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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710, 1714, 1717, 1724, 1726, and 1730

RIN 0572–AC40

Streamlining Electric Program Procedures

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), is revising several regulations to streamline its procedures for Electric Program borrowers, including its loan application requirements, approval of work plans and load forecasts, use of approved contracts and system design procedures. Additionally, unnecessary sections in the regulations will be removed.

DATES: This rule is effective September 9, 2019.

FOR FURTHER INFORMATION CONTACT: Gerard Moore, Deputy Assistant Administrator, Office of Policy, Outreach, and Standards (OPOS), Rural Utilities Service, U.S. Department of Agriculture, STOP 1569, 1400 Independence Ave. SW, Washington, DC 20250–0787, telephone: (202) 720–1900. Email contact *Gerard.Moore@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be non-significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Catalog of Federal Domestic Assistance

The affected programs are listed in the Catalog of Federal Domestic Assistance (CFDA) Program under 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available electronically through the free CFDA website on the internet at *https://www.cfda.gov/.* The print edition may be purchased by calling the Superintendent of Documents at (202) 512–1800 or toll free at (866) 512–1800, or by ordering online at *https://bookstore.gpo.gov/.*

Executive Order 12372, Intergovernmental Review of Federal Programs

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Agency has determined that this final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. Consequently, the Agency will not conduct tribal consultation sessions. If a Tribe determines that this rule has implications of which RUS is not aware and would like to request government-to-government consultation on this rule, please contact USDA Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this final rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

National Environmental Policy Act Certification

The final rule has been reviewed in accordance with 7 CFR part 1970, Environmental Policies and Procedures. The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required. Loan and grant applications will be reviewed individually to determine compliance with Agency environmental regulations and with NEPA.

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, RUS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RUS 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.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–602) (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 (APA) or any other statute. This final rule; however, is not subject to the APA

under 5 U.S.C. 553(a)(2) and 5 U.S.C. 553(b)(3)(A) nor any other statute.

Executive Order 13132, Federalism

It has been determined, under E.O. 13132, Federalism, that the policies contained in this final rule do not have any substantial direct effect on 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. Nor does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and 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.

Information Collection and Recordkeeping Requirements

The information collection and record-keeping requirements contained in this rule are approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0572–0020, 0572–0032, 0572–0100, and 0572–0123. There is a total burden reduction of 10,571 hours associated with this rulemaking. The agency will submit a revision of the above referenced control numbers to OMB for review and approval.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion , sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Background and Discussion of the Rule

Rural Development is a mission area within the U.S. Department of Agriculture (USDA) comprising the Rural Utilities Service, Rural Housing Service, and Rural Business-Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through numerous programs aimed at creating and improving housing, business, and infrastructure throughout rural America. The Rural Utilities Service (RUS) loan, loan guarantee, and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecommunications and broadband infrastructure, RUS also plays a significant role in improving other measures of quality of life in rural America, including public health and safety, environmental protection and culture and historic preservation.

RUS Electric Program loans, loan guarantees and grants finance the construction of improvement of rural electric infrastructure. In an effort by the RUS Electric Program to provide its program in an efficient and effective manner while improving its customer service and experience, and in response to requests from the RUS Electric Program borrowers, the Electric Program undertook a systematic review of regulations and procedures in place to administer its program. After review conclusion, RUS determined that pre- and post-loan procedures could be made more efficient and regulatory burden could be reduced on Electric Program borrowers while still ensuring RUS loans remain adequately secured and ensuring that loan funds will be repaid in the time agreed upon. This rulemaking will streamline Electric Program procedures and revise regulations. This includes removing unnecessary and outdated regulations and removing burdensome requirements imposed on borrowers and applicants.

To implement this change, the Agency will publish this as a final rule. The Administrative Procedure Act exempts from prior notice rules, ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' (5 U.S.C. 553(b)(A)).

Summary of Changes to Rule

Changes to the Electric Program regulations are as follows:

(A) The Agency is removing numerous requirements for Board of Director resolutions for electric borrower actions in 7 CFR parts 1710–1730. Also, a new paragraph will be added to 7 CFR 1710.154 to identify five specific actions that will require Board Resolutions.

(B) The Agency is removing 7 CFR 1710.106(c)(4), which placed restrictions on loan funds for facilities or other specific purposes that were previously rescinded. Currently, the use of loan funds for projects included in a loan that was rescinded, excluded those projects from receiving loan funds in a subsequent loan even if no loan funds were made available for that project prior to rescission. RUS believes it has sufficient funds available to allow us to include these types of projects provided they had not received loan funds previously. This will make more loan funds available for rural electric infrastructure.

(C) The Agency is removing 7 CFR 1710.112(c) because it is outdated. It required a borrower's electric system to be year 2000 compliant.

(D) The Agency is revising 7 CFR 1710, Subpart E, Load Forecasts. RUS has previously required routine and periodic review and approval of up-to-date load forecasts. Load forecasts demonstrate system-wide growth and the need for generation. We are amending 7 CFR 1710 to require load

forecasts only in connection with a loan made or guaranteed by RUS to reduce burden on borrowers while still giving RUS confidence that the borrower is adequately managing anticipated system-wide load growth. We are amending 7 CFR 1710.206 to remove RUS approval of a load forecast work plan. Routine and periodic submittal and approval by RUS is an unnecessary and costly burden on the Electric Program borrowers. We are amending 7 CFR 1710.202–208 to remove the requirements for borrowers to maintain an approved load forecast on an ongoing basis. We are amending 7 CFR 1710.202–208 to clarify the timing of the load forecast preparation in relation to the loan application and clarify that approval of a loan will constitute approval of the load forecast. We are amending 7 CFR 1710.209 to increase the total utility plant amount requiring the load forecast work plan.

(E) The agency will revise 7 CFR 1710, Subpart F, Construction Work Plans and Related Studies. We are amending 7 CFR 1710.250(a) to require a construction work plan (CWP) be prepared for a 4-year term (increased from the current 2–3 year requirement). This change will reduce the frequency and of review of the CWP for both the electric borrowers' and for the Electric Program staff. We are amending 7 CFR 1710.250–255 and 7 CFR 1717.604 to remove all references to long range engineering plans (LRP), except for the definition in 7 CFR 1710.250 and the requirement to maintain a LRP. The term of LRPs will be changed from 10 years to 10–20 years. We are amending 7 CFR 1710.250(j) to require that engineering services must be reviewed by a licensed professional engineer. This will provide consistency between all borrowers as the existing language in regulation language is too vague. We are removing 7 CFR 1710.254, Alternative sources of power, in its entirety. The concepts are duplicative of 7 CFR 1710.253. We are amending 7 CFR 1710.253(b) to remove the reference to 7 CFR 1710.254 and remove the last sentence and replace. We are amending 7 CFR 1710.250(g) to remove the 45-day notice of storm or natural disaster requirement.

(F) The Agency is revising 7 CFR 1710.501 to simplify the information and documents required to apply for a loan made or guaranteed by RUS. Borrowers will be divided into three categories: Current borrower, new/returning borrower, and generation and transmission borrower. The categories will determine the required documents needed to apply. Several application documents will no longer be required and in some cases information within application documents may be consolidated. This includes removing the requirement for a Transmittal Letter, § 1710.501(1), and amending § 1710.501 to require one Loan Application Letter. § 1710.501(a) has been amended to show that borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting a paper submission. The Agency is revising § 1710.501(a)(5) to remove the requirement to submit a current Operating Report with the loan application and will rely on the year end form filed by many borrowers known as the Financial and Operating Report Electric Distribution. The Agency will also remove §§ 1710.501(a)(14), Articles of incorporation and bylaws, 1710.501(c), Primary support documents, and 1710.501(a)(6), Pending litigation statement. All required documents, forms and necessary information will be clearly set forth for the applicant in the revised § 1710.501; only the information needed by RUS to make feasibility and security determinations will be required. This change should improve customer experience and customer service and facilitate lending for electric infrastructure.

(G) The Agency is amending 7 CFR 1714.56 to delete references to automatic termination of loan advances at the end of the fund advance period. The fund advance period is actually governed by the terms of the applicable loan note and not the regulation. These requirements will be replaced by a reference to the terms of the particular loan note in determining the fund advance period. This change will alleviate any confusion and clarify that the loan note governs the advance period.

(H) The Agency is removing 7 CFR 1717, Subparts G and H, § 1717.300–356, in its entirety. However, the Wholesale Power Contract requirement is moved to a new § 1717.618 of Subpart M. RUS does not exercise federal preemption in ratemaking in connection with its electric power supply borrowers or in bankruptcy due to federal court decisions. Additionally, there are some clarifications to various requirements related to Lien Accommodations in Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing in § 1717.850–860.

(I) Currently, 7 CFR 1724.51 requires RUS approval of electric system design regardless of the source of financing and 7 CFR 1724.54 requires approval of plans and specifications for RUS financed electric system facilities. These requirements assure RUS that the electric system it is financing is valuable and enhances its security. These sections are being amended to allow a licensed professional engineer to certify that the design data, plans and profile drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials and equipment was used. This will benefit the borrower by allowing it to provide a certification in lieu of the actual system design and await review and approval. This will permit RUS staff to focus on more complex and non-compliant system designs.

(J) RUS requires the use of its form of contracts for RUS financed facilities, as required by 7 CFR 1724.1(c), 1724.10–1724.74 and 7 CFR 1726.24–1726.304. The Agency is amending 7 CFR 1724.1(c) to allow the borrowers three options: 1. Submit the actual contract used for review and approval, 2. submit a certification that the required contract was used for the electric project or 3. submit a certification that the contract was not used but the essential and identical provisions specifically listed in the certification were used in the contract for constructing the electric facilities. This change will facilitate electric system construction and advances of loan funds to borrowers. Certifications routinely are used throughout the government as a means of compliance with requirements. RUS will be authorized to review the underlying contracts, if requested.

List of Subjects

7 CFR Part 1710

Electric power, Grant program-energy, Loan program-energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1714

Electric power, Loan programs-energy, Rural areas.

7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan program-energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Parts 1721, 1724, 1726, and 1730

Electric power, Loan program-energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR parts

1710, 1714, 1717, 1721, 1724, 1726, and 1730 as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

■ 1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* 6941 *et seq.*

Subpart A—General

■ 2. Amend § 1710.2 in paragraph (a) by revising the definition of ''Loan period'' to read as follows:

§ 1710.2 Definitions and rules of construction.

(a) * * *

Loan period means the period of time during which the facilities will be constructed not to exceed the time identified in the Loan note, as approved.

* * * * *

Subpart C—Loan Purposes and Basic Policies

§ 1710.106 [Amended]

■ 3. Amend § 1710.106 by removing paragraph (c)(4).

§ 1710.112 [Amended]

■ 4. Amend § 1710.112 by removing paragraph (c).

Subpart D—Basic Requirements for Loan Approval

■ 5. Add § 1710.154 to subpart D to read as follows:

§ 1710.154 Board of Director Resolutions.

Specific actions that require a Board of Director Resolution from a borrower:

(a) Board approval of loan documents;

(b) Major change in the terms of a loan, *i.e.* maturity;

(c) Initial access to RD Apply (or successor RUS online application systems);

(d) Requests for approval by a Board, acting as the regulatory authority, for any departure from the RUS Uniform System of Accounts with the exception of those deferrals specifically identified in § 1767.13(d); and

(e) eAuthentication requirements.

Subpart E—Load Forecasts

■ 6. Revise § 1710.202 to read as follows:

§ 1710.202 Requirement to prepare a load forecast—power supply borrowers.

(a) A power supply borrower with a total utility plant of $500 million or more must provide a load forecast in support of any request for RUS financial assistance. The borrower must also maintain a load forecast work plan on file. The borrower's load forecast must be prepared pursuant to the load forecast work plan.

(b) A power supply borrower that is a member of another power supply borrower that has a total utility plant of $500 million or more must provide an approved load forecast in support of any request for RUS financial assistance. The member power supply borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The load forecasts must be prepared pursuant to the load forecast work plan.

(c) A power supply borrower that has total utility plant of less than $500 million and that is not a member of another power supply borrower with a total utility plant of $500 million or more must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds $50 million.

■ 7. Revise § 1710.203 to read as follows:

§ 1710.203 Requirement to prepare a load forecast—distribution borrowers.

(a) A distribution borrower that is a member of a power supply borrower, with a total utility plant of $500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the load forecast work plan of its power supply borrower.

(b) A distribution borrower that is a member of a power supply borrower which is itself a member of another power supply borrower that has a total utility plant of $500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the load forecast work plan of the power supply borrower with total utility plant in excess of $500 million.

(c) A distribution borrower that is a member of a power supply borrower with a total utility plant of less than $500 million must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee that exceeds $3 million or 5 percent of total utility plant, whichever is greater. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

(d) A distribution borrower with a total utility plant of less than $500 million and that is unaffiliated with a power supply borrower must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds $3 million or 5 percent of total utility plant, whichever is greater.

(e) A distribution borrower with a total utility plant of $500 million or more must provide a load forecast in support of any request for RUS financing assistance. The borrower must also maintain a load forecast work plan. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

§ 1710.204 [Removed and Reserved]

■ 8. Remove and reserve § 1710.204.

■ 9. Revise § 1710.205 to read as follows:

§ 1710.205 Minimum requirements for all load forecasts.

(a) *Contents of load forecast.* All load forecasts submitted by borrowers for approval must include:

(1) A narrative describing the borrower's system, service territory, and consumers;

(2) A narrative description of the borrower's load forecast including future load projections, forecast assumptions, and the methods and procedures used to develop the forecast;

(3) Projections of usage by consumer class, number of consumers by class, annual system peak demand, and season of peak demand for the number of years agreed upon by RUS and the borrower;

(4) A summary of the year-by-year results of the load forecast in a format that allows efficient transfer of the information to other borrower planning or loan support documents;

(5) The load impacts of a borrower's demand side management and energy efficiency and conservation program activities, if applicable;

(6) Graphic representations of the variables specifically identified by management as influencing a borrower's loads; and

(7) A database that tracks all relevant variables that might influence a borrower's loads.

(b) *Formats.* RUS does not require a specific format for the narrative, documentation, data, and other information in the load forecast, provided that all required information is included and available. All data must be in a tabular form that can be transferred electronically to RUS computer software applications. RUS will evaluate borrower load forecasts for readability, understanding, filing, and electronic access. If a borrower's load forecast is submitted in a format that is not readily usable by RUS or is incomplete, RUS will require the borrower to submit the load forecast in a format acceptable to RUS.

(c) *Document retention.* The borrower must retain its latest load forecasts and supporting documentation. Any load forecast work plan must be retained as part of the load forecast.

(d) *Consultation with RUS.* The borrower must designate and make appropriate staff and consultants available for consultation with RUS to facilitate RUS review of the load forecast when requested by RUS.

(e) *Correlation and consistency with other RUS loan support documents.* If a borrower relies on an approved load forecast or an update of an approved load forecast as loan support, the borrower must demonstrate that the approved load forecast and the other primary support documentation for the loan were reconciled. For example, both the load forecast and the financial forecast require input assumptions for wholesale power costs, distribution costs, other systems costs, average revenue per kWh, and inflation. Also, a borrower's engineering planning documents, such as the construction work plan, incorporate consumer and usage per consumer projections from the load forecast to develop system design criteria. The assumptions and data common to all the documents must be consistent.

