Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action. As discussed elsewhere in this document, through this action we make only technical changes to align Department regulations with current law; we do not establish any substantive requirements or policies beyond those in the authorizing statute. Accordingly, the regulations do not impose any costs, nor generally confer any benefits, that are not attributable to statute.

The technical amendments in this document serve in some cases to revise existing regulations to conform with minor language updates in statute, and in others to add to the regulations substantially new statutory provisions, albeit verbatim and without interpretation. With respect to the latter group of technical amendments, OMB Circular A–4 (available at *www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf*) requires the use of a pre-statutory baseline in assessing costs and benefits—that is, it requires for these amendments the estimation of costs and benefits that are attributable to statute. We provide estimates of statute-attributable costs of these amendments in the following paragraphs. The Department expects that States and LEAs will use ESEA program funds, including funds reserved for administration, to cover these estimated costs, and that any costs that cannot be met with Federal resources will generally be minimal. Moreover, we believe that the costs of these amendments are outweighed by their anticipated benefits, which include, among other things, consistency between the authorizing statute and implementing regulations; increased transparency in State and local implementation of title I and other

ESEA programs; greater flexibility in the use of Federal program funds to address local educational needs and improve educational outcomes; improved services for students, including for eligible students in private schools; and better student preparedness for college and the workforce.

Standards and Assessments

The amendments to § 200.1 include two substantially new statutory provisions regarding the alignment of State standards with expectations for college- and career-readiness. Specifically, § 200.1(c)(1)(i) implements the requirement in ESEA section 1111(b)(1)(D)(i) that a State's academic achievement standards be aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards. Section 200.1(d)(5) similarly implements the requirement in ESEA section 1111(b)(1)(E)(i)(V) that a State's alternate academic achievement standards for students with the most significant cognitive disabilities be aligned to ensure that a student who meets the standards is on track to pursue postsecondary education or employment.

Based on results of the Department's Assessment Peer Review and other available information, we estimate that 37 of 52 States (including the District of Columbia and Puerto Rico) can already demonstrate alignment of their academic achievement standards with entrance requirements for public higher education consistent with the requirement in § 200.1(c)(1)(i). For the remaining 15 States, we estimate that each will need $250,000 to contract with a third party to perform the requisite standards analysis and validation, for a total estimated one-time cost of $3,750,000. We further anticipate that all 52 States will need to engage a contractor to analyze and validate their alternate academic achievement standards for students with the most significant cognitive disabilities in order to meet the requirement in § 200.1(d)(5). We estimate that States will need on average $50,000 for this purpose, a total estimated one-time cost of $2,600,000.

Participation of Eligible Children in Private Schools; Services to Private School Students and Teachers

This action includes several regulations, in §§ 200.63, 200.64, 200.68, 299.7, and 299.10, that implement substantially new statutory provisions regarding the provision of equitable services to students and teachers in private schools. Notable among these regulations is § 200.63(f)(3), which implements the requirement in ESEA section 1117(b)(6)(C) that a State establish a process to consider requests from private school officials that the State provide for equitable services if the officials demonstrate that an LEA has not carried out its equitable services responsibilities. A State should need an average of 40 hours to establish such a process; assuming an average cost of $40 an hour for State staff, we accordingly estimate a one-time cost per State of $1,600 and a total estimated one-time cost of $83,230. The Department further estimates that 17 States will need to implement their established State provision of equitable services request process in a given year and that such States will need 56 hours for implementation, resulting in an estimated annual cost of $2,240 per State and $38,080 in total.

In addition, §§ 200.64(a)(4) and 299.7(a)(4) implement new statutory requirements for each State to provide notice to private school officials of each LEA's allocation of funds for equitable services under title I, part A and other applicable programs. We estimate that a State will need an average of 8 hours to provide such notice, resulting in an estimated annual cost of $320 per State and $16,640 across States.

The regulations also implement, in §§ 200.68 and 299.10, statutory requirements for States to designate an ombudsman to monitor and enforce equitable services requirements under title I, part A and other applicable programs. Insofar as States were required to monitor and enforce equitable services requirements under the previous authorization of the ESEA, the Department does not believe this requirement imposes any new costs apart from the minimal costs associated with designating an ombudsman.

Lastly, the regulations implement several new statutory equitable services requirements for LEAs. We estimate the total burden associated with these regulations to be at most 8 hours and, at $35 per hour for LEA staff, $280 per LEA, a total maximum cost across an estimated 17,000 LEAs of $4,760,000. These regulations include—

(1) Section 200.63(a), which implements the requirement in ESEA section 1117(b)(1) that an LEA transmit to the State ombudsman results of whether it reaches agreement through consultation with private school officials on the provision of equitable services;

(2) Section 200.63(b)(8) through (11), which add to the regulations new statutorily required issues on which an LEA consults with private school officials;

(3) Section 200.63(e)(1)(ii), which implements the requirement in ESEA section 1117(b)(5) that an LEA include, in its written affirmation to the State that consultation has occurred, the option for private school officials to indicate their belief that timely and meaningful consultation did not occur or that proposed services are not equitable; and

(4) Section 200.64(a)(2), which implements the requirement in ESEA section 1117(a)(4)(A)(ii) that an LEA calculate the proportional share of funds available for equitable services based on the LEA's total amount of title I, part A funds.

Other Provisions

This regulatory action includes several other amendments implementing substantially new statutory requirements. These include § 200.11(c), which implements the requirement in ESEA section 1111(h)(1)(C)(xii) for States and LEAs to include in annual report cards a comparison of their NAEP scores with national average scores. This requirement adds minimal burden over prior law, which required that States and LEAs provide NAEP scores with no national average comparison. Also adding minimal burden is § 200.29(c)(2), which implements a new provision in ESEA section 6115(c) requiring an LEA consolidating Indian Education funds in a title I schoolwide program to identify in its application how the use of such funds in a schoolwide program will produce benefits for Indian students that are not achievable outside of a schoolwide program. In addition, § 200.73(e) implements the requirement in ESEA section 4306(c) that in allocating title I, part A funds to LEAs a State use a hold-harmless base for newly opened or significantly expanded charter schools that are LEAs that reflects the new or significantly expanded enrollment of the charter school. This regulation should not impose any new burden, insofar as States already had to use a hold-harmless base for all LEAs, including charter school LEAs, in carrying out their allocation responsibilities under the previous authorization of the ESEA.

Conformance with *Trinity Lutheran*

As discussed elsewhere in this document, the Department, in consultation with the U.S. Department of Justice, determined that the statutory provision in ESEA sections 1117(d)(2)(B) and 8501(d)(2)(B) requiring an equitable services provider be ''independent of . . . any religious organization'' is unconstitutional because it categorically excludes religious organizations (or affiliated persons) based solely on their religious identity from providing equitable services and thus runs afoul of the Supreme Court's decision in *Trinity Lutheran Church of Columbia, Inc.* v. *Comer*. Accordingly, the Department is deleting the phrase ''and of any religious organization'' from § 200.64(b)(3)(ii)(A). That means an LEA may enter into a contract with a religious organization to provide equitable services on the same basis as any other entity. This change should not impose any new costs or burdens on an LEA; it merely expands the entities with which an LEA, at its discretion, may contract to provide equitable services.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the regulations clearly stated?
- Do the regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 200.1.)
- Could the description of the regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the regulations easier to understand? If so, how?
- What else could we do to make the regulations easier to understand?

To send any comments that concern how the Department could make these regulations easier to understand, see the instructions under FOR FURTHER INFORMATION CONTACT.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

The final regulations do not create any new information collection requirements.

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to a collection of information in final regulations at the end of the affected section of the regulations.

Intergovernmental Review

The programs covered by the final regulations are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

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List of Subjects

34 CFR Part 200

Education of disadvantaged, Elementary and secondary education, Grant programs—education, Indians—education, Infants and children, Juvenile delinquency, Migrant labor, Private schools, Reporting and recordkeeping requirements.

34 CFR Part 299

Administrative practice and procedure, Elementary and secondary education, Grant programs—education, Private schools, Reporting and recordkeeping requirements.

Dated: June 6, 2019.

Betsy DeVos,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 200 and 299 of title 34 of the Code of Federal Regulations as follows:

PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

■ 1. The authority citation for part 200 is revised to read as follows:

Authority: 20 U.S.C. 6301 through 6576, unless otherwise noted.

Section 200.1 also issued under 20 U.S.C. 6311(b)(1).

Section 200.11 also issued under 20 U.S.C. 6311(c)(2), (g)(2)(D), (h)(1)(C)(xii), (h)(2)(C), 6312(c)(3), 9622(d)(1).

Section 200.25 also issued under 20 U.S.C. 6314.

Section 200.26 also issued under 20 U.S.C. 6314.

Section 200.29 also issued under 20 U.S.C. 1413(a)(2)(D), 6311(g)(2)(E), 6314, 6396(b)(4), 7425(c), 7703(d).

Section 200.61 also issued under 20 U.S.C. 6312(e).

Section 200.62 also issued under 20 U.S.C. 6320(a).

Section 200.63 also issued under 20 U.S.C. 6320(b).

Section 200.64 also issued under 20 U.S.C. 6320.

Section 200.65 also issued under 20 U.S.C. 6320(a)(1)(B).

Section 200.68 also issued under 20 U.S.C. 6320(a)(3)(B).

Section 200.73 also issued under 20 U.S.C. 6332(c), 6336(f)(3), 7221e(c).

Section 200.77 also issued under 20 U.S.C. 6313(c)(3)–(5), 6318(a)(3), 6320; 42 U.S.C. 11432(g)(1)(J)(ii)–(iii), 11433(b)(1).

Section 200.78 also issued under 20 U.S.C. 6313(a)(5)(B), (c), 6333(c)(2).

Section 200.79 also issued under 20 U.S.C. 6313(b)(1)(D), (c)(2)(B), 6321(d).

Section 200.81 also issued under 20 U.S.C. 6391–6399.

Section 200.83 also issued under 20 U.S.C. 6396.

Section 200.85 also issued under 20 U.S.C. 6398.

Section 200.87 also issued under 20 U.S.C. 7881(b)(1)(A).

Section 200.88 also issued under 20 U.S.C. 6321(d).

Section 200.90 also issued under 20 U.S.C. 6432, 6454, 6472.

Section 200.100 also issued under 20 U.S.C. 6303, 6303b, 6304.

Section 200.103 also issued under 20 U.S.C. 6315(c)(1)(A)(ii), 6571(a), 8101(4).

■ 2. Section 200.1 is amended by:

■ a. Revising paragraphs (a), (b)(3), (c)(1) introductory text, (c)(1)(i), and (c)(1)(ii)(A) introductory text;

■ b. Removing paragraph (c)(3);

■ c. In paragraph (d), adding ''(IDEA)'' after ''Individuals with Disabilities Education Act'';

■ d. Revising paragraphs (d)(1) through (3);
■ e. Adding paragraphs (d)(4) and (5);
■ f. Revising paragraphs (e) and (f); and
■ g. Removing the parenthetical authority citation.

The revisions and additions read as follows:

§ 200.1 State responsibilities for developing challenging academic standards.

(a) *Academic standards in general.* A State must adopt challenging academic content standards and aligned academic achievement standards that will be used by the State, its local educational agencies (LEAs), and its schools to carry out this subpart. These academic standards must—

(1) Be the same academic content standards and aligned academic achievement standards that the State applies to all public schools and public school students in the State, including the public schools and public school students served under this subpart, except as provided in paragraph (d) of this section, which applies only to the State's academic achievement standards;

(2) With respect to the academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State, except as provided in paragraph (d) of this section; and

(3) Include at least mathematics, reading/language arts, and science, and may include other subjects determined by the State.

(b) * * *

(3) At the high school level, the academic content standards must define the knowledge and skills that all high school students are expected to know and be able to do in at least reading/language arts, mathematics, and science, irrespective of course titles or years completed.

(c) *Academic achievement standards.* (1) The challenging academic achievement standards required under paragraph (a) of this section must—

(i) Be aligned with the State's challenging academic content standards and with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards; and

(ii) * * *

(A) Not less than three achievement levels that describe at least—

* * * * *

(d) * * *

(1) Are aligned with the State's challenging academic content standards;

(2) Promote access to the general curriculum, consistent with the IDEA;

(3) Reflect professional judgment as to the highest possible standards achievable by such students;

(4) Are designated in the individualized education program developed under section 614(d)(3) of the IDEA for each such student as the academic achievement standards that will be used for the student; and

(5) Are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, as in effect on July 22, 2014, and § 200.2(b)(3)(ii)(B)(*2*).

(e) *Modified academic achievement standards.* A State may not define or implement for use under this subpart any alternate or modified academic achievement standards for children with disabilities under section 602(3) of the IDEA that are not alternate academic achievement standards that meet the requirements of paragraph (d) of this section.

(f) *English language proficiency standards.* A State must adopt English language proficiency standards that—

(1) Are derived from the four recognized domains of speaking, listening, reading, and writing;

(2) Address the different proficiency levels of English learners; and

(3) Are aligned with the State's challenging academic content standards and aligned academic achievement standards.

■ 3. Section 200.11 is revised to read as follows:

§ 200.11 Participation in NAEP.

(a) *State participation.* Each State that receives funds under this subpart must participate in biennial State academic assessments of fourth and eighth grade reading and mathematics under the State National Assessment of Educational Progress (NAEP), if the Department pays the costs of administering those assessments.

(b) *Local participation.* In accordance with section 1112(c)(3) of the ESEA, and notwithstanding section 303(d)(1) of the National Assessment of Educational Progress Authorization Act, an LEA that receives funds under this subpart must participate, if selected, in the State-NAEP assessments referred to in paragraph (a) of this section.

(c) *Report cards.* Each State and LEA must report on its annual State and LEA report card, respectively, the most recent available academic achievement results in grades four and eight on the State's NAEP reading and mathematics assessments under paragraph (a) of this section, compared to the national average of such results. The report cards must include—

(1) The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup described in section 1111(c)(2) of the ESEA; and

(2) The participation rates for children with disabilities and for English learners.

■ 4. Section 200.25 is amended by:
■ a. Revising paragraphs (a)(1) and (b)(1)(ii) introductory text;
■ b. Adding paragraph (b)(1)(iii);
■ c. Revising paragraphs (b)(2), (c), (d), and (f); and
■ d. Removing the parenthetical authority citation.

The revisions and addition read as follows:

§ 200.25 Schoolwide programs in general.

(a) *Purpose.* (1) The purpose of a schoolwide program is to improve academic achievement throughout a school so that all students, particularly the lowest-achieving students, demonstrate proficiency related to the challenging State academic standards under § 200.1.

* * * * *

(b) * * *

(1) * * *

(ii) Except as provided under paragraph (b)(1)(iii) of this section, for the initial year of the schoolwide program—

* * * * *

(iii) A school that does not meet the poverty percentage in paragraph (b)(1)(ii) of this section may operate a schoolwide program if the school receives a waiver from the State to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school in improving academic achievement and other factors.

(2) In determining the percentage of children from low-income families under paragraph (b)(1) of this section, the LEA may use a measure of poverty that is different from the measure or measures of poverty used by the LEA to identify and rank school attendance areas for eligibility and participation under this subpart.