(f) *Coordination.* A load forecast of a power supply borrower must consider the load forecasts of all its member systems.

■ 10. Amend § 1710.206 by revising the section heading, and paragraphs (a) introductory text and (b) to read as follows:

§ 1710.206 Requirements for load forecasts prepared pursuant to a load forecast work plan.

(a) *Contents of load forecasts prepared under a load forecast work plan.* In addition to the minimum requirements for load forecasts under § 1710.205, load forecasts developed and submitted by borrowers required to have a load forecast work plan shall include the following:

* * * * *

(b) *Compliance with a load forecast work plan.* A borrower required to maintain a load forecast work plan must also be able to demonstrate that both it and its RUS borrower members are in compliance with its load forecast work plan.

■ 11. Amend § 1710.207 by revising the section heading to read as follows:

§ 1710.207 RUS criteria for load forecasts by distribution borrowers.

* * * * *

■ 12. Amend § 1710.208 by revising the section heading and introductory text and removing paragraph (g).

The revisions read as follows:

§ 1710.208 RUS criteria for load forecasts by power supply borrowers and by distribution borrowers.

All load forecasts submitted by power supply borrowers and by distribution borrowers must satisfy the following criteria:

* * * * *

■ 13. Revise § 1710.209 to read as follows:

§ 1710.209 Requirements for load forecast work plans.

(a) In addition to the load forecast required under §§ 1710.202 and 1710.203, any power supply borrower with a total utility plant of $500 million or more and any distribution borrower with a total utility plant of $500 million or more must maintain a load forecast work plan. RUS borrowers that are members of a power supply borrower with a total utility plant of $500 million or more must cooperate in the preparation of and submittal of the load forecast work plan of their power supply borrower.

(b) A load forecast work plan establishes the process for the preparation and maintenance of a comprehensive database for the development of the borrower's load forecast, and load forecast updates. The load forecast work plan is intended to develop and maintain a process that will result in load forecasts that will meet the borrowers' own needs and the requirements of this subpart. A work plan represents a commitment by a power supply borrower and its members, or by a large unaffiliated distribution borrower, that all parties concerned will prepare their load forecasts in a timely manner pursuant to the load forecast work plan and they will modify the load forecast work plan as needed to address changing circumstances or enhance the usefulness of the load forecast work plan.

(c) A load forecast work plan for a power supply borrower and its members must cover all member systems, including those that are not borrowers. However, only members that are borrowers, including the power supply borrower, are required to follow the load forecast work plan in preparing their respective load forecasts. Each borrower is individually responsible for forecasting all its RE Act beneficiary and non-RE Act beneficiary loads.

(d) A load forecast work plan must outline the coordination and preparation requirements for both the power supply borrower and its members.

(e) A load forecast work plan must describe the borrower's process and methods to be used in producing the load forecast.

(f) Load forecast work plans for borrowers with residential demand of 50 percent or more of total kWh must provide for a residential consumer survey at least every 5 years to obtain data on appliance and equipment saturation and electricity demand. Any such borrower that is experiencing or anticipates changes in usage patterns shall consider surveys on a more frequent schedule. Power supply borrowers shall coordinate such surveys with their members. Residential consumer surveys may be based on the aggregation of member-based samples or on a system-wide sample, provided that the latter provides for relevant regional breakdowns as appropriate.

(g) Load forecast work plans must provide for RUS review of the load forecasts as the load forecast is being developed.

(h) A power supply borrower's work plan must have the concurrence of the majority of the members that are borrowers.

Subpart F— Construction Work Plans and Related Studies

■ 14. Revise § 1710.250 to read as follows:

§ 1710.250 General.

(a) An ongoing, integrated planning system is needed by borrowers to determine their short-term and long-term needs for plant additions, improvements, replacements, and retirements. The primary components of the system consist of long-range engineering plans, construction work plans (CWPs), CWP amendments, and special engineering and cost studies.

Long range engineering plans identify plant investments required over a period of 10–20 years or more. CWPs specify and document plant requirements for the short-term, usually 4 years, and special engineering and cost studies are used to support CWPs and to identify and document requirements for specific items or purposes, such as load management equipment, System Control and Data Acquisition equipment, sectionalizing investments, and additions of generation capacity and associated transmission plant.

(b) A long range engineering plan specifies and supports the major system additions, improvements, replacements, and retirements needed for an orderly transition from the existing system to the system required 10 or more years in the future. The planned future system should be based on the most technically and economically sound means of serving the borrower's long-range loads in a reliable and environmentally acceptable manner, and it should ensure that planned facilities will not become obsolete prematurely.

(c) A CWP shall include investment cost estimates and supporting engineering and cost studies to demonstrate the need for each proposed facility or activity and the reasonableness of the investment projections and the engineering assumptions used in sizing the facilities. The CWP must be consistent with the borrower's long range engineering plan and both documents must be consistent with the borrower's RUS-approved power requirements study.

(d) Applications for a loan or loan guarantee from RUS (new loans or budget reclassifications) must be supported by a current CWP approved by RUS. RUS approval of these plans relates only to the facilities, equipment, and other purposes to be financed by RUS, and means that the plans provide an adequate basis from a planning and engineering standpoint to support RUS financing. RUS approval of the plans does not mean that RUS approves of the facilities, equipment, or other purposes for which the borrower is not seeking RUS financing. If RUS disagrees with a borrower's estimate of the cost of one or more facilities for which RUS financing is sought, RUS may adjust the estimate after consulting with the borrower and explaining the reasons for the adjustment.

(e) Except as provided in paragraph (f) of this section, to be eligible for RUS financing, the facilities, including equipment and other items, included in a CWP must be approved by RUS and receive Environmental Clearance before the start of construction. This requirement also applies to any amendments to a CWP required to add facilities to a CWP or to make significant physical changes in the facilities already included in a CWP. Provision for funding of ''minor projects'' under an RUS loan guarantee is permitted on the same basis as that discussed for insured loan funds in 7 CFR part 1721, Post-Loan Policies and Procedures for Insured Electric Loans.

(f) In the case of damage caused by storms and other natural catastrophes, a borrower may proceed with emergency repair work before a CWP or CWP amendment is prepared by the borrower and approved by RUS, without losing eligibility for RUS financing of the repairs. The borrower must notify the RUS regional office in writing after the natural catastrophe, of its preliminary estimates of damages and repair costs. Not later than 120 days after the natural catastrophe, the borrower must submit to RUS for approval, a CWP or CWP amendment detailing the repairs.

(g) A CWP may be amended or augmented when the borrower can demonstrate the need for the changes.

(h) A borrower's CWP or special engineering studies must be supported by the appropriate level of environmental review documentation, in accordance with 7 CFR part 1970.

(i) All engineering activities required by this subpart must be performed by qualified engineers, who may be staff employees of the borrower or outside consultants. All engineering services must be reviewed by a licensed professional engineer.

(j) Upon written request from a borrower, RUS may waive in writing certain requirements with respect to long-range engineering plans and CWPs if RUS determines that such requirements impose a substantial burden on the borrower and that waiving the requirements will not significantly affect the accomplishment of the objectives of this subpart. For example, if a borrower's load is forecast to remain constant or decline during the planning period, RUS may waive those portions of the plans that relate to load growth.

■ 15. Amend § 1710.251 by revising paragraph (a) to read as follows:

§ 1710.251 Construction work plans—distribution borrowers.

(a) All distribution borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements replacements, and retirements of any generation plant. Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies. (See § 1710.253.)

* * * * *

■ 16. Amend § 1710.252 by revising paragraph (a) to read as follows:

§ 1710.252 Construction work plans—power supply borrowers.

(a) All power supply borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements, replacements, and retirements of generation plant. Applications for RUS financial assistance for such facilities must be supported by a current, RUS-approved CWP. Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies.

* * * * *

■ 17. Amend § 1710.253 by revising paragraph (b) to read as follows:

§ 1710.253 Engineering and cost studies—addition of generation capacity.

* * * * *

(b) The studies must include comprehensive economic present-value analyses of the costs and revenues of the available self-generation, load management, energy conservation, and purchased-power options, including assessments of service reliability and financing requirements and risks. An analysis of purchased power options, including an analysis of available alternate sources of power shall be included. The analysis should include the terms and conditions of any requests for proposals and responses to such requests.

* * * * *

§ 1710.254 [Removed and Reserved]

■ 18. Remove and reserve § 1710.254.

■ 19. Amend § 1 710.255 by revising paragraph (a) to read as follows:

§ 1710.255 Energy efficiency work plans—energy efficiency borrowers.

(a) All energy efficiency borrowers must maintain a current EEWP covering in aggregate all new construction, improvements, replacements, and retirements of energy efficiency related equipment and activities;

* * * * *

Subpart G—Long-Range Financial Forecasts

■ 20. Amend § 1710.300 by revising paragraphs (b) and (d)(4) to read as follows:

§ 1710.300 General.

* * * * *

(b) A borrower must prepare, for RUS review and approval, a long-range financial forecast in support of its loan application. The forecast must demonstrate that the borrower's system is economically viable and that the proposed loan is financially feasible. Loan feasibility will be assessed based on the criteria set forth in § 1710.112.

* * * * *

(d) * * *

(4) The current rate schedules or new rates;

* * * * *

Subpart H—Energy Efficiency and Conservation Loan Program

■ 21. Amend § 1710.410 by revising paragraph (b) to read as follows:

§ 1710.410 Application documents.

* * * * *

(b) A copy of the statement establishing the EE Program that reflects an undertaking that funds collected in excess of then current amortization requirements for the related RUS loan will be redeployed for EE Program purposes or used to prepay the RUS loan.

* * * * *

Subpart I—Application Requirements and Procedures for Loans

■ 22. Amend § 1710.500 by revising paragraph (a) to read as follows:

§ 1710.500 Initial contact.

(a) Loan applicants that do not have outstanding loans from RUS should contact the Rural Utilities Service via Email at *RUSElectric@wdc.usda.gov*, call RUS at (202) 720–9545 or write to the Rural Utilities Service Administrator, United States Department of Agriculture, 1400 Independence Ave. SW, STOP 1560, Room 5165, Washington, DC 20250–1560. Loan Applicants may also visit RUS' website to locate a local General Field Representative at *https://www.rd.usda.gov/contact-us/electric-gfr*. A field or headquarters staff representative may be assigned by RUS to visit the applicant and discuss its financial needs and eligibility. Borrowers that have outstanding loans should contact their assigned RUS general field representative (GFR) or, in the case of a power supply borrower, Deputy Assistant Administrator, Office of Loan Origination and Approval. Borrowers may consult with RUS field representatives and headquarters staff, as necessary.

* * * * *

■ 23. Amend § 1710.501 by revising paragraphs (a), (b), (c), and (d)(1) to read as follows:

§ 1710.501 Loan application documents.

(a) *All borrowers.* Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting a paper submission. Please consult your GFR in accordance with § 1710.500. All applications for electric loans shall include the documents listed in this paragraph (a).

(1) *Loan application letter.* A letter signed by the borrower's manager indicating the actual corporate name, the borrowers RUS Designation, the borrowers RUS Loan Designation, and taxpayer identification number of the borrower and addressing the following items:

(i) The amount of loan and loan type. The sources and amounts of any supplemental or other financing. For an insured loan, a statement of whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship loan. If the application is for a municipal rate loan, the board resolution must indicate whether the borrower intends to elect the prepayment option. See 7 CFR 1714.4(c);

(ii) The Maturity Date/Term of the Loan in number of years (useful life to determine maximum);

(iii) A short description of the purpose of the loan, *i.e.,* generation, distribution, transmission, energy efficiency, etc;

(iv) Method of Amortization;

(v) The Borrower's DUNS Number;

(vi) The Borrower's Organization Number from its State Corporation Commission or similar entity;

(vii) The Borrower's Exact Legal Name (please state the legal name and identify the legal document used to state the name or attach such document;

(viii) List of current counties where real property is located;

(ix) Attach current property schedule;

(x) Identify any new counties with property since last loan;

(xi) Authorized/registered place of business;

(xii) Debt Limit;

(xiii) Identify any State regulatory approvals needed;

(xiv) List any subsidiaries;

(xv) Identify any material financial or other material change since last loan, including a list of any pending litigation and where there is insurance to cover such;

(xvi) Breakdown of loan funds by State;

(xvii) Construction Work Plan (CWP), if not previously submitted through RD Apply or other method;

(xviii) Environmental Report (ER), if not previously submitted through RD Apply or other method;

(xix) Statement authorizing RUS to release appropriate information and data relating to the loan application to the FFB and any existing supplemental lenders.

(2) *Special resolutions.* Included any special resolutions required by Federal or State Authorities and any others as identified and required by the RUS General Field Representative (for example, use of contractors, corrective action plans, etc.)

(3) *RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers.* This form together with its attachments lists the construction, equipment, facilities and other cost estimates from the construction work plan or engineering and cost studies. The date on page 1 of the form is the beginning date of the loan period. Form 740c also includes the following information, exhibits, and attachments:

(i) *Description of funds and materials.* This description details the availability of materials and equipment, any unadvanced funds from prior loans, and any general funds the borrower designates, to determine the amount of such materials and funds to be applied against the capital requirements estimated for the loan period.

(ii) *Useful life of facilities financed by the loan.* Form 740c must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. This statement or schedule will be used to determine the final maturity of the loan. See § 1710.115.

(iii) *Reimbursement schedule.* This schedule lists the date, amount, and identification number of each inventory of work orders and special equipment summary that form the basis for the borrower's request for reimbursement of general funds on the RUS Form 740c. See § 1710.109. If the borrower is not requesting reimbursement, this schedule need not be submitted.

(iv) *Location of consumers.* If the application is for a municipal rate loan subject to the interest rate cap, or for a loan at the hardship rate, and the average number of consumers per mile of the total electric system exceeds 17, Form 740c must include, as a note, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in an

urban area. See 7 CFR 1714.7(c) and 1714.8(d). This breakdown must indicate the method used by the borrower for allocating loan funds between urban and non-urban consumers.

(4) *RUS Form 740g, Application for Headquarters Facilities.* This form lists the individual cost estimates from the construction work plan or other engineering study that support the need for RUS financing for any warehouse and service type facilities included, and funding requested for such facilities shown on RUS Form 740c. If no loan funds are requested for headquarters facilities, Form 740g need not be submitted.