(c) *Participating students and services.* A school operating a schoolwide program is not required to identify—

(1) Particular children as eligible to participate; or

(2) Individual services as supplementary.

(d) *Supplemental funds.* In accordance with the method of determination described in section 1118(b)(2) of the ESEA, a school participating in a schoolwide program must use funds available under this subpart and under any other Federal program included under paragraph (e) of this section and § 200.29 only to supplement the total amount of funds that would, in the absence of the funds under this subpart, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and English learners.

* * * * *

(f) *Prekindergarten program.* A school operating a schoolwide program may use funds made available under this subpart to establish or enhance prekindergarten programs for children below the age of 6.

■ 5. Section 200.26 is amended by revising paragraphs (a)(1)(i) introductory text, (a)(1)(i)(B), (a)(1)(ii), (b), and (c)(1) through (3) and removing the parenthetical authority citation to read as follows:

§ 200.26 Core elements of a schoolwide program.

(a) * * *

(1) * * *

(i) Takes into account information on the academic achievement of all students in the school, including all subgroups of students under section 1111(c)(2) of the ESEA and migratory children as defined in section 1309(3) of the ESEA, relative to the challenging State academic standards under § 200.1 and any other factors as determined by the LEA to—

* * * * *

(B) Identify the specific academic needs of students and subgroups of students who are failing, or are at risk of failing, to meet the challenging State academic standards; and

(ii) Assesses the needs of the school relative to each of the components of the schoolwide program under section 1114(b)(7) of the ESEA.

* * * * *

(b) *Comprehensive plan.* Using data from the comprehensive needs assessment under paragraph (a) of this section, a school that wishes to operate a schoolwide program must develop a comprehensive plan, in accordance with section 1114(b) of the ESEA, that describes how the school will improve academic achievement for all students in the school, but particularly the needs of those students who are failing, or are at risk of failing, to meet the challenging State academic standards and any other factors as determined by the LEA.

(c) * * *

(1) Regularly monitor the implementation of, and results achieved by, the schoolwide program, using data from the State's annual assessments and other indicators of academic achievement;

(2) Determine whether the schoolwide program has been effective in increasing the achievement of students in meeting the challenging State academic standards, particularly for those students who had been furthest from achieving the standards; and

(3) Revise the plan, as necessary, based on the results of the regular monitoring, to ensure continuous improvement of students in the schoolwide program.

■ 6. Section 200.29 is amended by revising paragraphs (c)(2), (c)(3)(iii) and (iv), and (e) and removing the parenthetical authority citation to read as follows:

§ 200.29 Consolidation of funds in a schoolwide program.

* * * * *

(c) * * *

(2) *Indian education.* The school may consolidate funds received under subpart 1 of part A of title VI of the ESEA if—

(i) The parent committee established by the LEA under section 6114(c)(4) of the ESEA approves the inclusion of these funds;

(ii) The schoolwide program is consistent with the purpose described in section 6111 of the ESEA; and

(iii) The LEA identifies in its application how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds are not used in a schoolwide program.

(3) * * *

(iii) The school may also consolidate funds received under section 7003(d) of the ESEA (Impact Aid) for children with disabilities in a schoolwide program.

(iv) A school that consolidates funds under part B of IDEA or section 7003(d) of the ESEA may use those funds for any activities under its schoolwide program plan but must comply with all other requirements of part B of IDEA, to the same extent it would if it did not consolidate funds under part B of IDEA or section 7003(d) of the ESEA in the schoolwide program.

* * * * *

(e) Each State must modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources in their schoolwide programs to improve educational opportunities and reduce unnecessary fiscal and accounting requirements.

■ 7. Section 200.61 is revised to read as follows:

§ 200.61 Parents' right to know.

(a) *Information for parents.* (1) At the beginning of each school year, an LEA that receives funds under this subpart must notify the parents of each student attending a title I school that the parents may request, and the LEA will provide the parents on request and in a timely manner, information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

(iii) Whether the teacher is teaching in the field of discipline of the certification of the teacher.

(iv) Whether the parent's child is provided services by paraprofessionals and, if so, their qualifications.

(2) A school that participates under this subpart must provide to each parent—

(i) Information on the level of achievement and academic growth, if applicable and available, of the parent's child on each of the State academic assessments required under section 1111(b)(2) of the ESEA; and

(ii) Timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

(b) *Testing transparency.* (1) At the beginning of each school year, an LEA that receives funds under this subpart must notify the parents of each student attending a title I school that the parents may request, and the LEA will provide the parents on request in a timely manner, information regarding any State or LEA policy regarding student participation in any assessments mandated by section 1111(b)(2) of the ESEA and by the State or LEA, which must include a policy, procedure, or parental right to opt the child out of such assessment, where applicable.

(2) Each LEA that receives funds under this subpart must make widely

available through public means (including by posting in a clear and easily accessible manner on the LEA's website and, where practicable, on the website of each school served by the LEA) for each grade served by the LEA, information on each assessment required by the State to comply with section 1111 of the ESEA, other assessments required by the State, and, where such information is available and feasible to report, assessments required districtwide by the LEA, consistent with section 1112(e)(2)(B)–(C) of the ESEA.

(c) *Language Instruction for English learners*—(1) *Notice.* (i) An LEA using funds under this subpart or title III of the ESEA to provide a language instruction educational program as determined under title III must, not later than 30 days after the beginning of the school year unless paragraph (c)(1)(ii) of this section applies, inform parents of an English learner identified for participation or participating in such a program of the information in section 1112(e)(3)(A) of the ESEA.

(ii) For a child who has not been identified as an English learner prior to the beginning of the school year but is identified as an English learner during such school year, an LEA must notify the child's parents during the first two weeks of the child being placed in a language instruction educational program consistent with paragraph (c)(1)(i) of this section.

(2) *Parental participation.* An LEA receiving funds under this subpart must implement an effective means of outreach, consistent with paragraph (c)(3) of this section, to parents of English learners to inform parents how the parents can—

(i) Be involved in the education of their children; and

(ii) Be active participants in assisting their children to—

(A) Attain English proficiency;

(B) Achieve at high levels within a well-rounded education; and

(C) Meet the challenging State academic standards expected of all students.

(3) *Parent meetings.* Implementing an effective means of outreach under paragraph (c)(2) of this section must include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of English learners assisted under this subpart or title III.

(4) *Basis for admission or exclusion.* A student may not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(d) *Notice and format.* The notice and information provided to parents under this section must meet the requirements in § 200.2(e).

■ 8. Section 200.62 is amended by revising paragraphs (a)(1) and (2) and (b)(1)(ii) to read as follows:

§ 200.62 Responsibilities for providing services to private school children.

(a) * * *

(1) In accordance with §§ 200.62 through 200.67 and section 1117 of the ESEA, provide, individually or in combination, as requested by private school officials to best meet the needs of eligible children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under this subpart (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, on an equitable basis and in a timely manner, to eligible children who are enrolled in private elementary and secondary schools; and

(2) Ensure that teachers and families of participating private school children participate, on an equitable basis, in accordance with § 200.65 in services and activities developed pursuant to section 1116 of the ESEA.

(b) * * *

(1) * * *

(ii) Meet the criteria in section 1115(c) of the ESEA.

* * * * *

■ 9. Section 200.63 is amended by:

■ a. Revising paragraphs (a) and (b)(6) and (7);

■ b. Redesignating paragraph (b)(8) as paragraph (b)(12);

■ c. Adding new paragraphs (b)(8) through (11);

■ d. Revising paragraphs (e)(1) and (f);

■ e. Removing the parenthetical authority citation.

The revisions and additions read as follows:

§ 200.63 Consultation.

(a) In order to have timely and meaningful consultation, an LEA must consult with appropriate officials of private schools during the design and development of the LEA's program for eligible private school children, as well as their teachers and families under § 200.65. The goal of consultation is reaching agreement on how to provide equitable and effective programs for eligible private school children, and the results of that agreement must be transmitted to the ombudsman designated under § 200.68.

(b) * * *

(6) The size and scope of the equitable services that the LEA will provide to eligible private school children, and, consistent with § 200.64(a), the proportion of funds that the LEA will allocate for these services, and how the LEA determines that proportion of funds.

(7) The method or sources of data that the LEA will use under § 200.64(a) to determine the number of private school children from low-income families residing in participating public school attendance areas, including whether the LEA will extrapolate data if a survey is used.

(8) Whether the LEA will provide services directly or through a separate government agency, consortium, entity, or third-party contractor.

(9) Whether to provide equitable services to eligible private school children—

(i) By creating a pool or pools of funds with all of the funds allocated under § 200.64(a)(2) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) In a participating school attendance area who attend private schools with the proportion of funds allocated under § 200.64(a)(2) based on the number of children from low-income families who attend private schools.

(10) When, including the approximate time of day, the LEA will provide services.

(11) Whether the LEA will consolidate and use funds under subpart A of this part with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) of the ESEA, to provide services to eligible private school children.

* * * * *

(e)(1)(i) The LEA must maintain in its records and provide to the SEA a written affirmation, signed by officials of each private school with participating children or appropriate private school representatives, that the required consultation has occurred.

(ii) The LEA's written affirmation must provide the option for private school officials to indicate their belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children.

* * * * *

(f)(1) An official of a private school has the right to complain to the SEA that the LEA did not—

(i) Engage in timely and meaningful consultation;

(ii) Consider the views of the official of the private school; or

(iii) Make a decision that treats the private school students equitably.

(2) If a private school official wishes to file a complaint, the official must provide the basis of the noncompliance by the LEA to the SEA and the LEA must forward the appropriate documentation to the SEA.

(3) An SEA must provide equitable services directly or through contracts with public or private agencies, organizations, or institutions if the appropriate private school officials have—

(i) Requested that the SEA provide such services directly; and

(ii) Demonstrated that the LEA has not met the requirements of §§ 200.62 through 200.67 in accordance with the SEA's procedures for making such a request.

■ 10. Section 200.64 is amended by:

■ a. Revising paragraphs (a) and (b)(2)(ii);

■ b. In paragraph (b)(3)(ii)(A), removing the words ''and of any religious organization''; and

■ c. Removing the parenthetical authority citation.

The revisions read as follows:

§ 200.64 Factors for determining equitable participation of private school children.

(a) *Equal expenditures.* (1) Funds expended by an LEA under this subpart for services for eligible private school children in the aggregate must be equal to the proportion of funds generated by private school children from low-income families who reside in participating public school attendance areas under paragraph (a)(2) of this section.

(2) An LEA must determine the proportional share of funds available for services for eligible private school children based on the total amount of funds received by the LEA under subpart 2 of part A of title I of the ESEA prior to any allowable expenditures or transfers by the LEA.

(3)(i) To obtain a count of private school children from low-income families who reside in participating public school attendance areas, the LEA may—

(A) Use the same poverty data the LEA uses to count public school children;

(B)(*1*) Use comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families' identity; and

(*2*) Extrapolate data from the survey based on a representative sample if complete actual data are unavailable;

(C) Use comparable poverty data from a different source, such as scholarship applications;

(D) Apply the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area; or

(E) Use an equated measure of low income correlated with the measure of low income used to count public school children.

(ii) An LEA may count private school children from low-income families every year or every two years.

(iii) After timely and meaningful consultation in accordance with § 200.63, the LEA shall have the final authority in determining the method used to calculate the number of private school children from low-income families.

(4) An SEA must provide notice in a timely manner to appropriate private school officials in the State of the allocation of funds for educational services and other benefits that LEAs have determined are available for eligible private school children.

(5) An LEA must obligate funds generated to provide equitable services for eligible private school children in the fiscal year for which the funds are received by the LEA.

(b) * * *

(2) * * *

(ii) Meets the equal expenditure requirements under paragraph (a) of this section; and

* * * * *

■ 11. Section 200.65 is revised to read as follows:

§ 200.65 Determining equitable participation of teachers and families of participating private school children.

(a) From the proportional share reserved for equitable services under § 200.77(d), an LEA shall ensure that teachers and families of participating private school children participate on an equitable basis in services and activities under this subpart.

(b) After consultation with appropriate private school officials, the LEA must provide services and activities under paragraph (a) of this section either—

(1) In conjunction with the LEA's services and activities for teachers and families; or

(2) Independently.

■ 12. Section 200.68 is added to read as follows:

§ 200.68 Ombudsman.

To help ensure equity for eligible private school children, teachers, and other educational personnel, an SEA must designate an ombudsman to monitor and enforce the requirements in §§ 200.62 through 200.67.

■ 13. Section 200.73 is amended by:

■ a. In paragraph (a)(4), removing the citation ''section 1122(c)'' and adding in its place ''sections 1122(c) and 1125A(f)(3)'';

■ b. Adding paragraph (e); and

■ c. Removing the parenthetical authority citation.

The addition reads as follows:

§ 200.73 Applicable hold-harmless provisions.

* * * * *

(e) *Hold-harmless protection for a newly opened or significantly expanded charter school LEA.* An SEA must calculate a hold-harmless base for the prior year for a newly opened or significantly expanded charter school LEA that, as applicable, reflects the new or significantly expanded enrollment of the charter school LEA.

■ 14. Section 200.77 is amended by:

■ a. Revising paragraph (a)(1);

■ b. Adding paragraph (a)(4);

■ c. Revising paragraph (b);

■ d. Removing paragraphs (c) and (d);

■ e. Redesignating paragraph (e) as paragraph (c) and revising newly redesignated paragraph (c);

■ f. Adding a new paragraph (d);

■ g. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f) and revising newly redesignated paragraphs (e) and (f); and

■ h. Removing the parenthetical authority citation.

The revisions and additions read as follows:

§ 200.77 Reservation of funds by an LEA.

* * * * *

(a) * * *

(1)(i) Homeless children and youths, including providing educationally related support services to children in shelters and other locations where homeless children may live.

(ii) Funds reserved under paragraph (a)(1)(i) of this section may be—

(A) Determined based on a needs assessment of homeless children and youths in the LEA, taking into consideration the number and needs of those children, which may be the same needs assessment as conducted under section 723(b)(1) of the McKinney-Vento Homeless Assistance Act; and

(B) Used to provide homeless children and youths with services not ordinarily provided to other students under this subpart, including providing—

(*1*) Funding for the liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act; and

(*2*) Transportation pursuant to section 722(g)(1)(J)(iii) of that Act;

* * * * *

(4) An LEA must determine the amount of funds reserved under paragraphs (a)(1)(i) and (a)(2) and (3) of this section based on the total allocation received by the LEA under subpart 2 of part A of title I of the ESEA prior to any allowable expenditures or transfers by the LEA;

(b) Provide, where appropriate under section 1113(c)(4) of the ESEA, financial incentives and rewards to teachers who serve students in title I schools identified for comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA for the purpose of attracting and retaining qualified and effective teachers;

(c) Meet the requirements for parental involvement in section 1116(a)(3) of the ESEA;

(d) Provide and administer equitable services in accordance with § 200.64(a);

(e) Administer programs for public school children under this subpart; and

(f) Conduct other authorized activities, such as early childhood education, school improvement and coordinated services.