(5) *Financial and statistical report.* RUS will use the Borrower's year end filed Financial and Operating Report Electric Distribution (formerly known as the RUS Form 7) or the Financial and Operating Report Electric Power Supply (formerly known as the RUS Form 12) unless the borrower has failed to meet its applicable financial ratios, as required by its security instrument and loan contract. The reports are required to be filed electronically in the agency's Data Collection System. If the borrower's financial requirements have not been met, RUS will require a current Financial and Operating Report to be submitted with the loan application, which shall contain the most recent data available and shall not be more than 60 days old when received by RUS. In addition, for those borrowers not meeting their financial ratios, the following information shall also be provided as part of the loan application:

(i) Any other information required to be submitted by RUS;

(ii) A Plan to meet their Financial Ratios;

(iii) The Date of the Borrower's last rate change and the amount/percentage of that rate change;

(iv) A list of any Subsidiaries along with a brief summary identifying the purpose of each subsidiary and identify the percentage interest in each if less than 100%;

(v) If the issues with the Borrower not meeting its financial ratios involves the subsidiary or equity investment losses a business plan and exit strategy shall be provided;

(vi) An updated Financial and Operating Report within 60 days of actual loan approval which will be requested by RUS and can be submitted later.

(6) *Load Forecast Study.* A current Load Forecast Study will be included in the loan application which is not more than 2 years old when the loan application is submitted unless the borrower is a member of a Power Supplier which only completes a Load Forecast once every 3 years. In that case the Load Forecast shall not be more than 3 years old when the loan application is submitted.

(7) *Long Range Financial Forecast and assumptions.* Along with the loan application, the borrower shall submit to RUS a Long-Range Financial Forecast (LRFF) that meets the requirements of subpart G of this part in a form acceptable to RUS. The forecast shall include any sensitivity analysis and/or analysis of alternative scenarios only if requested by the RUS General Field Representative.

(8) *Rate disparity and consumer income data.* If the borrower is applying under the rate disparity and consumer income tests for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a breakdown of residential consumers either by county or by census tract. In addition, if the borrower serves in 2 or more states, the application must include a breakdown of all ultimate consumers by state. This breakdown may be a copy of Form EIA 861 submitted by the Borrower to the Department of Energy or in a similar form. See 7 CFR 1714.7(b) and 1714.8(a). To expedite the processing of loan applications, RUS strongly encourages distribution borrowers to provide this information to the GFR prior to submitting the application.

(9) *Standard Form 100—Equal Employment Opportunity Employer Report EEO—1.* This form, required by the Department of Labor, sets forth employment data for borrowers with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the borrower has more than 100 employees. See § 1710.122.

(10) *Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.* This statement certifies that the borrower will comply with certain regulations on debarment and suspension required by Executive Order 12549, Debarment and Suspension (3 CFR, 1986 Comp., p. 189). See 2 CFR 417, and § 1710.123 of this part.

(11) *Uniform Relocation Act assurance statement.* This assurance, which need not be resubmitted if previously submitted, provides that the borrower shall comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 and 1991. See § 1710.124.

(12) *Lobbying.* The following information on lobbying is required pursuant to 2 CFR 418, and § 1710.125. Borrowers applying for both insured and guaranteed financing should consult RUS before submitting this information.

(13) *Federal debt delinquency requirements.* See § 1710.126. The following documents are required:

(i) *Report on Federal debt delinquency.* This report indicates whether or not a borrower is delinquent on any Federal debt.

(ii) *Certification regarding Federal Government collection options.* This statement certifies that a borrower has been informed of the collection options the Federal Government may use to collect delinquent debt. The Federal Government is authorized by law to take any or all of the following actions in the event that a borrower's loan payments become delinquent or the borrower defaults on its loans:

(A) Report the borrower's delinquent account to a credit bureau;

(B) Assess additional interest and penalty charges for the period of time that payment is not made;

(C) Assess charges to cover additional administrative costs incurred by the Government to service the borrower's account;

(D) Offset amounts owed directly or indirectly to the borrower under other Federal programs;

(E) Refer the borrower's debt to the Internal Revenue Service for offset against any amount owed to the borrower as an income tax refund;

(F) Refer the borrower's account to a private collection agency to collect the amount due; and

(G) Refer the borrower's account to the Department of Justice for collection.

(14) *Assurance regarding Felony Conviction (AD Form 3030). This form must be included with each application to document the status regarding a felony criminal violation and status of any unpaid federal tax liability;*

(15) *RD Form 400–4, Assurance Agreement. This form provides assurance to USDA that recipients of federal financial assistance are in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other agency regulations;*

(16) *Seismic safety certifications.* This certification shall be included, if required under 7 CFR part 1792.

(17) *Other forms.* Other forms as required by law or as requested.

(b) *New or returning borrowers.* In addition to the items in paragraph (a) of this section, applications for loans

submitted by new or returning borrowers shall include the items listed in this paragraph (b).

(1) A copy of the Borrower's Current Bylaws;

(2) Identify the Borrower's Type of Organizational Structure and a copy of their Articles of Incorporation;

(3) Provide evidence of where Borrower is registered to do business;

(4) Copies of the Borrower's Audited GAAP financials for the past 1–3 years, if available or other financial information, as requested on a case by case basis;

(5) A list of any secured outstanding debt including the amount and name of lender;

(6) Evidence of Collateral and/or its ability to pledge such collateral;

(7) An Attorney Opinion for the Borrower including the counties served, a property schedule, the state of incorporation, any pending litigation, the corporate debt limit, the Borrower's legal name and type of legal organization, and the borrower's legal authority to pledge its collateral or other assets.

(8) Copies of the Borrower's Power Supply Contracts and arrangements (including wholesale rate contracts);

(9) Competitive position information including its rates and rate disparity between neighboring utilities;

(10) Construction Work Plan and/or Engineering Power Cost Study, if not previously submitted;

(11) An Environmental Report related to the facilities for which financing is being requested, if not previously submitted.

(c) *Power Supply Borrowers.* In addition to the loan application, consisting of the documents required by paragraph (a) or (b) of this section, Power Supply Borrowers must also provide RUS with the following:

(1) Information on its Power Supply arrangements and/or wholesale power contracts including the maturity dates. Please note copies of the contracts may be requested on a case by cases basis;

(2) A Profile of the Power Supply Borrowers' fuel supply arrangements;

(3) The Borrowers Load Resource Table;

(4) Information on its Transmission and Interconnection arrangements. Please note that copies of the contracts related to such arrangements may be requested on a case by case basis;

(5) The Power Supply Borrowers' New/Returning membership chart profile and relationships as applicable.

(d) * * *

(1) Generally, all information required by paragraphs (a), (b), and (c) of this section is submitted to RUS in a single application. Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting hard copies of the loan applications. Please contact your respective General Field Representative or RUS Headquarters to determine if you are eligible to utilize the electronic system.

PART 1714—PRE-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

■ 24. The authority citation for part 1714 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.;* 1921 *et seq.;* and 6941 *et seq.*

Subpart A—General

■ 25. Amend § 1714.4 by revising paragraph (c) to read as follows:

§ 1714.4 Interest rates.

* * * * *

(c) *Application procedure.* The borrower must indicate whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship rate loan. If the application is for a municipal rate loan, the borrower must also indicate whether they intend to elect the prepayment option.

Subpart B—Terms of Insured Loans

■ 26. Revise § 1714.56 to read as follows:

§ 1714.56 Fund advance period

(a) For loans approved on or after February 21, 1995, the fund advance period begins on the date of the loan note and is one year longer than the loan period, but not less than 4 years. The Administrator may extend the fund advance period on any loan if the borrower meets the requirements of paragraph (b) of this section and as permitted by law. As defined in 7 CFR 1710.2, the loan period begins on the date shown on page 1 of RUS Form 740c submitted with the loan application.

(b) The Administrator may agree to an extension of the fund advance period for loans approved on or after June 1, 1984, if the borrower demonstrates to the satisfaction of the Administrator that the loan funds continue to be needed for approved loan purposes (*i.e.,* facilities included in a RUS approved construction work plan). Policies for extension of the fund advance period following certain mergers, consolidations, and transfers of systems substantially in their entirety are set forth in 7 CFR 1717.156.

(1) To apply for an extension, the borrower must make a request to RUS prior to the last date for advance as noted in the borrower's loan documents and provide, the following:

(i) A certified copy of a board resolution requesting an extension of the Government's obligation to advance loan funds;

(ii) Evidence that the unadvanced loan funds continue to be needed for approved loan purposes; and

(iii) Notice of the estimated date for completion of construction.

(2) If the Administrator approves a request for an extension, RUS will notify the borrower in writing of the extension and the terms and conditions thereof. An extension will be effective only if it is requested in writing prior to the last date for advance as provided in the borrower's loan documents.

(3) Any request received after the last date for advance shall be rejected.

(c) RUS will rescind the balance of any loan funds not advanced to a borrower as of the final date approved for advancing funds.

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

■ 27. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* 6941 *et seq.*

Subpart G [Removed and Reserved]

■ 28. Remove and reserve subpart G, consisting of §§ 1717.300 through 1717.349.

Subpart H [Removed and Reserved]

■ 29. Remove and reserve subpart H, consisting of §§ 1717.350 through 1717.356.

Subpart M—Operational Controls

■ 30. Add § 1717.618 to read as follows:

§ 1717.618 Wholesale power contracts.

(a) Pursuant to the terms of the RUS documents each power supply borrower shall establish and adjust rates for the sale of electric power and energy in such a manner as to assure that the borrower will be able to make required payments on secured loans.

(b) Pursuant to the terms of the RUS wholesale power contract, the Board of Directors or Board of Trustees of the power supply borrower shall review rates not less frequently than once each calendar year and revise its rates as therein set forth. The RUS wholesale power contract further provides that the borrower shall notify the Administrator not less than 30 nor more than 45 days

prior to the effective date of any adjustment and shall set forth the basis upon which the rate is to be adjusted and established. The RUS wholesale power contract provides that no final revision in rates shall be effective unless approved in writing by the Administrator.

Note 1 to paragraph (b): The Wholesale Power Contract, with minor modifications which are approved by RUS on a case by case basis, provides that the rate charged for electric power and energy, shall produce revenues which shall be sufficient, but only sufficient, with the revenues of the Seller from all other sources, to meet the cost of the operation and maintenance (including without limitation, replacements, insurance, taxes and administrative and general overhead expenses) of the generating plant transmission system and related facilities of the Seller, the cost of any power and energy purchased for resale hereunder by the Seller, the cost of transmission service, make payments on account of principal and interest on all indebtedness of the Seller, and to provide for the establishment and maintenance of reasonable reserves.

(c) Pursuant to the terms of the RUS mortgage, each power supply borrower must design its rates as therein set forth and must give 90 days prior notice to RUS of any proposed change in its general rate structure.

(Approved by the Office of Management and Budget under control number 0572–0089)

Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing

■ 31. Amend § 1717.850 by revising paragraph (g)(1)(ii) to read as follows:

§ 1717.850 General.

* * * * *

(g) * * *

(1) * * *

(ii) Obtain a certification from a registered professional engineer, for each year during which funds from the separate subaccount are utilized by the borrower, that all materials and equipment purchased and facilities constructed during the year from said funds comply with RUS safety and performance standards, as required by paragraph (f) of this section, and are included in an CWP or CWP amendment.

* * * * *

■ 32. Amend § 1717.855 by revising paragraphs (b) and (h) to read as follows:

§ 1717.855 Application contents: Advance approval—100 percent private financing of distribution, subtransmission and headquarter facilities, and certain other community infrastructure.

* * * * *

(b) A statement requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the facilities or other purposes to be financed, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

* * * * *

(h) A CWP or CWP amendment covering the proposed project, in accordance with 7 CFR part 1710, subpart F, and subject to RUS approval.

* * * * *

■ 33. Amend § 1717.856 by revising paragraphs (c), (e), and (f) to read as follows:

§ 1717.856 Application contents: Normal review—100 percent private financing.

* * * * *

(c) A long-range financial forecast providing financial projections for at least 10 years, which demonstrates that the borrower's system is economically viable and that the proposed loan is financially feasible. The financial forecast must comply with the requirements of 7 CFR part 1710 subpart G. RUS may, in its sole discretion, waive the requirement of this paragraph that a long range financial forecast be provided, if:

* * * * *

(e) As applicable to the type of facilities being financed, a CWP, related engineering and cost studies, a power cost study. These documents must meet the requirements of 7 CFR part 1710, subpart F and, as applicable, subpart G;

(f) Unless the requirement has been waived in writing by RUS, a current load forecast, which must meet the requirements of 7 CFR part 1710, subpart E, to the same extent as if the loan were being made by RUS; and

* * * * *

■ 34. Amend § 1717.857 by revising (c)(3) to read as follows:

§ 1717.857 Refinancing of existing secured debt—distribution and power supply borrowers.

* * * * *

(c) * * *

(3) A statement from the borrower requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the debt to be refinanced, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

* * * * *

■ 35. Amend § 1717.858 by revising paragraph (c)(1) to read as follows:

§ 1717.858 Lien subordination for rural development investments.

* * * * *

(c) * * *

(1) A statement from the borrower requesting the lien subordination or release of lien.

* * * * *

■ 36. Amend § 1717.860 by revising paragraph (c)(2)(i) to read as follows:

§ 1717.860 Lien accommodations and subordinations under section 306E of the RE Act.

* * * * *

(c) * * *

(2) * * *

(i) A statement from the borrower requesting the lien accommodation and including the amount and maturity of the proposed loan, a general description of the facilities or other purposes to be financed, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

* * * * *

PART 1721—POST-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

■ 37. The authority citation for part 1721 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.;* 1921 *et seq.;* and 6941 *et seq.*

Subpart B—Extensions of Payments of Principal and Interest

■ 38. Amend § 1721.105 by revising paragraphs (b) through (e) to read as follows:

§ 1721.105 Application documents.

* * * * *

(b) *Deferments for energy resource conservation loans.* A Borrower requesting principle deferments for an ERC loan program must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(c) *Deferments for renewable energy projects.* A Borrower requesting principle deferments for its renewable energy project must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(d) *Deferments for distributed generation projects.* A Borrower requesting principle deferments for distributed generation projects must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program and approval is also subject to any applicable terms and conditions of the Borrower's loan contract, mortgage, or indenture.

(e) *Deferments for contribution-in-aid of construction.* A Borrower requesting principle deferments for contribution-in-aid of construction must submit the following:

(1) A letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(2) A summary of the calculations used to determine the average cost per residential customer. (See § 1721.104(e)(2)).

PART 1724—ELECTRIC ENGINEERING, ARCHITECTURAL SERVICES AND DESIGN POLICIES AND PROCEDURES

■ 39. The authority citation for part 1724 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* 6941 *et seq.*

■ 40. Amend § 1724.1 by revising paragraph (c) to read as follows:

§ 1724.1 Introduction.

* * * * *

(c) Borrowers are required to use RUS contract forms only if the facilities are financed by RUS. Borrowers have three options:

(1) Submit the actual contract used for review and approval;

(2) Submit a certification that the required contract was used for the electric project or;

(3) Submit a certification that the contract was not used but the essential and identical provisions specifically listed in the certification were used in the contract for constructing the electric facilities.

■ 41. Revise § 1724.5 to read as follows:

§ 1724.5 Submission of documents to RUS.

(a) *Where to send documents.* Documents required to be submitted to RUS under this part are to be sent to the Office of Loan Origination & Approval.

(b) *Contracts requiring RUS approval.* The borrower shall submit to RUS three copies of each contract that is subject to RUS approval under subparts B and C of this part. At least one copy of each contract must be an original signed in ink (*i.e.,* no facsimile signature).