■ 15. Section 200.78 is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 200.78 Allocation of funds to school attendance areas and schools.

(a)(1) After reserving funds, as applicable, under § 200.77, including funds for equitable services for private school students, their teachers, and their families, an LEA must allocate funds under this subpart to school attendance areas and schools, identified as eligible and selected to participate under section 1113(a) or (b) of the ESEA, in rank order on the basis of the total number of public school children from low-income families in each area or school.

(2) To determine the number of children from low-income families in a secondary school, an LEA must use—

(i) The same measure of poverty it uses for elementary schools; or

(ii) An accurate estimate of the number of students from low-income families by applying the average percentage of students from low-income families in the elementary school attendance areas that feed into the secondary school to the number of students enrolled in the secondary school if—

(A) The LEA conducts outreach to secondary schools within the LEA to inform the schools of the option to use this measure; and

(B) A majority of the secondary schools approve the use of this measure.

* * * * *

■ 16. Section 200.79 is amended by revising paragraphs (a), (b)(1)(ii) and (iii), and (b)(2)(i) and removing the parenthetical authority citation to read as follows:

§ 200.79 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations.

(a) For the purpose of determining compliance with the supplement not supplant requirement in section 1118(b) and the comparability requirement in section 1118(c) of the ESEA, a grantee or subgrantee under this subpart may exclude supplemental State and local funds spent in any school attendance area or school for programs that meet the intent and purposes of title I of the ESEA.

(b) * * *

(1) * * *

(ii) Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the challenging State academic standards that all students are expected to meet;

(iii) Is designed to meet the educational needs of all students in the school, particularly the needs of students who are failing, or are most at risk of failing, to meet the challenging State academic standards; and

* * * * *

(2)(i) Serves only students who are failing, or are most at risk of failing, to meet the challenging State academic standards;

* * * * *

■ 17. Section 200.81 is amended by:

■ a. Revising the introductory text and paragraphs (a) and (c);

■ b. Adding paragraphs (f), (g), and (h);

■ c. Revising paragraphs (k) and (l); and

■ d. Removing the parenthetical authority citation.

The revisions read as follows:

§ 200.81 Program definitions.

The following definitions apply to programs and projects operated under this subpart:

(a) *Agricultural work or employment* means the production or initial processing of raw agricultural products such as crops, trees, dairy products, poultry, or livestock. It consists of work performed for wages or personal subsistence.

* * * * *

(c) *Fishing work or employment* means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsistence.

* * * * *

(f) *Migratory agricultural worker* means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(g) *Migratory child* means a child or youth who made a qualifying move in the preceding 36 months as a migratory agricultural worker or a migratory fisher; or with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(h) *Migratory fisher* means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after a qualifying move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

* * * * *

(k) *MSIX Memorandum of Understanding (MOU)* means the agreement between the Department and an SEA that governs the interconnection of the State migrant student records system(s) and MSIX, including the terms under which the agency will abide by the agreement based upon its review of all relevant technical, security, and administrative issues.

(l) *MSIX Interconnection Security Agreement* means the agreement between the Department and an SEA that specifies the technical and security requirements for establishing, maintaining, and operating the interconnection between the State migrant student records system and MSIX. The MSIX Interconnection Security Agreement supports the MSIX MOU and documents the requirements for connecting the two information technology systems, describes the security controls to be used to protect the systems and data, and contains a topological drawing of the interconnection.

* * * * *

■ 18. Section 200.83 is amended by:
■ a. Revising paragraphs (a) introductory text, (b), and (c); and
■ b. Removing the parenthetical authority citation.

The revisions read as follows:

§ 200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.

(a) An SEA that receives a grant of MEP funds must develop and update a written comprehensive State plan for service delivery based on a current statewide needs assessment that, at a minimum, has the following components:

* * * * *

(b) The SEA must develop its comprehensive State plan for service delivery in consultation with the State parent advisory council or, for SEAs not operating programs for one school year in duration, in consultation with the parents of migratory children. This consultation must be in a format and language that the parents understand.

(c) Each SEA receiving MEP funds must ensure that its local operating agencies comply with the comprehensive State plan for service delivery.

* * * * *

■ 19. Section 200.85 is amended by revising paragraphs (f)(1) and (2) and removing the parenthetical authority citation to read as follows:

§ 200.85 Responsibilities of SEAs for the electronic exchange through MSIX of specified educational and health information of migratory children.

* * * * *

(f) * * *

(1) Enter into and carry out its responsibilities in accordance with an MSIX MOU, an MSIX Interconnection Security Agreement, and other information technology agreements required by the Secretary in accordance with applicable Federal requirements;

(2) Establish and implement written procedures to protect the integrity, security, and confidentiality of Consolidated Student Records, whether in electronic or print format, through appropriate administrative, technical, and physical safeguards established in accordance with the MSIX MOU and MSIX Interconnection Security Agreement. An SEA's written procedures must include, at a minimum, reasonable methods to ensure that—

* * * * *

§ 200.87 [Amended]

■ 20. Section 200.87 is amended by:
■ a. Removing the words ''subpart C of this part'' and adding in their place ''this subpart'';
■ b. Removing the citation ''section 9501'' and adding in its place the citation ''section 8501''; and
■ c. Removing the parenthetical authority citation.

■ 21. Section 200.88 is amended by revising paragraphs (a) and (c)(1) and removing the parenthetical authority citation to read as follows:

§ 200.88 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations.

(a) For purposes of determining compliance with the comparability requirement in section 1118(c) and the supplement, not supplant requirement in section 1118(b) of the ESEA, a grantee or subgrantee under part C of title I of the ESEA may exclude supplemental State and local funds expended in any school attendance area or school for carrying out special programs that meet the intent and purposes of part C of title I.

* * * * *

(c) * * *

(1) The program is specifically designed to meet the unique educational needs of migratory children, as defined in section 1309(3) of the ESEA.

* * * * *

■ 22. Section 200.89 is amended by revising paragraphs (b)(1)(i) introductory text, (b)(1)(iii)(C), and (c)(2) to read as follows:

§ 200.89 Re-interviewing; eligibility documentation; and quality control.

* * * * *

(b) * * *

(1) * * *

(i) As a condition for the continued receipt of MEP funds in FY 2006 and subsequent years, an SEA under a corrective action issued by the Secretary under paragraph (b)(2)(vii) or (d)(7) of this section must, as required by the Secretary—

* * * * *

(iii) * * *

(C) An acknowledgement that the Secretary may adjust the child counts for 2000–2001 and subsequent years downward based on the defect rate that the Secretary accepts;

* * * * *

(c) * * *

(2) In addition to the form required under paragraph (c)(1) of this section, the SEA and its operating agencies must maintain any additional documentation the SEA requires to confirm that each child found eligible for this program meets all of the eligibility definitions in section 1309 of the ESEA and § 200.81.

* * * * *

■ 23. Section 200.90 is amended by:
■ a. In paragraph (a), removing the words ''definitions apply'' and adding in their place ''definition applies''.
■ b. In paragraph (b):
■ i. In the definitions for ''Institution for delinquent children and youth'' and ''Institution for neglected children and youth'' redesignating paragraphs (1) and (2) as paragraphs (i) and (ii); and
■ ii. Revising the definition of ''Regular program of instruction''.
■ c. In paragraph (c):
■ i. Removing the words ''definitions apply'' and ''Title'' and adding in their place ''definition applies'' and ''title'', respectively; and
■ ii. Removing the definitions of ''Immigrant children and youth and limited English proficiency'' and ''Migrant youth''.
■ c. Removing the parenthetical authority citation.

The revision reads as follows:

§ 200.90 Program definitions.

* * * * *

(b) * * *

Regular program of instruction means an educational program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and career and technical education, and that is supported by non-Federal funds. Neither the manufacture of goods within the institution nor activities related to institutional maintenance are considered classroom instruction.

* * * * *

■ 24. Section 200.100 is amended by:
■ a. Revising the section heading, introductory text, paragraphs (a)(1) and (2), (b)(1) introductory text, (c), and (d)(2) and the parenthetical OMB citation; and
■ b. Removing the parenthetical authority citation.

The revisions read as follows:

§ 200.100 Reservation of funds for school improvement, State administration, and direct student services.

A State must reserve funds for school improvement, and may reserve funds for State administration and direct student services as follows:

(a) *School improvement.* (1) To carry out school improvement activities and the State's statewide system of technical assistance and support for LEAs authorized under sections 1003 and 1111(d) of the ESEA, an SEA must reserve the greater of—

(i) Seven percent from the sum of the amounts allocated to the State under section 1002(a) of the ESEA; or

(ii) The sum of the total amount that the State—

(A) Reserved for fiscal year 2016 under section 1003(a) of the ESEA as in effect on December 9, 2015; and

(B) Received for fiscal year 2016 under section 1003(g) of the ESEA as in effect on December 9, 2015.

(2) For fiscal year 2018 and subsequent years, in reserving funds under paragraph (a)(1) of this section, a State may not reduce the sum of the allocations an LEA receives under subpart 2 of part A of title I of the ESEA below the sum of the allocations the LEA received under subpart 2 for the preceding fiscal year.

* * * * *

(b) *State administration.* (1) An SEA may reserve for State administrative activities authorized in sections 1004 and 1603 of the ESEA no more than the greater of—

* * * * *

(c) *Direct student services.* To carry out direct student services authorized under section 1003A of the ESEA, an SEA may, after meaningful consultation with geographically diverse LEAs, reserve not more than three percent of the amounts allocated to the State under subpart 2 of part A of title I of the ESEA for each fiscal year.

(d) * * *

(2) Proportionately reduce each LEA's total allocation received under subpart 2 of part A of title I of the ESEA even if an LEA's total allocation falls below its hold-harmless percentage under § 200.73(a)(4).

(Approved by the Office of Management and Budget under control number 1810–0622)

■ 25. Section 200.103 is amended by:

■ a. Removing paragraph (c);

■ b. Redesignating paragraphs (a) and (b) as paragraphs (b) and (c);

■ c. Adding a new paragraph (a); and

■ d. Removing the parenthetical authority citation.

The addition and revision read as follows:

§ 200.103 Definitions.

* * * * *

(a) *Child with a disability* means child with a disability, as defined in section 602(3) of the IDEA.

* * * * *

PART 299—GENERAL PROVISIONS

■ 26. The authority citation for part 299 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3, unless otherwise noted.

Section 299.1 also issued under 20 U.S.C. 1221e–3.

Section 299.2 also issued under 20 U.S.C. 1221e–3.

Section 299.4 also issued under 20 U.S.C. 7821 and 7823.

Section 299.5 also issued under 20 U.S.C. 7428(c), 7801(11), 7901.

Section 299.6 also issued under 20 U.S.C. 7881.

Section 299.7 also issued under 20 U.S.C. 7881.

Section 299.8 also issued under 20 U.S.C. 7881.

Section 299.9 also issued under 20 U.S.C. 7881.

Section 299.10 also issued under 20 U.S.C. 7881(a)(3)(B).

Section 299.11 also issued under 20 U.S.C. 1221e–3, 7844(a)(3)(C), 7883.

Section 299.12 also issued under 20 U.S.C. 1221e–3, 7844(a)(3)(C), 7883.

Section 299.13 also issued under 20 U.S.C. 1221e–3, 7844(a)(3)(C), 7883.

■ 27. Section 299.1 is revised to read as follows:

§ 299.1 What are the purpose and scope of the regulations in this part?

(a) This part establishes uniform administrative rules for programs in titles I through VII of the Elementary and Secondary Education Act of 1965, as amended (ESEA). As indicated in particular sections of this part, certain provisions apply only to a specific group of programs.

(b) If an ESEA program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent applicable, title VIII of the ESEA, the General Education Provisions Act, the regulations in this part, EDGAR (34 CFR parts 75 through 99), and 2 CFR parts 180, as adopted at 2 CFR part 3485, and 200, as adopted at 2 CFR part 3474, that are not inconsistent with specific statutory provisions of the ESEA.

■ 28. Section 299.2 is revised to read as follows:

§ 299.2 What general administrative regulations apply to ESEA programs?

Title 2 of the CFR, part 200, as adopted at 2 CFR part 3474, applies to all ESEA programs except for title VII programs (Impact Aid) (in addition to any other specific implementing regulations).

Note 1 to § 299.2: 34 CFR 222.19 indicates which EDGAR provisions apply to title VII programs (Impact Aid).

■ 29. Section 299.4 is revised to read as follows:

§ 299.4 What requirements apply to the consolidation of State and local administrative funds?

An SEA may adopt and use its own reasonable standards in determining whether—

(a) The majority of its resources for administrative purposes comes from non-Federal sources to permit the consolidation of State administrative funds in accordance with section 8201 of the ESEA; and

(b) To approve an LEA's consolidation of its administrative funds in accordance with section 8203 of the ESEA.

■ 30. Section 299.5 is amended by:

■ a. Revising paragraph (b);

■ b. Designating the ''Example'' following paragraph (c) as paragraph (c)(1) and revising newly designated paragraph (c)(1);

■ c. Adding reserved paragraph (c)(2); and

■ d. Removing the parenthetical authority citation.

The revision reads as follows:

§ 299.5 What maintenance of effort requirements apply to ESEA programs?

* * * * *

(b) *Applicable programs.* This subpart is applicable to the following programs:

(1) Part A of title I (Improving Basic Programs Operated by Local Educational Agencies).

(2) Part D of title I (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk).

(3) Part A of title II (Supporting Effective Instruction).

(4) Part A, subpart 1 of title III (English Language Acquisition, Language Enhancement, and Academic Achievement), except for section 3112.

(5) Part A of title IV (Student Support and Academic Enrichment Grants).

(6) Part B of title IV (21st Century Community Learning Centers).

(7) Part B, subpart 2 of title V (Rural and Low-Income School Program).

(8) Part A, subpart 1 of title VI (Indian Education Formula Grants to Local Educational Agencies).

(c) * * *

(1) *Example.* For fiscal year 2018 funds that are first made available on July 1, 2018, if a State is using the Federal fiscal year, the ''preceding fiscal year'' is Federal fiscal year 2017 (which began on October 1, 2016 and ended September 30, 2017) and the ''second preceding fiscal year'' is Federal fiscal year 2016 (which began on October 1, 2015). If a State is using a fiscal year that begins on July 1, 2018, the ''preceding fiscal year'' is the 12-month period ending on June 30, 2017, and the

''second preceding fiscal year'' is the period ending on June 30, 2016.

* * * * *

■ 31. Section 299.6 is amended by:

■ a. In paragraph (a), removing the words ''agency or consortium of agencies'' and add in their place the words ''agency, consortium, or entity'';

■ b. Revising (b)(2) through (6); and

■ c. Removing the parenthetical authority citation.

The revision reads as follows:

§ 299.6 What are the responsibilities of a recipient of funds for providing services to children and teachers in private schools?

* * * * *

(b) * * *

(2) Part A of title II (Supporting Effective Instruction).

(3) Part A of title III (English Acquisition, Language Enhancement, and Academic Achievement).

(4) Part A of title IV (Student Support and Academic Enrichment Grants).