(c) *Contract amendments requiring RUS approval.* The borrower shall submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval.

■ 42. Amend § 1724.21 by revising paragraph (a) to read as follows:

§ 1724.21 Architectural services contracts.

* * * * *

(a) RUS Form 220, Architectural Services Contract, may be used by electric borrowers when obtaining architectural services.

* * * * *

■ 43. Amend § 1724.31 by revising paragraph (b) to read as follows:

§ 1724.31 Engineering services contracts.

* * * * *

(b) RUS Form 236, Engineering Service Contract—Electric System Design and Construction, may be used for all distribution, transmission, substation, and communications and control facilities. These contracts are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

* * * * *

Subpart E—Electric System Design

■ 44. Amend § 1724.51 by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 1724.51 Design requirements.

* * * * *

(b) * * *

(1) All transmission line design data must be approved by RUS or a licensed professional engineer may certify that the design data, plans and profiles drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials were used.

* * * * *

(c) * * *

(1) All substation design data must be approved by RUS or a licensed professional engineer may certify that the design data, plans and profiles drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials were used.

* * * * *

■ 45. Amend § 1724.54 by revising (c)(1) and (d)(1)(i) introductory text to read as follows:

§ 1724.54 Requirements for RUS approval of plans and specifications.

* * * * *

(c) * * *

(1) Plans and specifications for transmission construction projects which are not based on RUS approved line design data or do not use RUS standard structures must receive RUS design approval or RUS certification approval prior to requesting bids on contracts or commencement of force account construction.

(d) * * *

(1) * * *

(i) Plans and specifications for all new substations must receive RUS design approval or RUS certification approval prior to requesting bids on contracts or commencement of force account construction, unless:

* * * * *

■ 46. Amend § 1724.55 by revising paragraph (a)(7) to read as follows:

§ 1724.55 Dam safety.

(a) * * *

(7) *Emergency action plan.* For high hazard potential dams, the borrower must develop an emergency action plan incorporating preplanned emergency measures to be taken prior to and following a potential dam failure. The plan should be coordinated with local government and other authorities involved with the public safety.

* * * * *

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

■ 47. The authority citation for part 1726 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* 6941 *et seq.*

Subpart A—General

■ 48. Amend § 1726.35 by:

■ a. Removing paragraph (c)(5) and redesignating paragraphs (c)(6) and (7) as paragraphs (c)(5) and (6);

■ b. Revising paragraph (d);

■ c. Removing paragraph (e)(3)(vi)(A) and redesignating paragraphs (e)(3)(vi)(B) through (E) as paragraphs (e)(3)(vi)(A) through (D); and

■ d. Revising paragraph (e)(4)(iii)(E)(*1*).

The revisions read as follows:

§ 1726.35 Submission of documents to RUS.

* * * * *

(d) *Contract amendments requiring RUS approval.* The borrower must

submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval under § 1726.24(b). Each contract amendment submittal to RUS must be accompanied by a bond extension, where necessary.

(e) * * *

(4) * * *

(iii) * * *

(E) * * *

(*1*) The amendment was approved in accordance with the policy of the board of directors;

* * * * *

Subpart J—Contract Closeout

■ 49. Amend § 1726.403 by revising paragraph (d)(2)(ii) to read as follows:

§ 1726.403 Project construction contract closeout.

* * * * *

(d) * * *

(2) * * *

(ii) The certification in paragraph (d)(2)(i) of this section is to be executed for the contractor by: The sole owner, a partner, or an officer of the corporation.

PART 1730—ELECTRIC SYSTEM OPERATIONS AND MAINTENANCE

■ 50. The authority citation for part 1730 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* 6941 *et seq.*

■ 51. Amend appendix A to subpart B of part 1730 by revising item 15 in PART IV—Operations and Maintenance Budgets to read as follows:

Appendix A to Subpart B to Part 1730—Review Rating Summary, RUS Form 300

* * * * *

15. Date Budget Discussed with Board of Directors _____

* * * * *

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2019–14511 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–15–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4902

Privacy Act Regulation; Exemption for Insider Threat Program Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim final rule; request for comments.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its Privacy Act regulation to exempt a system of records that supports a program of insider threat detection and data loss prevention.

DATES:

Effective date: This interim final rule is effective on July 9, 2019.

Comment date: Comments must be received on or before August 8, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and title for this rulemaking (Privacy Act Regulation; Exemption for Insider Threat Program Records). Comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 6563; Margaret Drake (*drake.margaret@pbgc.gov*), Chief Privacy Officer, Office of the General Counsel, 202–326–4400, extension 6435. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 6563.)

SUPPLEMENTARY INFORMATION:

Executive Summary

This rule amends PBGC's regulation on Disclosure and Amendment of Records Pertaining to Individuals under the Privacy Act (29 CFR part 4902) to exempt from disclosure information contained in a new system of records for PBGC's insider threat program. The exemption is needed because records in this system include investigatory material compiled for law enforcement purposes.

Authority for this rule is provided by section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA) and 5 U.S.C. 552a(k)(2).

Background

The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan insurance programs under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). As a Federal agency, PBGC is subject to the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), in its collection, maintenance, use, and dissemination of any personally identifiable information that it maintains in a ''system of records.'' A system of records is defined under the Privacy Act as ''a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.'' [1]

PBGC is proposing to establish a new system of records, ''PBGC–26, PBGC Insider Threat and Data Loss Prevention—PBGC.'' This system of records is published in the ''Notice'' section of this issue of the **Federal Register**.

Executive Order 13587, issued October 7, 2011, requires Federal agencies to establish an insider threat detection and prevention program to ensure the security of classified networks and the responsible sharing and safeguarding of classified information consistent with appropriate protections for privacy and civil liberties. While PBGC does not have any classified networks, it does maintain a significant amount of Controlled Unclassified Information (CUI) that, under law, it is required to safeguard from unauthorized access or disclosure. One method utilized by PBGC to ensure that only those with a need-to-know have access to CUI is a set of tools to minimize data loss, whether inadvertent or intentional. This system will collect and maintain Personally Identifiable Information (PII) in the course of scanning traffic leaving PBGC's network and blocking traffic that violates PBGC's policies to safeguard PII.

This system covers ''PBGC insiders,'' who are individuals with access to PBGC resources, including facilities, information, equipment, networks, and systems. This includes Federal employees and contractors. Records from this system will be used on a need-

[1] *See* 5 U.S.C. 552a(a)(5).

to-know basis to manage insider threat matters; facilitate insider threat investigations and activities; identify threats to PBGC resources, including threats to PBGC's personnel, facilities, and information assets; track tips and referrals of potential insider threats to internal and external partners; meet other insider threat program requirements; and investigate/manage the unauthorized or attempted unauthorized disclosure of PII.

Exemption

Under section 552a(k) of the Privacy Act, PBGC may promulgate regulations exempting information contained in certain systems of records from specified sections of the Privacy Act including the section mandating disclosure of information to an individual who has requested it. Among other systems, PBGC may exempt a system that is ''investigatory material compiled for law enforcement purposes.'' [2] Under this provision, PBGC has exempted, in § 4209.11 of its Privacy Act regulation, records of the investigations conducted by its Inspector General and contained in a system of records entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC.''

The PBGC–26, PBGC Insider Threat and Data Loss Prevention—PBGC system contains: (1) Records derived from PBGC security investigations, (2) summaries or reports containing information about potential insider threats or the data loss prevention program, (3) information related to investigative or analytical efforts by PBGC insider threat program personnel, (4) reports about potential insider threats obtained through the management and operation of the PBGC insider threat program, and (5) reports about potential insider threats obtained from other Federal Government sources. The records contained in this new system include investigative material of actual, potential, or alleged criminal, civil, or administrative violations and law enforcement actions. These records are within the material permitted to be exempted under section 552a(k)(2) of the Privacy Act.

PBGC is amending its Privacy Act regulation to add a new § 4902.12 that exempts PBGC–26, PBGC Insider Threat and Data Loss Prevention—PBGC, from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f). Exemption from these sections of the Privacy Act means that, with respect to records in the system, PBGC will not be required to: (1) Disclose records to an individual upon request, (2) keep an accounting of individuals who request records, (3) maintain only records as necessary to accomplish an agency purpose, or (4) publish notice of certain revisions of the system of records.

Compliance With Rulemaking Guidelines

This is a rule of ''agency organization, procedure, or practice'' and is limited to ''agency organization, management, or personnel matters.'' The exemption from provisions of the Privacy Act provided by the interim final rule affects only PBGC insiders described above. Accordingly, this rule is exempt from notice and public comment requirements under 5 U.S.C. 553(b) and the requirements of Executive Order 12866 and Executive Order 13771.[3] Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply to this rule. See 5 U.S.C. 601(2), 603, 604.

PBGC finds good cause exists for making the amendments set forth in this interim final rule effective less than 30 days after publication because the amendments support PBGC's new system of records for insider threat detection and data loss prevention, which is effective July 9, 2019.

List of Subjects in 29 CFR Part 4902

Privacy.

In consideration of the foregoing, PBGC is amending 29 CFR part 4902 as follows:

PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

■ 1. The authority citation for part 4902 is revised to read as follows:

Authority: 5 U.S.C. 552a, 29 U.S.C. 1302(b)(3).

§ 4902.1 [Amended]

■ 2. Amend § 4902.1(d) by removing ''4902.11'' and adding in its place ''4902.12''.

§ 4902.12 [Redesignated as § 4902.13]

■ 3. Redesignate § 4902.12 as § 4902.13.

■ 4. Add new § 4902.12 to read as follows:

§ 4902.12 Specific exemptions: Insider Threat and Data Loss Prevention.

(a) *Other law enforcement*—(1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(2), PBGC hereby exempts the system of records entitled ''PBGC–26, PBGC Insider Threat and Data Loss Prevention—PBGC'' from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f).

(2) *Reasons for exemption.* The reasons for asserting the exemption in this section are because the disclosure and other requirements of the Privacy Act could substantially compromise the efficacy and integrity of PBGC's ability to investigate insider threat activities and the improper exfiltration of personally identifiable information. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, see, *e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns, see, *e.g.,* 5 U.S.C. 552(b)(7).

(b) [Reserved]

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–14604 Filed 7–8–19; 8:45 am]

BILLING CODE 7709–02–P

[2] *See* 5 U.S.C. 552a(k)(2).

[3] *See* section 3(d)(3) of Executive Order 12866 and section 4(b) of Executive Order 13771.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0460]

RIN 1625–AA09

Drawbridge Operation Regulation; Shrewsbury River, Monmouth County Highway Bridge, Sea Bright, New Jersey

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Monmouth County Highway Bridge (alternatively referred to as the ''Sea Bright Bridge'' or the ''S–32 Bridge'') across the Shrewsbury River, mile 4.0 at Sea Bright, New Jersey. The owner of the bridge, the Monmouth County Board of Chosen Freeholders (Monmouth County), submitted a request to reduce the number of bridge openings during the summer months to better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective July 23, 2019.

ADDRESSES: To view documents mentioned in this preamble as being

available in the docket, go to *http://www.regulations.gov.* Type USCG–2017–0460 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Donna D. Leoce, Bridge Management Specialist, First Coast Guard District, telephone (212) 514–4332, email *Donna.D.Leoce@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On July 18, 2017, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation; Shrewsbury River, Sea Bright, New Jersey'' in the **Federal Register** (82 FR 32777). We received 129 comments from the NPRM. Further, Commander (dpb), First Coast Guard District also published a Public Notice 1–155 dated July 28, 2017. The notice requested comments and directed those comments be added to the docket. In response to the 129 comments received, additional data was gathered, including follow-up meetings with Monmouth County officials and review of bridge logs and traffic counts. Subsequently, the Coast Guard tested a temporary deviation with an alternate schedule for the 2018 boating season. On May 22, 2018 the Coast Guard published a temporary deviation from the operating schedule entitled, ''Drawbridge Operation Regulation; Shrewsbury River, Sea Bright, New Jersey'' in the **Federal Register** (83 FR 23581). The 2018 proposed change to the bridge operating schedule was tested to determine whether a permanent change was warranted to allow the draw to open as follows:

The draw shall open on signal at all times; except that, from the Friday before Memorial Day through Labor Day, on Friday, Saturday, Sunday, and holidays, between 9 a.m. and 7 p.m., the draw need only open on the hour.

One-hundred-twelve comments were received in response to the test deviation. This number includes the comments received directly to U.S. Coast Guard District One, Bridge Branch. We received a total of 241 comments from the 2017 NPRM and the 2018 test deviation.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. This final rule lessens prior restrictions for notice requirements on the weekends and holidays during the summer months, and provides set schedules for bridge openings. The public comments in response to the test deviation and the NPRM support the promulgation of the modified regulation to reduce the notice required for bridge openings and set hourly openings for a specific period of time during the summer months. Making this rule effective as soon as possible within the timeframe most impacted (Memorial Day to Labor Day) will serve the needs of the community while continuing to meet the reasonable needs of navigation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Monmouth County Highway Bridge, mile 4.0, across the Shrewsbury River at Sea Bright, New Jersey, has a vertical clearance of 15 feet at Mean High Water and 17 feet at Mean Low Water when the span is in the closed position. Vertical clearance is unlimited when the draw is open. Horizontal clearance is 75 feet. Waterway users include recreational vessels and a limited number of commercial vessels including tug/barge combinations.

The existing drawbridge regulation, 33 CFR 117.755, requires the draw of the Monmouth County Highway Bridge to open as follows: The draw shall open on signal at all times; except that, from May 15 through September 30, Saturday, Sunday and holidays, between 9 a.m. and 7 p.m., the draw need open only on the hour and half hour. This regulation has been in effect since July 6, 2010. Monmouth County, the owner of the bridge, requested a change to the drawbridge operating regulations given the increased volume of vehicular traffic crossing the bridge associated with the summer months. The increase of vehicular traffic resulted in significant traffic congestion on either side of the bridge during peak travel hours. The owner of the bridge asserted that traffic congestion will be improved or relieved through reduction of required bridge openings for vessels. In the summer of 2018, a deviation from the operating regulation was tested, from the Friday before Memorial Day through Labor Day. The operating regulations presently encompassing Saturdays, Sundays, and holidays was expanded to include Fridays as well, between 9 a.m. and 7 p.m., the draw was open only on the hour to allow for more efficient and economical operation of the bridge, given the volume of vehicular traffic crossing the bridge at the beginning of the weekend.

Density patterns were recorded from the Monmouth County 2018 bridge logs for the Friday, Saturday, Sunday, and Holiday timeframes. In June, from the first through the fifth weekends, boats requiring bridge openings numbered: 42, 50, 59, 52, and 76 respectfully. In July, from the first through the fourth weekends, including the July 4th holiday, boats requiring bridge openings numbered: 101, 41, 29, and 66, respectively. In August through September 3, 2018, from the first through the fifth weekend, boats requiring bridge openings numbered: 53, 40, 40, 77, and 22 respectively. The vessels that utilize the waterway are primarily recreational power boats, as well as sailboats and occasional commercial vessels including tugs and barges.

Recorded from the Monmouth County vehicle traffic counts transiting east and west bound over the bridge from the first through the fifth weekends, July through September 3, 2018 range from 11,000 to over 15,000 vehicle crossings.

IV. Discussion of Comments, Changes and the Final Rule

One-hundred and ninety-three comments of the 241 comments received supported the modified and expanded bridge operating schedule; the majority of comments citing an improved difference in the vehicle traffic congestion or no difference in marine navigation, and recommended making the regulation permanent. Additionally, comments stated that emergency vehicles (including Fire Department/EMS and Law Enforcement) are better able to respond to emergency calls. Some comments indicated that switching to hourly weekend openings between 9 a.m. and 7 p.m. (as opposed to openings on the hour and the half-hour) would likely mitigate (if not eliminate entirely) the worst aspects of recurrent traffic jams through reduced bridge openings.

Thirty-one comments of the 241 comments received did not support the proposed hourly weekend opening schedule. These comments suggested that the modified bridge operation schedule either did not make a difference in the level of vehicular traffic congestion and actually created even more vehicular traffic or that hourly openings created marine safety issues or were inconvenient for boaters. Some commenters additionally note that

a backup in marine traffic could pose an environmental issue, due to increased diesel exhaust in the area from boats idling awaiting the bridge opening. In addition, some commenters stated bridge tenders tend to leave bridge open too long. While this may be the case, the Coast Guard believes on-site bridge tenders have a clear view of the waterway and are the best persons to determine safe situations for vessel transits.

Some commenters suggested instead of changing the bridge opening schedule that unnecessary bridge openings could be avoided by training bridge tenders to demand antennas and outriggers be lowered. The Coast Guard disagrees with this suggestion, as the regulations found in 33 CFR 117.11 discuss the unnecessary openings of drawbridge, including vessels who have not lowered all appurantances that can be lowered. Any complaints of non-compliance of these regulations shall be reported to the Coast Guard.

Other comments stated when the bridge is open every hour and half hour, boat traffic moves through more quickly and road traffic is not delayed as long as during the hourly openings. While the Coast Guard agrees that boat traffic would be faster with the half hour openings compared to hourly openings, = we disagree with the assertion that road traffic is not effected. After review of the vessel and traffic counts presented in Section III above and follow-up discussions with Monmouth County engineers, the Coast Guard concluded that there is an improvement to land traffic with little effect to marine traffic. Lastly, some commenters stated the test deviation created more hazardous conditions, including increased congestion on the water and a higher risk for accidents due to inexperienced boaters, currents, and difficulty maneuvering. While the Coast Guard agrees the waterway is narrow and challenging to maneuver during tidal cycles, mariners should be knowledgeable of the waterway ''Rules of the Road'' and be able to plan their voyages accordingly under this modified regulation to enable safe transits through the bridge. In response to the additional comments summarized that a new, higher bridge should be built, Monmouth County is in the pre-application phase of concept development for a new bridge and the public will have an opportunity to comment.

Some comments expressed either no clear preference or alternate suggestions to the proposed rule change. The suggested alternatives offered by commenters included: 1. Curtailing the bridge openings on the weekends further to every two hours or not at all; 2. Opening the bridge every 45 minutes within the specific hour window in the proposed rule; 3. Shrinking the hourly opening window to between 11:00 and 4:00 p.m. The agency considered all options presented by commenters. As stated, the agency feels that the proposed rule strikes the correct balance between relieving traffic congestion issues and boater safety, and declines to adopt the proposed suggestions.

It is the Coast Guard's opinion that this rule meets the reasonable needs of marine navigation with a positive effect on vehicular and pedestrian traffic. The rule allows for more efficient and economical operation of the bridge. Further, the new schedule balances the seasonally high volume of roadway traffic crossing the bridge during peak hours, with the existing needs of marine traffic.

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 protesters.

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, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Coast Guard believes this rule is not a significant regulatory action. The bridge will open on the hour from 9 a.m. to 7 p.m., during Friday, Saturday, Sunday, and holidays, throughout the summertime boating season, while still opening on signal during evening hours as well as through the autumn, winter and spring months. The minimum 15 foot vertical clearance available while the bridge is in the closed position is sufficient to allow a significant number of recreational vessels to safely and expeditiously pass through the draw without opening.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 rule. 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 bridge may be small entities, for the reasons stated in section V.A. above, this final rule would 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**, above.

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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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. The Coast Guard received no comments on this section. 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. The Coast Guard received no comments on this section.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under Figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.755, paragraph (a) is revised to read as follows:

§ 117.755 Shrewsbury River.

* * * * *

(a) The draw shall open on signal at all times; except that, from the Friday before Memorial Day through Labor Day, on Friday, Saturday, Sunday and holidays, between 9 a.m. and 7.pm., the draw need only open on the hour.

* * * * *

Dated: June 17, 2019.

R.W. Warren,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2019–14496 Filed 7–8–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–NCR–28341; PPNCNAMAS0, PPMPSPD1Z.YM0000]

RIN 1024–AE59

National Capital Region; Event at the Washington Monument

AGENCY: National Park Service, Interior.

ACTION: Temporary rule.

SUMMARY: The National Park Service is temporarily revising a regulation for the National Capital Region. This revision will allow the projection of government-selected film footage and associated imagery of the Apollo 11 Mission onto the Washington Monument for an official celebration of the fiftieth anniversary of the Apollo 11 lunar landing. This revision will allow for the event within a restricted zone at the Washington Monument from July 16 to July 20, 2019. The revision to the regulations will last long enough to allow for the setup and take-down of equipment related to the event, from July 12 through July 23.

DATES: Effective July 12, 2019 through 11:59 EDT on July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Reinbold, Superintendent, National Mall and Memorial Parks, (202) 245–4661, *NAMA_Superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Washington Monument is located on the National Mall and honors our Nation's first President. Completed in 1884 through a combination of military and civilian efforts, the Monument stood taller than any structure in the world. It has become an indelible symbol of the Nation and its capital.

On July 20, 1969, the Nation reached even farther into the sky when the Apollo 11 Mission, another combination of military and civilian efforts, succeeded in landing the first humans on the surface of the moon. On June 18, 2019, in anticipation of the fiftieth anniversary of this momentous event, Congress passed H.J. Res. 60, a joint resolution that ''requests the Secretary of the Interior to authorize unique and one-time arrangements for the display of NASA and Smithsonian artifacts, digital content, film footage, and associated historic audio and imagery, in and around the vicinity of the National Mall, including projected onto the surface of the Washington Monument for five nights of public display during the period beginning on July 16, 2019 and ending on July 20, 2019''. H.J. Res. 60. To effectuate this resolution, the National Aeronautics and Space Administration (NASA), the Smithsonian National Air and Space Museum, and the Department of the Interior (DOI) now seek to express the Nation's continued admiration of American courage, sacrifice, and vision that has led this Nation from its founding to the unimaginable new heights reached by Apollo 11.

In response to H.J. Res 60, the Secretary of the Interior has directed the National Park Service (NPS), from July 16 through July 20, 2019, to allow a once-in-a-lifetime commemorative event to project film footage and associated imagery of the Apollo 11 Mission onto the façade of the Washington

Monument. The film footage and imagery will be selected and provided by NASA and the Smithsonian National Air and Space Museum.

Due to ongoing renovations, traditional public use and enjoyment of the Washington Monument will continue to be limited through August 2019. This commemorative event will enhance the public's experience and enjoyment of the Washington Monument, even when required to remain outside the renovation's construction zone barriers.

Temporary Rule

Under an existing regulation at 36 CFR 7.96(g)(3)(ii)(A), the Washington Monument is surrounded by a restricted zone which consists of the area enclosed within the inner circle that surrounds the Monument's base. The restricted zone includes the sides of the Washington Monument itself, on which film footage and associated imagery of the Apollo 11 Mission would be projected. Demonstrations and special events are not allowed within the restricted zone, except for the official annual commemorative Washington birthday ceremony. This restricted zone is similar to restricted zones at the Lincoln Memorial, Thomas Jefferson Memorial, and Vietnam Veterans Memorial, where demonstrations and special events also are prohibited by NPS regulations. These restricted zones are intended to maintain the memorials in an atmosphere of calm, tranquility, and reverence, as well as protect legitimate security and park value interests. 41 FR 12880 (1976) (Final Rule).

There has always been a regulatory exception for the restricted zone at the Washington Monument that allows for the official annual commemorative Washington birthday celebration. Because Congress has passed a joint resolution requesting that the Secretary of the Interior hold a singular event to celebrate the tenacity of the American spirit represented by the moon landing, and to hold it specifically at the Washington Monument with images projected on its surface, and because there is no operational impact to the Washington Monument, the NPS will temporarily revise its regulations to allow for this unique, one-time use. This temporary rule establishes an exception to the prohibition on demonstrations and special events within the restricted area of the Washington Monument that will allow for the Apollo 11 event. This temporary rule will be effective on July 12, 2019 and expire on July 23, 2019, to allow for the setup and take-down of equipment related to the event. The official commemorative event will begin on July 16, 2019 and end on July 20, 2019. After the temporary rule expires on July 23, 2019, the NPS regulation at 36 CFR 7.96(g)(3)(ii)(A) will revert to its former wording.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs 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 executive order 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 further emphasizes 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. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771).

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M–17–21). This rule allows a special event to take place that would otherwise be prohibited.

Administrative Procedure Act

Because this temporary rule is necessary to carry out the request of Congress to begin the official Apollo 11 celebration on July 16, 2019, and because of the limited time remaining before setup will need to begin to meet that deadline, the NPS is publishing this temporary rule as a final rule. In accordance with the requirements of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), the NPS has determined that publishing a proposed rule would be impractical because of the short time period available. The NPS also believes that publishing this temporary rule 30 days before it becomes effective would be impractical because of the limited time remaining before July 16, 2019. A 30-day delay in this instance would be unnecessary and contrary to the public interest. Therefore, under the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the NPS has determined that this temporary rule will be effective on the date published in the **Federal Register**.

Regulatory Flexibility Act

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.*).

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.

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

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

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 significant or unique effect on State, local, or Tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of E.O. 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects use of federally administered lands and waters. It has no outside effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of E.O. 12988. 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.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

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. The NPS has evaluated this rule under the criteria in E.O. 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the rule will not have a substantial direct effect on federally recognized Indian Tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because the rule is covered by a categorical exclusion. NPS Handbook 2015 Section 3.3.A.8. 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 the NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects in not required.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under DC Code 10–137 and DC Code 50–2201.07.

§ 7.96 [Amended]

■ 2. In § 7.96(g)(3)(ii)(A), add the words ''and for the projection of government-selected film footage and associated imagery for an official event commemorating the Apollo 11 Mission'' after the word ''ceremony''.

Karen Budd-Falen,

Deputy Solicitor for Parks and Wildlife, exercising the authority of Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–14569 Filed 7–8–19; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0795; FRL–9996–26–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Negative Declaration for the Oil and Natural Gas Industry Control Techniques Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Delaware. This revision pertains to a negative declaration for the October 2016 Oil and Natural Gas Control Techniques Guidelines (CTG) (2016 Oil and Gas CTG). This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on August 8, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2018–0795. 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: Erin Trouba, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2023. Ms. Trouba can also be reached via electronic mail at *trouba.erin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On April 11, 2019 (84 FR 14640), EPA published a notice of proposed rulemaking (NPRM) for the State of Delaware. In the NPRM, EPA proposed approval of Delaware's negative declaration for the 2016 Oil and Gas CTG. On October 27, 2016, EPA published in the **Federal Register** the ''Release of Final Control Techniques Guidelines for the Oil and Natural Gas Industry.'' 81 FR 74798. The CTG provided information to state, local, and tribal air agencies to assist them in determining reasonably available control technology (RACT) for volatile organic compounds (VOC) emissions from select oil and natural gas industry emission sources. Section 182(b)(2)(A) of the CAA requires that for ozone nonattainment areas classified as Moderate, states must revise their SIPs to include provisions to implement RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. Section 184(b)(1)(B) of the CAA extends this requirement to states in the Ozone Transport Region (OTR). The state of Delaware is in the OTR and therefore is subject to this CTG. States with no applicable sources for a specific CTG may submit as a SIP revision a negative declaration stating that there are no applicable sources in the state.

II. Summary of SIP Revision and EPA Analysis

On June 28, 2018, Delaware's Department of Natural Resources and Environmental Control (DNREC) submitted to EPA a SIP revision

concerning a negative declaration for the 2016 Oil and Gas CTG. In its submittal, DNREC stated that the State has no sources subject to this CTG. The rationale for EPA's proposed action is explained in the NPRM and will not be restated here. No adverse public comments were received on the NPRM.

III. Final Action

EPA is approving Delaware's negative declaration for the 2016 Oil and Gas CTG, which was submitted on June 28, 2018 as a revision to the Delaware SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 9, 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 which is a negative declaration for the 2016 Oil and Gas CTG for the State of Delaware 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, Ozone, Volatile Organic Compounds.

Dated: June 26, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding an entry for ''Negative Declaration for the 2016 Oil and Gas Control Technology Guidelines'' at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

TABLE 12—COMMENT TIMEFRAME FOR NEW OR REVISED HCPCS CODES

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	*	*	*	*
Negative Declaration for the 2016 Oil and Gas Control Technology Guidelines.	Statewide	6/28/2018	7/9/2019, [Insert **Federal Register** citation]	

[FR Doc. 2019–14479 Filed 7–8–19; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0736; FRL–9995–51]

2-Propenoic Acid, Methyl Ester, Polymer With Ethene and 2,5-Furandione; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione when used as an inert ingredient in a pesticide chemical formulation. Lewis & Harrison, on behalf of Arkema Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione on food or feed commodities.

DATES: This regulation is effective July 9, 2019. Objections and requests for hearings must be received on or before September 9, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0736, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0736 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 9, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0736, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of May 13, 2019 (84 FR 20843) (FRL–9991–99), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11242) filed by Arkema Inc. c/o Lewis & Harrison, 2461 South Clark Street, Arlington, VA 22202. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione (CAS Reg. No. 88450–35–5). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency received one comment in response to the Notice of Filing associated with this action; however, the comment was unrelated to 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione and is not relevant to this action.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section

408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-Propenoic acid, methyl ester, polymer with ethene and 2,5-furandione conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF_3- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

8. The polymer's number average MW of 10,500 is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione is 10,500 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione.

VIII. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, methyl ester, polymer with ethene and 2,5-furandione from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 27, 2019.

Donna Davis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, add alphabetically the polymer ''2-Propenoic acid, methyl ester, polymer with ethene and 2,5-furandione, minimum number average molecular weight (in amu), 10,500'' to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * *	
2-Propenoic acid, methyl ester, polymer with ethene and 2,5-furandione, minimum number average molecular weight (in amu), 10,500	88450–35–5
* * * * *	

[FR Doc. 2019–14521 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R10–RCRA–2018–0298; FRL–9995–77–Region 10]

Idaho: Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final authorization.