(5) Part B of title IV (21st Century Community Learning Centers).

(6) Section 4631 (Project SERV).

* * * * *

■ 32. Section 299.7 is amended by:

■ a. Removing the words ''agency or consortium of agencies'' everywhere they appear and adding in their place the words ''agency, consortium, or entity'';

■ b. In paragraph (a)(2), removing the words ''agency's or consortium of agencies''' and adding in their place the words ''agency's, consortium's, or entity's'';

■ c. Adding paragraphs (a)(3) and (4);

■ d. Revising paragraph (b)(2)(iv); and

■ e. Removing the parenthetical authority citation.

The additions and revision read as follows:

§ 299.7 What are the factors for determining equitable participation of children and teachers in private schools?

(a) * * *

(3) An agency, consortium, or entity must obligate funds allocated for educational services and other benefits for eligible private school children in the fiscal year for which the funds are received by the agency, consortium, or entity.

(4) An SEA must provide notice in a timely manner to appropriate private school officials in the State of the allocation of funds for educational services and other benefits that an agency, consortium, or entity has determined are available for eligible private school children and their teachers and other educational personnel.

(b) * * *

(2) * * *

(iv) Provides private school children and their teachers and other educational personnel with an opportunity to participate that is equitable to the opportunity and benefits provided to public school children and their teachers and other educational personnel.

* * * * *

§ 299.8 [Amended]

■ 33. Section 299.8 is amended by:

■ a. Removing the words ''agency or consortium of agencies'' everywhere they appear and adding in their place the words ''agency, consortium, or entity''; and

■ b. Removing the parenthetical authority citation.

§ 299.9 [Amended]

■ 34. Section 299.9 is amended by:

■ a. Removing the words ''public agency'' everywhere they appear and adding in their place the words ''agency, consortium, or entity''; and

■ b. Removing paragraph (f) and the parenthetical authority citation.

§§ 299.10 through 299.12 [Redesignated as §§ 299.11 through 299.13]

■ 35. Redesignate §§ 299.10 through 299.12 as §§ 299.11 through 299.13.

■ 36. Section 299.10 is added to read as follows:

§ 299.10 Ombudsman.

To help ensure equity for eligible private school children, teachers, and other educational personnel, an SEA must direct the ombudsman designated under section 1117 of the ESEA and § 200.68 to monitor and enforce the requirements in §§ 299.5 through 299.9.

■ 37. Newly redesignated § 299.11 is amended by revising paragraph (b) and removing the parenthetical authority citation to read as follows:

§ 299.11 What complaint procedures shall an SEA adopt?

* * * * *

(b) *Applicable programs.* This subpart is applicable to the following programs:

(1) Part A of title I (Improving Basic Programs Operated by Local Educational Agencies).

(2) Part C of title I (Education of Migratory Children).

(3) Part D of title I (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk).

(4) Part A of title II (Supporting Effective Instruction).

(5) Part A, subpart 1 of title III (English Language Acquisition, Language Enhancement, and Academic Achievement), except for section 3112.

(6) Part A of title IV (Student Support and Academic Enrichment Grants).

(7) Part B of title IV (21st Century Community Learning Centers).

(8) Part B, subpart 2 of title V (Rural and Low-Income School Program).

(9) Subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, Education for Homeless Children and Youth Program.

* * * * *

■ 38. Newly redesignated § 299.12 is amended by:

■ a. Revising paragraphs (a), (b), and (c);

■ b. Removing the parenthetical OMB citation following paragraph (c);

■ c. Removing the parenthetical authority citation; and

■ d. Adding a parenthetical OMB citation at the end of the section.

The revisions read as follows:

§ 299.12 What items are included in the complaint procedures?

* * * * *

(a)(1) Except as provided in paragraph (a)(2) of this section, a reasonable time limit after the SEA receives a complaint for resolving the complaint in writing, including a provision for carrying out an independent on-site investigation, if necessary.

(2) In matters involving violations of section 1117 or 8501 of the ESEA (participation of private school children), an SEA must resolve, in writing, a complaint within 45 days after receiving the complaint.

(b) An extension of the time limit under paragraph (a)(1) of this section only if exceptional circumstances exist with respect to a particular complaint.

(c)(1) The right for the complainant to request the Secretary to review the final decision of the SEA, at the Secretary's discretion.

(2) In matters involving violations of section 1117 or 8501 of the ESEA (participation of private school children), the Secretary will follow the procedures in section 8503(b) of the ESEA.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 1810–0591)

§ 299.13 [Amended]

■ 39. Newly redesignated § 299.13 is amended by removing the parenthetical authority citation.

[FR Doc. 2019–12286 Filed 7–1–19; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 52

Air Plan Approval; California; Mojave Desert Air Quality Management District and Antelope Valley Air Quality Management District; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0512; FRL–9994–19–Region 9]

Air Plan Approval; California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from wood products coating operations and organic solvent degreasing operations. We are approving local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are also approving revisions to a definitions rule. Finally, we are converting the partial conditional approval of the District's reasonably available control technology (RACT) SIPs for the 1997 and 2008 ozone standards, as it applies to VOC emissions from wood products coating operations and organic solvent degreasing operations, to a full approval.

DATES: These rules will be effective on August 1, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0512. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *levin.nancy@epa.gov.*

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

Table of Contents

I. Proposed Action

On December 27, 2018 (83 FR 66658), the EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
MDAQMD	1114	Wood Products Coating Operations	1/22/2018	5/23/2018
MDAQMD	1104	Organic Solvent Degreasing Operations	4/23/2018	7/16/2018
MDAQMD	102	Definition of Terms	4/23/2018	8/22/2018

We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. We also proposed to find that the modifications to rules 1114 and 1104 satisfied the District's commitment to remedy deficiencies identified in the partial conditional approval of the District's RACT SIPs for the 1997 and 2008 ozone standards (83 FR 5921). Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that closed on January 28, 2019. During this period, we received eight comments. Two comments supported the proposed action, and two comments discussed issues unrelated to the proposed action. The EPA does not provide a response to those four comments. The remaining four comments are summarized below into two separate issues, with EPA responses.

Comment #1: Three commenters asked whether the revisions to Rule 1114 would result in additional costs to businesses, cause businesses to move out of state, or reduce California's wood products supply. One commenter asked whether there is any additional data showing that VOCs are harmful to the environment.

Response #1: In this action we are approving into the California SIP a rule that was drafted and adopted by the MDAQMD. In its RACT SIP submittal [1] the District compared its rule with the EPA Control Techniques Guidelines (CTG) for Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations (EPA–453/R–96–007), and with other district rules in order to determine which control technologies are reasonably available. The CTG contains the EPA's analysis regarding which controls were found to be reasonably available for this source category taking into account various factors for determining RACT, and it includes an assessment of costs associated with the recommended RACT options. As explained in our proposal and technical support document, the EPA's analysis concluded that the District's rules meet the requirements necessary for RACT. The comments received do not address or challenge this determination. Moreover, because Rule 1114 has already been implemented locally, the EPA's approval of the rule is not expected to result in any additional compliance costs, or to otherwise affect the local market for wood products and coatings. The EPA's approval simply makes the existing locally-implemented rule federally enforceable.

Volatile Organic Compounds are a precursor to ozone formation, which is harmful to human health and the environment. Information about the health and environmental impacts of VOCs and ground-level ozone is available on the EPA website.[2] The impacts of ozone exposure are evaluated by the EPA when setting the national ambient air quality standards.

Comment #2: One commenter states that the use of the phrase ''coatings and adhesives'' is overly broad, and that the EPA should list the specific VOC compounds and manufacturers affected by the rule revisions.