SUMMARY: Idaho applied to the Environmental Protection Agency (EPA) for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA reviewed Idaho's application and has determined that these changes satisfy all requirements needed to qualify for final authorization. The EPA published a proposed rule on September 5, 2018, prior to taking this final action to authorize these changes. The EPA received five comments, one of which was supportive of this authorization action and four of which were not applicable to this authorization action.

DATES: This final authorization is effective August 8, 2019.

FOR FURTHER INFORMATION CONTACT: Barbara McCullough, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 155, Mail Stop 15–H04, Seattle, Washington 98101, email: *mccullough.barbara@epa.gov* or phone number (206) 553–2416.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to state programs necessary?

States that have received final authorization from the EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their

programs and ask the EPA to authorize their changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations codified in title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

Idaho State's hazardous waste management program was initially approved on March 26, 1990 and became effective on April 9, 1990. As explained in Section E in this document, it has been revised and reauthorized numerous times since then. On March 18, 2018, Idaho submitted a program revision application to the EPA requesting authorization for all delegable Federal hazardous waste regulations codified as of July 1, 2016, incorporated by reference in IDAPA 58.01.05.000 *et seq.,* which were adopted and effective in the State of Idaho on March 29, 2017. This authorization revision request includes the following federal rules for which Idaho is being authorized for the first time: Conditional Exclusions from Solid and Hazardous Waste for Solvent Contaminated Wipes (78 FR 46448, July 31, 2013) ; Conditional Exclusion for Carbon Dioxide Streams in Geologic Sequestration Activities (79 FR 350, January 3, 2014); Modification of the Hazardous Waste Manifest System-Electronic Manifests (79 FR 7518, February 7, 2014); Identification and Listing of Hazardous Waste- CFR Correction (79 FR 35290, June 20, 2014); Revisions to the Export Provisions of Cathode Ray Tube Rule (79 FR 36220, June 26, 2014); Definition of Solid Waste (80 FR 1694, January 13, 2015); Response to Vacaturs of the Comparable Fuels Rule and the Gasification Rule (80 FR 18777, April 8, 2015); Disposal of Coal Combustion Residuals from Electric Utilities (80 FR 21302, April 17, 2015); Disposal of Coal Combustion Residuals from Electric Utilities-Correction of the Effective Date (80 FR 37988, July 2, 2015); and Transboundary Shipments of Hazardous Wastes Between OECD Member Countries—Revisions to the List of OECD Member Countries (80 FR 37992, July 2, 2015).

The EPA is authorizing Idaho's revised hazardous waste program in its entirety through July 1, 2016, as described above.

B. What decisions has the EPA made in this rule?

The EPA has reviewed Idaho's application to revise its authorized program and has determined that it meets the statutory and regulatory requirements established by RCRA. Therefore, the EPA is granting Idaho final authorization to operate its hazardous waste management program with the changes described in the authorization application. Idaho will continue to have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian country (18 U.S.C. 1151)) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA, and which are not less stringent than existing requirements, take effect in authorized States before the States are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Idaho, including issuing permits, until Idaho is granted authorization to do so.

C. What is the effect of this authorization decision?

A person in Idaho subject to RCRA must comply with the authorized State requirements in lieu of the corresponding Federal requirements. Additionally, such persons will have to comply with any applicable Federal requirements, such as HSWA regulations issued by the EPA for which the State has not received authorization and RCRA requirements that are not supplanted by authorized State requirements. Idaho continues to have enforcement authorities and responsibilities under its State hazardous waste management program for violations of its program. However, the EPA retains authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, the authority to:

- Conduct inspections, which may include but is not limited to requiring monitoring, tests, analyses, and/or reports;
- Abate conditions that may present an imminent and substantial endangerment to human health and the environment;
- Enforce RCRA requirements, which may include but is not limited to suspending, terminating, modifying, and/or revoking permits; and
- Take enforcement actions regardless of whether Idaho has taken its own actions.

The action to approve these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho is requesting authorization are already effective under State law and are not changed by the act of authorization.

D. What were the comments received on this authorization action?

The EPA published a proposed rule under Docket ID No. EPA–R10–2018–0298 on September 5, 2018 (83 FR 45068), prior to taking this final action to authorize these changes. The EPA received five comments during the public comment period of this action. All of the comments received are included in the docket for this action. One of the comments received was supportive of Idaho updating its hazardous waste program to continue its alignment with the federal hazardous waste program. The remaining four comments covered a variety of topics, including: A comparison between American regulations and Chinese regulations; hydroelectric powerplants; waste altering marine life in the ocean; and alleged violations of RCRA at the Department of Energy's Idaho National Laboratory. We do not consider these comments to be germane or relevant to this action and therefore not adverse to this action. The comments lack the required specificity to the proposed hazardous waste program regulatory revision and the relevant requirements of RCRA. Moreover, none of these four comments addressed a specific regulation or provision in question or recommended a different action on this authorization revision from what EPA proposed.

E. What has Idaho previously been authorized for?

Idaho initially received final authorization for its hazardous waste management program effective April 9, 1990 (55 FR 11015, March 26, 1990). Subsequently, the EPA authorized revisions to the State's program effective June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), June 11, 1995 (60 FR 18549, April 12, 1995), January 19, 1999 (63 FR 56086, October 21, 1998), July 1, 2002 (67 FR 44069, July 1, 2002), March 10, 2004 (69 FR 11322, March 10, 2004), July 22, 2005 (70 FR 42273, July 22, 2005), February 26, 2007 (72 FR 8283, February 26, 2007), December 23, 2008 (73 FR 78647, December 23, 2008), July 11, 2012 (77 FR 34229, June 11, 2012) and September 21, 2015 (80 FR 20726, August 20, 2015).

F. What changes is the EPA authorizing with this action?

The EPA is authorizing revisions to Idaho's authorized program described in

Idaho's official program revision application, submitted to the EPA on March 29, 2018, and deemed complete by the EPA on April 4, 2018. The EPA has determined that Idaho's hazardous waste management program revisions as described in the March 29, 2018 State's authorization revision application satisfy the requirements necessary to quality for final authorization. Regulatory revisions that are less stringent than the Federal program requirements are not authorized. Idaho's authorized hazardous waste management program, as amended by these provisions, remains equivalent to, consistent with, and is no less stringent than the Federal RCRA program. Therefore, the EPA is authorizing the State for the following program changes: Conditional Exclusions from Solid and Hazardous Waste for Solvent Contaminated Wipes (78 FR 46448, July 31, 2013) ; Conditional Exclusion for Carbon Dioxide Streams in Geologic Sequestration Activities (79 FR 350, January 3, 2014); Modification of the Hazardous Waste Manifest System—Electronic Manifests (79 FR 7518, February 7, 2014); Identification and Listing of Hazardous Waste—CFR Correction (79 FR 35290, June 20, 2014); Revisions to the Export Provisions of Cathode Ray Tube Rule (79 FR 36220, June 26, 2014); Definition of Solid Waste (80 FR 1694, January 13, 2015); Response to Vacaturs of the Comparable Fuels Rule and the Gasification Rule (80 FR 18777, April 8, 2015); Disposal of Coal Combustion Residuals from Electric Utilities (80 FR 21302, April 17, 2015); Disposal of Coal Combustion Residuals from Electric Utilities—Correction of the Effective Date (80 FR 37988, July 2, 2015); and Transboundary Shipments of Hazardous Wastes Between OECD Member Countries—Revisions to the List of OECD Member Countries (80 FR 37992, July 2, 2015).

G. Where are the revised State rules different from the Federal rules?

Under RCRA section 3009, the EPA may not authorize State rules that are less stringent than the Federal program. Any State rules that are less stringent do not supplant the Federal regulations. State rules that are broader in scope than the Federal program requirements are allowed but are not authorized. State rules that are equivalent to, and State rules that are more stringent than the Federal program may be authorized, in which case those provisions are enforceable by the EPA.

This section discusses certain rules in this action where the EPA has made the finding that Idaho's program is more stringent, and also discusses certain portions of the Federal program that are not delegable to the State because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions.

Idaho is currently more stringent than the Federal program in its adoption of 40 CFR 260.43 (2015) and 40 CFR 261.4(a)(24) (2015) at IDAPA 58.01.05.004 and 58.01.05.005. Both of these regulations include provisions from the 2015 Definition of Solid Waste (DSW) Rule that has been vacated and replaced with the less stringent requirements found at 40 CFR 260.43 (2018) and 40 CFR 261.4(a)(24) and (25) (2018), which were reinstated from the 2008 DSW Rule. Idaho will be revising its regulations to include this update as required by the vacatur to be equivalent to the Federal program.

The EPA cannot delegate certain Federal requirements associated with the following rules: Modification of the Hazardous Waste Manifest System—Electronic Manifests (79 FR 7518, February 7, 2014), Revisions to the Export Provisions of Cathode Ray Tube Rule (79 FR 36220, June 26, 2014), and Transboundary Shipments of Hazardous Wastes Between OECD Member Countries—Revisions to the List of OECD Member Countries (80 FR 37992, July 2, 2015). Idaho has adopted these requirements and appropriately preserved EPA's authority to implement them.

H. Who handles permits after the authorization takes effect?

Idaho will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. If the EPA issued permits prior to authorizing Idaho for these revisions, these permits would continue in force until the effective date of the State's issuance or denial of a State hazardous waste permit, at which time the EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit for cause, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian country. The EPA will not issue new permits or new portions of permits for provisions for which Idaho is authorized. The EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not authorized.

I. How does this action affect Indian country (18 U.S.C. 1151) in Idaho?

The EPA's decision to authorize the Idaho hazardous waste management program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. Indian country includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation, that qualifies as Indian country.

Therefore, this program revision does not extend to Indian country where the EPA will continue to implement and administer the RCRA program.

II. Statutory and Executive Order Reviews

This final rule revises the State of Idaho's authorized hazardous waste management program pursuant to Section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. This rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), Federal agencies must determine whether the regulatory action is ''significant'', and therefore subject to OMB review and the requirements of the E.O.. The E.O. defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.. The EPA has determined that this final authorization is not a ''significant regulatory action'' under the terms of E.O. 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this final authorization does not establish or modify any information or recordkeeping requirements for the

regulated community and only seeks to finalize authorization for the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

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. The OMB control numbers for the EPA's regulations in title 40 of the CFR are listed in 40 CFR part 9.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires Federal agencies 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. For purposes of assessing the impacts of this authorization on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. I certify that this final authorization will not have a significant economic impact on a substantial number of small entities because the final authorization will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 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 EPA 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 an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires the EPA 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 EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the rule an explanation why the alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it 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 the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. This final authorization contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments or the private sector. It proposes to impose no new enforceable duty on any state, local or tribal governments or the private sector. Similarly, the EPA has also determined that this final authorization contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, this final authorization is not subject to the requirements of Sections 202 and 203 of the UMRA.

5. Executive Order 13132: Federalism

This final authorization 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 various levels of government, as specified in E.O. 13132 (64 FR 43255, August 10, 1999). This document authorizes pre-existing State rules. Thus, E.O. 13132 does not apply to this final authorization. In the spirit of E.O. 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicited comment on this authorization from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final authorization does not have tribal implications, as specified in E.O. 13175 because the EPA retains its authority over Indian Country. Thus, E.O. 13175 does not apply to this final authorization.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the E.O. has the potential to influence the regulation. This action is not subject to E.O. 13045 because it approves a state program.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final authorization is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under E.O. 12866, as discussed in detail above.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), (Pub. L. 104–113, 12(d)) (15 U.S.C. 272), directs the

EPA to use voluntary consensus standards in its 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 bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Federal agency decides not to use available and applicable voluntary consensus standards. This authorization does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has determined that this final authorization will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This final authorization does not affect the level of protection provided to human health or the environment because this document authorizes pre-existing State rules which are equivalent to and no less stringent than existing Federal requirements.

11. The Congressional Review Act, 5 U.S.C. 801–808

The Congressional Review Act, 5 U.S.C. 801–808, 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 document 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 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority

This final action is issued under the authority of sections 1006, 2002(a), 3006, and 3024 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6905, 6912(a), 6926, and 6939g.

Dated: June 13, 2019.

Michelle Pirzadeh,

Deputy Regional Administrator, EPA Region 10.

[FR Doc. 2019–14019 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2018–0166; FRL–9995–49]

RIN 2070–AJ82

Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Addressing childhood lead exposure is a priority for EPA. As part of EPA's efforts to reduce childhood lead exposure, EPA evaluated the current dust-lead hazard standards (DLHS) and the definition of lead-based paint (LBP). Based on this evaluation, this final rule revises the DLHS from 40 μg/ft² and 250 μg/ft² to 10 μg/ft² and 100 μg/ft² on floors and window sills, respectively. EPA is also finalizing its proposal to make no change to the definition of LBP because insufficient information exists to support such a change at this time.

DATES: This final rule is effective January 6, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0166, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* John Yowell, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–1213; email address: *yowell.john@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you conduct LBP activities in accordance with 40 CFR 745.227, if you operate a training program required to be accredited under 40 CFR 745.225, if you are a firm or individual who must be certified to conduct LBP activities in accordance with 40 CFR 745.226, or if you conduct rehabilitations in accordance with 24 CFR part 35. You may also be affected by this action if you operate a laboratory that is recognized by EPA's National Lead Laboratory Accreditation Program (NLLAP) in accordance with 40 CFR 745.90, 745.223, 745.227, 745.327. You may also be affected by this action, in accordance with 40 CFR 745.107 and 24 CFR 35.88, as the seller or lessor of target housing, which is most pre-1978 housing. See 40 CFR 745.103 and 24 CFR 35.86. For further information regarding the authorization status of states, territories, and tribes, contact the National Lead Information Center at 1–800–424–LEAD (5323). The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Building construction (NAICS code 236), *e.g.,* single-family housing construction, multi-family housing construction, residential remodelers.

- Specialty trade contractors (NAICS code 238), *e.g.,* plumbing, heating, and air-conditioning contractors, painting and wall covering contractors, electrical contractors, finish carpentry contractors, drywall and insulation contractors, siding contractors, tile and terrazzo contractors, glass and glazing contractors.
- Real estate (NAICS code 531), *e.g.,* lessors of residential buildings and dwellings, residential property managers.
- Child day care services (NAICS code 624410).
- Elementary and secondary schools (NAICS code 611110), *e.g.,* elementary schools with kindergarten classrooms.
- Other technical and trade schools (NAICS code 611519), *e.g.,* training providers.
- Engineering services (NAICS code 541330) and building inspection services (NAICS code 541350), *e.g.,* dust sampling technicians.
- Lead abatement professionals (NAICS code 562910), *e.g.,* firms and supervisors engaged in LBP activities.
- Testing laboratories (NAICS code 541380) that analyze dust wipe samples for lead.
- Federal agencies that own residential property (NAICS code 92511, 92811).
- Property owners, and property owners that receive assistance through federal housing programs (NAICS code 531110, 531311).

B. What is the Agency's authority for taking this action?

EPA is finalizing this rule under sections 401, 402, 403, and 404 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* as amended by Title X of the Housing and Community Development Act of 1992 (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or ''Title X'') (Pub. L. 102–550) (Ref. 1). TSCA section 403 (15 U.S.C. 2683) mandates EPA to identify LBP hazards for purposes of administering Title X and TSCA Title IV. Under TSCA section 401 (15 U.S.C. 2681), LBP hazards are defined as conditions of LBP and lead-contaminated dust and soil that ''would result in adverse human health effects,'' and lead-contaminated dust is defined as ''surface dust in residential dwellings'' that contains lead in excess of levels determined ''to pose a threat of adverse health effects. . . .'' As defined in TSCA section 401 (15 U.S.C. 2681(9)), LBP means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (1) in the case of paint or other surface coatings on target housing, such lower level as may be established by HUD, as defined in 42 U.S.C. 4822(c), or (2) in the case of any other paint or surface coatings, such other level as may be established by EPA.

The amendments to the regulations on LBP activities are promulgated pursuant to TSCA section 402 (15 U.S.C 2682). The amendments to the regulations on the authorization of state and tribal Programs are finalized pursuant to TSCA section 404 (15 U.S.C. 2684).

This final rule is being issued in compliance with the December 27, 2017 decision (''Opinion'') of the Ninth Circuit Court of Appeals, and the subsequent March 26, 2018 order that directed the EPA ''to issue a proposed rule within ninety (90) days from the filed date of this order,'' and to ''promulgate the final rule within one year after the promulgation of the proposed rule'' (Refs. 2 and 3).

C. What action is the Agency taking?

EPA established DLHS of 40 μg/ft^2 for floors and 250 μg/ft^2 for window sills in a final rule entitled, ''Identification of Dangerous Levels of Lead,'' also known as the 2001 LBP Hazards Rule (Ref. 4). On July 2, 2018, EPA proposed to amend the DLHS and to make no change to the definition of LBP (Ref. 5). EPA is finalizing its proposal to lower the DLHS set by the LBP Hazards Rule from 40 μg/ft^2 to 10 μg/ft^2 for floors, and from 250 μg/ft^2 to 100 μg/ft^2 for window sills.

EPA and HUD adopted the statutory definition of LBP in a joint final rule entitled, ''Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing,'' also known as the Disclosure Rule (Ref. 6). EPA is finalizing its proposal to make no change to the current definition of LBP because, as further explained in Unit III.B, insufficient information exists to support such a change at this time.

D. Why is the Agency taking this action?

Reducing childhood lead exposure is an EPA priority, and EPA continues to collaborate with our federal partners to reduce lead exposures and to explore ways to strengthen our relationships and partnerships with states, tribes, and localities. In December 2018, the President's Task Force on Environmental Health Risks and Safety Risks to Children released the *Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Lead Action Plan)* (Ref. 7*)* which will enhance the federal government's efforts to identify and reduce lead exposure while ensuring children impacted by such exposure are getting the support and care they need. The Lead Action Plan will help federal agencies work strategically and collaboratively to reduce exposure to lead and improve children's health. This final rule is a component of EPA's prioritizing the important issue of childhood lead exposure because dust is a significant exposure route for young children because of their mouthing behavior and proximity to the floor.

In the 2001 LBP Hazards Rule under TSCA section 403, EPA modeled the health implications of various dust-lead loadings and analyzed those values against issues of practicality to determine the appropriate standards, in accordance with the statute. At that time, the Centers for Disease Control and Prevention (CDC) identified a test result of 10 μg/dL of lead in blood or higher in children as a ''level of concern''. Based on the available science at the time, EPA explained that health effects at blood lead levels (BLLs) lower than 10 μg/dL were ''less well substantiated.'' Further, the Agency acknowledged that the standards were ''based on the best science available to the Agency,'' and if new data were to become available, EPA would ''consider changing the standards to reflect these data.'' (Ref. 4)

New data have become available since the 2001 LBP Hazards Rule that indicates that health risks exist at lower BLLs than previously recognized. The CDC now considers that no safe BLL in children has been identified (Ref. 8), is no longer using the term ''level of concern,'' and is instead using the blood lead reference value (BLRV) to identify children who have been exposed to lead and who should undergo case management (especially assessment of sources of lead in their environment and follow up BLL testing) (Ref. 8). The BLRV is based on the 97.5th percentile of the U.S. population distribution of BLLs in children ages 1–5 from the 2007–2008 and 2009–2010 National Health and Nutrition Examination Surveys (Ref. 9).

Current best available science, which, as indicated above, has evolved considerably since 2001, informs EPA's understanding of the relationship between exposures to dust-lead loadings, blood lead levels, and risk of adverse human health effects. This is summarized in the Integrated Science Assessment for Lead, (''Lead ISA'') (Ref. 10), which EPA released in June 2013, and the National Toxicology Program (NTP) Monograph on Health Effects of Low-Level Lead, which was released by the Department of Health and Human Services in June 2012 (Ref. 11). The Lead ISA is a synthesis and evaluation

of scientific information on the health and environmental effects of lead, including health effects of BLLs lower than 10 µg/dL. These effects include cognitive function decrements in children (Ref. 10).

The NTP, in 2012, completed an evaluation of existing scientific literature to summarize the scientific evidence regarding potential health effects associated with low-level lead exposure as indicated by BLLs less than 10 µg/dL. The evaluation specifically focused on the life stage (childhood, adulthood) associated with these potential health effects, as well as on epidemiological evidence at BLLs less than 10 µg/dL, because health effects at higher BLLs are well-established. The NTP concluded that there is sufficient evidence for risk of adverse health effects in children and adults at BLLs less than 10 µg/dL, and less than 5 µg/dL as well. In children, there is sufficient evidence that BLLs less than 5 µg/dL are associated with increased diagnoses of attention-related behavioral problems, greater incidence of problem behaviors, and decreased cognitive performance. There is limited evidence that BLLs less than 5 µg/dL are associated with delayed puberty and decreased kidney function in children 12 years of age and older. Additionally, the NTP concluded that there is sufficient evidence that BLLs less than 10 µg/dL are associated with delayed puberty, decreased hearing, and reduced post-natal growth (Ref. 11).

Furthermore, the Children's Health Protection Advisory Committee (CHPAC), a Federal Advisory Committee for EPA, has recommended ''that EPA, in coordination with HUD, make strengthening the Lead-Based Paint Hazards Standards for paint, dust, and soil one of its highest priorities in the efforts to reduce children's blood lead levels.'' (Refs. 12 and 13).

Based on EPA's evaluation of the best available science, the Agency's careful review of public comments received on the proposal, as well as consideration of the potential for risk reduction, including whether such actions are achievable, EPA is finalizing its proposal to revise the DLHS to 10 µg/ft^2 for floors and 100 µg/ft^2 for window sills. This final action is informed by the achievability of these standards in relation to their application in lead risk reduction programs, whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government.

EPA did not propose to change post-abatement clearance levels in 40 CFR part 745, subpart L. In this regard, EPA believes it has reasonably focused this rulemaking on the DLHS and the definition of LBP, which are the two actions EPA agreed to undertake in response to the 2009 citizen petition. They were also the two actions expressly addressed in the Ninth Circuit Court of Appeals Opinion discussed above. Nonetheless, while this final rule does not address clearance levels, EPA appreciates the points raised by commenters about the relationship between the DLHS and clearance levels and EPA has initiated action on this issue under a separate rulemaking, entitled ''Review of Post-Abatement Clearance Levels for Dust-lead'' (RIN 2070–AK50), as noted in the Spring 2019 Unified Agenda of Regulatory and Deregulatory Actions. The Spring 2019 Unified Agenda also presents EPA's anticipated publication timelines for the rulemaking that will address the clearance levels.

To update the dust-lead clearance levels, EPA must take a number of steps including health, exposure, and economic analyses. An analysis estimating the health implications of possible revisions of applicable dust-lead clearance levels will be conducted, taking into account factors such as the locations where clearance samples are collected for each of the various candidate clearance levels under consideration. An economic analysis of candidate dust-lead clearance levels will be conducted for purposes of evaluating the potential costs and benefits of possible revisions to the clearance levels. EPA's economic analysis will involve establishing a baseline lead hazard profile for facilities affected by the rule based on knowledge of any applicable existing rules and standards and levels of compliance with those rules and standards. Candidate clearance levels will then need to be analyzed with reference to this baseline. For this purpose, economic modeling will be performed to link each candidate clearance level to the associated scenario of health endpoints and their associated aggregated ''benefit'' valuations for the whole affected population. On the cost side, using assumptions about the scope of interventions, scenarios will be developed to measure aggregate costs of compliance for each candidate clearance level. In addition, the economic analysis is required in order to comply with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.),* the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), and the Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*).

E. What are the estimated incremental impacts of this action?

EPA has prepared an Economic Analysis (EA), which is available in the docket, of the potential incremental impacts associated with this rulemaking (Ref. 14). The analysis focused specifically on the subset of target housing and child-occupied facilities affected by this rule. The analysis estimates incremental costs and benefits for two categories of events: (1) Where dust-lead testing occurs to comply with HUD's Lead-Safe Housing Rule and (2) where dust-lead testing occurs in response to testing that detects an elevated blood lead level in a child. The following is a brief outline of the estimated incremental impacts of this rulemaking.

- *Benefits.* This rule would reduce exposure to lead, resulting in benefits from avoided adverse health effects. For the subset of adverse health effects where the results were quantified, the estimated annualized benefits are $268 million to $2.3 billion per year using a 3% discount rate, and $58 million to $509 million using a 7% discount rate. These benefits calculations are highly sensitive to the discount rate used and to the range in the estimated number of lead hazard reduction events triggered by the blood lead levels in children who have had their blood lead levels tested. With respect to the latter, the wide range is driven by uncertainty about specifics of state and local regulations and about the blood lead levels at which action might be taken. There are additional unquantified benefits due to other avoided adverse health effects in children, including attention-related behavioral problems, greater incidence of problem behaviors, decreased cognitive performance, reduced post-natal growth, delayed puberty and decreased kidney function (Ref. 11).
- *Costs.* This rule is estimated to result in costs of $32 million to $117 million per year using either a 3% or 7% discount rate. The cost calculations are highly sensitive to the range in the estimated number of lead hazard reduction events triggered by children with elevated blood lead levels.
- *Small entity impacts.* This rule would impact approximately 15,400 small businesses of which 96% have cost impacts less than 1% of revenues, 4% have impacts between 1% and 3%, and less than 1% have impacts greater than 3% of revenues.
- *Environmental Justice and Protection of Children.* This rule would increase the level of environmental protection for all affected populations without having any disproportionately

high and adverse human health or environmental effects on any population, including any minority or low-income population or children.

• *Effects on State, local, and Tribal governments.* The rule would not have any significant or unique effects on small governments, or federalism or tribal implications.

F. Children's Environmental Health

Lead exposure has the potential to impact individuals of all ages, but it is especially harmful to young children (Refs. 15, 16 and 17). Exposure to lead is associated with increased risk of a number of adverse health effects in children, including decreased cognitive performance, greater incidence of problem behaviors, and increased diagnoses of attention-related behavioral problems (Ref. 11). Furthermore, floor dust in homes and child-care facilities is a significant route of exposure for children given their mouthing behavior and proximity to the floor. Therefore, the environmental health or safety risk addressed by this action may have a disproportionate effect on children (Ref. 18).

Consistent with the Agency's Policy on Evaluating Health Risks to Children, EPA has evaluated the health effects in children of decreased lead exposure. EPA prepared a Technical Support Document (TSD) for this rulemaking which models the risk of adverse health effects associated with dust-lead exposures at 19 potential candidate standards for dust-lead levels (Ref. 18). It is important to note that the model and input parameters have been the subject of multiple Science Advisory Board Reviews, workshops and publications in the peer reviewed literature. The TSD shows that health risks to young children decrease with decreasing dust-lead levels but that no non-zero lead level, including background levels, can be shown to eliminate health risk entirely.

Therefore, EPA considered additional factors beyond health effects when selecting a new standard, including achievability of the standards in lead risk reduction programs, whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government. Additional information on EPA's evaluation can be found in Unit III.A.2 of this preamble. On the basis of all these factors (including health effects), EPA is finalizing its proposal to lower the DLHS set by the LBP Hazards Rule to 10 μg/ft² for floors and 100 μg/ft² for window sills.

II. Background

A. Health Effects

Lead exposure has the potential to impact individuals of all ages, but it is especially harmful to young children (Refs. 15, 16 and 17). Ingestion of lead-contaminated soil and dust is a major contributor to BLLs in children, particularly those who reside in homes built prior to 1978 (Refs. 19 and 20). Infants and young children can be more highly exposed to lead through floor dust at home and in child-care facilities because they often put their hands and other objects that can have lead from dust or soil on them into their mouths (Ref. 17). As mentioned elsewhere in this final rule, data evaluated by the NTP demonstrates that there is sufficient evidence to conclude that there are adverse health effects associated with low-level lead exposure; there is sufficient evidence that, in children, BLLs less than 5 μg/dL are associated with increased diagnoses of attention-related behavioral problems, greater incidence of problem behaviors, and decreased cognitive performance (Ref. 11). For further information about health effects and lead exposure, see the Lead ISA (Ref. 10).

B. Federal Actions To Reduce Lead Exposures

In 1992, Congress enacted Title X of the Housing and Community Development Act (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or Title X) (Ref. 1) in an effort to eliminate LBP hazards. Section 1018 of Title X required EPA and HUD to promulgate joint regulations for disclosure of any known LBP or any known LBP hazards in target housing offered for sale or lease (known as the Disclosure Rule) (Ref. 6). (''Target housing'' is defined in section 401(17) of TSCA, 15 U.S.C. 2681(17)). On March 6, 1996, the Disclosure Rule was codified at 40 CFR part 745, subpart F, and requires information disclosure activities before a purchaser or lessee is obligated under a contract to purchase or lease target housing. Title X amended TSCA to add a new subchapter entitled ''Title IV—Lead Exposure Reduction.'' As defined in TSCA section 401 (15 U.S.C. 2681(9)), LBP means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (1) in the case of paint or other surface coatings on target housing, such lower level as may be established by HUD, as defined in 42 U.S.C. 4822(c), or (2) in the case of any other paint or surface coatings, such other level as may be established by EPA.

This definition was codified as part of the Disclosure Rule (Ref. 6) at 40 CFR part 745, subpart F, and as part of the LBP Activities Rule (Ref. 21) at 40 CFR part 745, subpart L. TSCA section 402(a) directs EPA to promulgate regulations covering LBP activities to ensure persons performing these activities are properly trained, that training programs are accredited, and that contractors performing these activities are certified. On August 29, 1996, EPA published final regulations under TSCA section 402(a) that govern LBP inspections, risk assessments, and abatements in target housing and child occupied facilities (COFs) (also referred to as the LBP Activities Rule, codified at 40 CFR part 745, subpart L) (Ref. 21). The definition of ''child-occupied facility'' is codified at 40 CFR 745.223 for purposes of LBP activities. Regulations promulgated under TSCA section 402(a) contain standards for performing LBP activities, taking into account reliability, effectiveness, and safety.