Response #2: District Rule 102 contains a definition of VOC that applies to Rule 1114. The VOC definition specifies the VOCs that are regulated in Rule 1114. In addition,

[1] The District's 2015 RACT SIP submittal for the 2008 ozone NAAQS can be found in the docket for this rulemaking. The EPA's final action partially approving and partially conditionally approving the MDAQMD RACT SIP can be found at 83 FR 5921 (February 12, 2018).

[2] For example: *https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics.*

Rule 1114 section (C)(7)(a) provides: ''The manufacturer of Coatings subject to this Rule shall include a statement of VOC Content as supplied on data sheets; including Coating components, expressed in grams per liter or pounds per gallon, excluding water and exempt Solvents.'' These provisions provide regulated entities with the information needed to evaluate rule applicability and compliance.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP. The EPA is also converting the partial conditional approval of the District's RACT SIPs with respect to Rules 1104 and 1114 into a full approval.

IV. Incorporation by Reference

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

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 3, 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 14, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(37)(i)(D), (c)(41)(xiv)(B), (c)(44)(v)(C), (c)(179)(i)(B)(*3*), (c)(188)(i)(C)(*3*), (c)(207)(i)(D)(*4*), (c)(244)(i)(C)(*3*), and (c)(518), (519) and (520) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(37) * * *

(i) * * *

(D) Previously approved on June 14, 1978 in paragraph (c)(37)(i)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(*1*) of this section in the Mojave Desert Air Quality Management District, Rule 102.

* * * * *

(41) * * *

(xiv) * * *

(B) Previously approved on December 19, 1978 in paragraph (c)(41)(xiv)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(*1*) of this section in the Mojave Desert Air Quality Management District, Rule 102 (except for the definition of ''agricultural burning'').

* * * * *

(44) * * *

(v) * * *

(C) Previously approved on March 28, 1979 in paragraph (c)(44)(v)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(*1*) of this section in the Mojave Desert Air Quality Management District, Rule 102, amended November 4, 1977.

* * * * *

(179) * * *

(i) * * *

(B) * * *

(*3*) Previously approved on November 27, 1990 in paragraph (c)(179)(i)(B)(*1*) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(*1*) of this section, Rule 102 (except fugitive liquid leak and fugitive vapor leak), amended on December 19, 1988.

* * * * *

(188) * * *

(i) * * *

(C) * * *

(*3*) Previously approved on December 20, 1993 in paragraph (c)(188)(i)(C)(*1*) of this section and now deleted with replacement in paragraph (c)(519)(i)(A)(*1*) of this section in the Mojave Desert Air Quality Management District, Rule 1171, adopted August 2, 1991.

* * * * *

(207) * * *

(i) * * *

(D) * * *

(*4*) Previously approved on April 30, 1996 in paragraph (c)(207)(i)(D)(*2*) of this section and now deleted with replacement in paragraph (c)(519)(i)(A)(*1*) of this section, Rule 1104, adopted on September 28, 1994.

* * * * *

(244) * * *

(i) * * *

(C) * * *

(*3*) Previously approved on August 18, 1998 in (c)(244)(i)(C)(*1*) of this section and now deleted with replacement in (c)(518)(i)(A)(*1*) of this section, Rule 1114, amended on November 25, 1996.

* * * * *

(518) New and amended regulations for the following APCDs were submitted on May 23, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 1114, ''Wood Products Coating Operations,'' amended on January 22, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

(519) New and amended regulations for the following APCDs were submitted on July 16, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 1104, ''Organic Solvent Degreasing Operations,'' amended on April 23, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

(520) New and amended regulations for the following APCDs were submitted on August 22, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 102, ''Definition of Terms,'' amended on April 23, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

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

§ 52.248 Identification of plan—conditional approval.

* * * * *

(d)(1) The EPA is conditionally approving portions of the California SIP revisions submitted on July 11, 2007 and September 9, 2015, demonstrating control measures in the Mojave Desert portion of the Los Angeles-San Bernardino Counties (West Mojave Desert) nonattainment area implement RACT for the 1997 and 2008 ozone standards. The conditional approval is based on a commitment from the state to submit new or revised rules that will correct deficiencies in the following rules for the Mojave Desert Air Quality Management District:

(i) Rule 461, *Gasoline Transfer and Dispensing;*

(ii) Rule 462, *Organic Liquid Loading;*

(iii) Rule 463, *Storage of Organic Liquids;*

(iv)–(v) [Reserved]

(vi) Rule 1115, *Metal Parts and Product Coating Operations;*

(vii) Rule 1157, *Boilers and Process Heaters;*

(viii) Rule 1160, *Internal Combustion Engines;*

(ix) Rule 1161, *Portland Cement Kilns;* and

(x) Rule 1162, *Polyester Resin Operations.*

(2) If the State fails to meet its commitment by January 31, 2019, the conditional approval is treated as a disapproval.

* * * * *

[FR Doc. 2019–13497 Filed 7–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0802; FRL–9994–20–Region 9]

Air Plan Approval; California; Antelope Valley Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Antelope Valley Air Quality Management District (AVAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from solvent cleaning operations. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on August 1, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0802. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3286, *schwartz.robert@epa.gov.*

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

Table of Contents

I. Proposed Action

On March 22, 2019 (84 FR 10748), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
AVAQMD	1171	Solvent Cleaning Operations	8/21/2018	10/30/2018

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP. The EPA is also converting the conditional approval of the AVAQMD reasonably available control technology (RACT) SIPs for the 1997 and 2008 ozone standards with respect to Rule 1171 into a full approval. In this final action, the EPA is also making a non-substantive revision to § 52.248(b) of title 40 of the Code of Federal Regulations. Due to a previous drafting error, the text stating that ''[i]f the State fails to meet its commitment by November 9, 2018, the conditional approval is treated as a disapproval'' was included in paragraph (b)(4) as opposed to in paragraph (b) introductory text. The EPA's rephrasing of paragraph (b) moves this provision up to paragraph (b) introductory, allowing the text of paragraph (b)(4), referring to Rule 1171, to be removed and reserved because the District has now met its commitment for Rule 1171.

IV. Incorporation by Reference

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

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 3, 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 14, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(262)(i)(E)(*4*) and (c)(521) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(262) * * *

(i) * * *

(E) * * *

(*4*) Previously approved on May 24, 2001 in paragraph (c)(262)(i)(E)(*1*) of this section and now deleted with replacement in (c)(521)(i)(A)(*1*) of this section, Rule 1171, adopted on November 17, 1998.

* * * * *

(521) New and amended regulations for the following APCDs were submitted on October 30, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Antelope Valley Air Quality Management District.

(*1*) Rule 1171, ''Solvent Cleaning Operations,'' amended on August 21, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

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

§ 52.248 Identification of plan—conditional approval.

* * * * *

(b) The EPA is conditionally approving portions of the California SIP revisions submitted on January 31, 2007 and October 23, 2015, demonstrating control measures in the Antelope Valley portion of the Los Angeles-San Bernardino Counties (West Mojave Desert) nonattainment area implement RACT for the 1997 and 2008 ozone standards. The conditional approval is based on a commitment from the state to submit new or revised rules that will correct deficiencies in the rules listed in paragraphs (b)(1) through (4) of this section by November 9, 2018. If the State fails to meet its commitment by November 9, 2018, the conditional approval is treated as a disapproval.

(1) [Reserved]

(2) Rule 1110.2, *Emissions from Stationary, Non-road & Portable Internal Combustion Engines*;

(3) Rule 1151, *Motor Vehicle and Mobile Equipment Coating Operations*; and

(4) [Reserved]

* * * * *

[FR Doc. 2019–13498 Filed 7–1–19; 8:45 am]

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