TSCA section 402(c)(3) directs EPA to promulgate regulations covering renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create LBP hazards. EPA promulgated final regulations for target housing and COFs in the Lead Renovation, Repair and Painting Rule, under TSCA section 402(c)(3) on April 22, 2008 (also referred to as the RRP Rule, codified at 40 CFR part 745, subpart E) (Ref. 22). The rule was amended in 2010 (75 FR 24802) (Ref. 23) to eliminate a provision for contractors to opt-out of prescribed work practices and in 2011 (76 FR 47918) (Ref. 24) to affirm the work practice requirements for cleaning verification of renovated or repaired spaces, among other things. For further information regarding lead and its health effects, and federal actions taken to eliminate LBP hazards in housing, see the background section of the RRP Rule.

TSCA section 403 is a related authority to carry out responsibilities for addressing LBP hazards under the Disclosure and LBP Activities Rules. Section 403 required EPA to promulgate regulations that ''identify . . . lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil'' for purposes of TSCA Title IV and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LBP hazards, under TSCA section 401, are defined as conditions of LBP and lead-contaminated dust and soil that ''would result'' in adverse human health effects (15 U.S.C. 2681(10)). TSCA section 401 defines lead-contaminated dust as ''surface dust in residential dwellings''

that contains lead in excess of levels determined ''to pose a threat of adverse health effects'' (15 U.S.C. 2681(11)). The standards established in today's final rule under TSCA section 403 are used to calibrate activities carried out under TSCA section 402. As such, the utility of these standards should be considered in the context of the activities to which they are applied.

Pursuant to TSCA section 404, provisions were made for interested states, territories, and tribes to apply for and receive authorization to administer their own LBP Activities and RRP programs. Requirements applicable to state, territorial, and tribal programs are codified in 40 CFR part 745, subpart Q. As stated elsewhere in this document, EPA's regulations are intended to reduce exposures and to identify and mitigate hazardous levels of lead. Authorized programs must be ''at least as protective of human health and the environment as the corresponding federal program,'' and must provide for ''adequate enforcement.'' See 40 CFR 745.324(e)(2).

HUD's Lead Safe Housing Rule (LSHR) is codified in 24 CFR 35, subparts B through R. The LSHR implements sections 1012 and 1013 of Title X. Under Title X, HUD has specific authority to control LBP and LBP hazards in federally-assisted target housing (including COFs that are part of an assisted target housing property covered by the LSHR, because they are part of the common area of the property). The LSHR aims in part to ensure that federally-owned or federally-assisted target housing is free of LBP hazards (Ref. 25). Under the LSHR, when a child under age six (6) with an elevated blood lead level (EBLL) is identified, the ''designated party'' and/or the housing owner shall undertake certain actions.

HUD amended the LSHR in 2017, lowering its standard for identifying children with EBLLs from 20 µg/dL to 5 µg/dL, aligning its standard with CDC's BLRV. The amendments also included revising HUD's ''Environmental Investigation Blood Lead Level'' (EIBLL) to the EBLL, changing the level of investigation required for a housing unit of a child with an EBLL to an ''environmental investigation'' and adding a requirement for testing in other covered units when a child is identified in a multiunit property. HUD may revisit and revise the agency's EBLL via the notice and comment process, as provided by the definition of EBLL in the amended rule, if it is appropriate to do so in order to align with future changes to the blood lead level at which CDC's BLRV recommends that an environmental intervention be conducted. (Ref. 25).

C. Applicability and Uses of the DLHS

The DLHS reviewed in this regulation support the Lead-based Paint Activities and Disclosure programs, and apply to target housing (*i.e.,* most pre-1978 housing) and COFs (pre-1978 non-residential properties where children under the age of 6 spend a significant amount of time such as daycare centers and kindergartens). Apart from COFs, no other public and commercial buildings are covered by this final rule. For further background on the types of buildings to which lead program rules apply, refer to the proposed and final LBP Hazards Rule (Ref. 4).

Within the scope of Title X, the DLHS support and implement major provisions of the statute. They were incorporated into the requirements and risk assessment work practice standards in the LBP Activities Rule. The relationship between post-abatement clearance and the DLHS is discussed in further detail elsewhere in this final rule. The DLHS provide the basis for risk assessors to determine whether dust-lead hazards are present. A risk assessment may be required where dust-lead testing occurs to comply with the LSHR or where dust-lead testing occurs in response to discovery of a child with a blood lead level exceeding a federal or state threshold.

The objective of a risk assessment is to determine, and then report the existence, nature, severity, and location of LBP hazards in residential dwellings and COFs through an on-site investigation. If LBP hazards are found, the risk assessor will also identify acceptable options for controlling the hazards in each property. These options should allow the property owner to make an informed decision about what actions should be taken to protect the health of current and future residents. Risk assessments can only be performed by certified risk assessors.

The risk assessment entails both a visual assessment and collection of environmental samples. The environmental samples include, among other things, dust samples from floors and window sills which are sent to a laboratory recognized by EPA's National Lead Laboratory Accreditation Program (NLLAP), as discussed in section III.A.2 for analysis for lead. When the lab results are received, the risk assessor compares them to the DLHS. If the dust-lead loadings from the samples are at or above the applicable DLHS, then a dust-lead hazard is present. Any LBP hazards found are listed in a report prepared for the property owner by the risk assessor.

For the Disclosure Rule under section 1018 of Title X (42 U.S.C. 4852d), EPA and HUD jointly developed regulations requiring a seller or lessor of most pre-1978 housing to disclose the presence of any known LBP and LBP hazards to the purchaser or lessee (24 CFR part 35, subpart A; 40 CFR part 745, subpart F). Under these regulations, the seller or lessor also must provide the purchaser or lessee any available records or reports ''pertaining to'' LBP, LBP hazards and/or any lead hazard evaluation reports available to the seller or lessor (40 CFR 745.107(a)(4) and 24 CFR 35.88(a)(4)). Accordingly, if a seller or lessor has a report showing lead is present in levels that would not constitute a hazard, that report must also be disclosed. Thus, disclosure is required under section 1018 even if dust and soil levels are less than the applicable LBP hazard standard. EPA notes, however, that with respect only to leases of target housing, disclosure is not required in the limited circumstance where the housing has been found to be LBP free by a certified inspector (24 CFR 35.82; 40 CFR 745.101).

D. Limitations of the DLHS

The DLHS are intended to identify dust-lead hazards when LBP risk assessments are performed. These standards, as were those established in 2001, are for the purposes of Title X and TSCA Title IV, and therefore they do not apply to housing and COFs built during or after 1978, nor do they apply to pre-1978 housing that does not meet the definition of target housing. See 40 CFR 745.61. These standards cannot be used to identify housing that is free from risks from exposure to lead, as risks are dependent on many factors. For instance, the physical condition of a property that contains LBP may change over time, resulting in an increased risk of exposure. If one chooses to apply the DLHS to situations beyond the scope of Title X, care must be taken to ensure that the action taken in such settings is appropriate to the circumstances presented in that situation, and that the action is adequate to provide any necessary protection for children exposed.

The DLHS do not require the owners of properties covered by this final rule to evaluate their properties for the presence of dust-lead hazards, or to take action if dust-lead hazards are identified. Although these regulations do not compel specific actions to address identified LBP hazards, these standards are incorporated into certain requirements mandated by state, federal, tribal, and local governments. An important concern for EPA is that if the

DLHS were set too low, the resources for LBP hazard mitigation would be distributed more broadly, diverting them from situations that present more serious risks. However, EPA does not believe that the levels in this final rule constrict these programs, considering the demonstrated achievability of these levels (Ref. 26). As such, these standards are appropriate for incorporation into the various assessment and LBP hazard control activities to which they apply.

E. Administrative Petition and Litigation

On August 10, 2009, EPA received an administrative petition from several environmental and public health advocacy groups requesting that EPA amend regulations issued under Title IV of TSCA (Ref. 27). The petitioners requested that EPA lower the Agency's DLHS issued pursuant to section 403 of TSCA, and the dust-lead clearance levels issued pursuant to section 402 of TSCA, from 40 μg/ft² to 10 μg/ft² or less for floors, and from 250 μg/ft² to 100 μg/ft² or less for window sills; and to lower the definition of LBP pursuant to section 401 of TSCA from 1 mg/cm² and 0.5 percent by weight, to 0.06 percent by weight with a corresponding reduction in units of mg/cm².

On October 22, 2009, EPA responded to this petition pursuant to section 553(e) of the Administrative Procedure Act (5 U.S.C. 553(e)) (EPA 2009) (Ref. 28). EPA agreed to commence an appropriate proceeding on the DLHS and the definition of LBP in response to the petition, but stated that it did not commit to a particular schedule or to a particular outcome.

In August 2016, administrative petitioners—joined by additional citizen groups—filed a petition for writ of mandamus in the Ninth Circuit Court of Appeals, seeking a court order finding that EPA had unreasonably delayed in promulgating a rule to update the DLHS and the definition of LBP under TSCA and directing EPA to promulgate a proposed rule within 90 days, and to finalize a rule within six months. On December 27, 2017, a panel majority of the Ninth Circuit granted the writ of mandamus and ordered that EPA (1) issue a proposed rule within ninety days of the date the decision becomes final and (2) issue a final rule one year thereafter (Ref. 2). On March 26, 2018, the Panel granted EPA's Motion for Clarification, specifying that the proposed rule was due ninety days from the date of that order (Ref. 3). On June 22, 2018, the EPA Administrator signed and EPA announced its proposed rule to lower the DLHS to 10 μg/ft² for floors and 100 μg/ft² for window sills and to make no change to the definition of lead-based paint due to a lack of sufficient information to support such a change. (Ref. 29). The proposed rule was published in the July 2, 2018 edition of the **Federal Register**.

EPA is issuing this final rule in compliance with the Court's order. Notably, the Court's majority decision suggested that EPA had already determined that amending these regulations was necessary pursuant to TSCA (15 U.S.C. 2687). However, EPA stated in its 2009 petition response that ''the current hazard standards *may not* be sufficiently protective'' (Ref. 28) (emphasis added). With regard to the definition of LBP, EPA had not even opined that the definition may not be sufficiently protective. Rather, throughout the litigation, EPA maintained that it would consider whether revision of the definition was appropriate. Also, the sufficiency of the standards was not at issue, as this mandamus petition was about timing, not substance and EPA had not previously conducted the analyses required to reach a conclusion under the statutory standard. It was not until EPA conducted its own analyses—during this rulemaking process—that it was in a position to express the conclusions that are set forward in this final rule.

F. Public Comments Summary

The proposed rule provided a 45-day public comment period, ending on August 16, 2018. EPA received 67 comments during the public comment period. After the close of the public comment period, EPA received an additional 13,376 comments nearly all of which were submitted as part of a mass mail campaign. Comments were received from private citizens, state governments, potentially affected businesses, academics, trade associations, and environmental and public health advocacy groups. Many commenters, including states, LBP businesses, lead poisoning prevention advocacy groups, individuals, and academics, supported revising the DLHS as proposed. A number of commenters suggested that EPA should promulgate DLHS lower than the proposed levels at 10 μg/ft² for floors, and 100 μg/ft² for window sills. Several commenters specifically suggested that EPA should revise the DLHS for floors to 5 μg/ft², and/or 40 μg/ft² for window sills. One commenter suggested that EPA should revise the DLHS only if the clearance levels are revised as well. Other commenters suggested that EPA either not revise the DLHS or revise them to levels higher than those in today's final rule. Another commenter expressed concern with a DLHS of 10 μg/ft² for floors, contending that this would increase the cost of the HUD Lead Hazard Control (LHC) grant program due to an increase in clearance failures. Several commenters sought clarity in terms of how a potential revision to the DLHS would affect LBP-related activities that had already taken place or were in the process of conducting lead hazard control activities. In this preamble, EPA has responded to the major comments relevant to this final rule. In addition, the more comprehensive version of EPA's response to comments related to this final action can be found in the Response to Comments document (Ref. 30).

III. Final Rule

EPA carefully considered all public comments related to the proposal. EPA is finalizing its proposal to lower the DLHS for floors from 40 μg/ft² to 10 μg/ft² and its proposal to lower the DLHS for window sills from 250 μg/ft² to 100 μg/ft².

This rule finalizes EPA's proposal to make no change to the definition of LBP because insufficient information exists to support such a change at this time.

A. Dust-Lead Hazard Standards

1. Approach for reviewing the dust-lead hazard standards. As EPA explained in the 2001 LBP Hazards Rule (Ref. 4) (66 FR 1206, 1207), one of the underlying principles of Title X is to move the focus of public and private sector decision makers away from the mere presence of LBP, to the presence of LBP hazards, for which more substantive action should be undertaken to control exposures, especially to young children. Since there are many sources of lead exposure (*e.g.* air, water, diet, background levels of lead), and since, under TSCA Title IV, EPA may only account for risks associated with paint, dust and soil, EPA continues to believe that non-zero LBP hazard standards are appropriate.

In the 2001 LBP Hazards Rule, EPA explained the issues and inherent discretion involved when the Administrator identifies LBP hazards (*i.e.,* those conditions that cause exposure to lead ''that would result in adverse human health effects as established by the Administrator under this subchapter'' (TSCA section 401(10))). Of particular note, EPA explained that the challenge to the Agency is how to deal with the statutory criterion, ''would result in adverse human health effects.'' This is especially problematic because the statutory mandated activity that requires EPA to choose a cutoff for when this

risk exists does not lend itself to a straightforward empirical analysis that provides bright lines for decision makers. Even if the science and environmental-lead prevalence data were perfect, there would likely be no agreement on the level, or certainty, of risk that is envisioned in the phrase ''would result in adverse human health effects.'' Thus, it would not be appropriate to base a lead-based paint hazard standard on any specific probability of exceeding any specific blood-lead level. (Ref. 4).

As further explained in that 2001 LBP Hazards Rule, EPA first determined the lowest candidate DLHS by using a 1–5% probability of an individual child developing a BLL of 10 µg/dL. EPA then took a pragmatic approach by looking at numerous factors affected by the candidate standards and prioritized protection from the greatest lead risks so as not to dilute intervention resources.

To develop the DLHS proposal in 2018 (Ref. 5), EPA evaluated the relationship between dust-lead levels and children's health, and considered the achievability of the DLHS given the relationship between standards established under TSCA section 403 and the application of those standards in lead risk reduction programs. Additional factors that the Agency considered include whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government.

The TSD presents models to determine the risk of adverse health effects associated with dust-lead exposures at 19 levels (Ref. 18). Section 6.4 of the TSD summarizes the results of the metrics of interest, including the probability that an individual exposed to each potential candidate standard would have a BLL above 5 µg/dL.

Consistent with the establishment of the 2001 DLHS, EPA believes national standards are still an appropriate regulatory approach because they facilitate implementation and decrease uncertainty within the regulated community. Furthermore, national standards are appropriate because legacy lead paint remains in homes in most, if not all, parts of the country. For further information, see the LBP Hazards Rule (Ref. 4).

Based on the language of sections 401, 402, and 403 of TSCA and the purposes of Title X and its legislative history, EPA continues to believe that it is a reasonable exercise of its discretion to set hazard standards based on consideration of the potential for risk reduction, including whether such actions are achievable, and with consideration given to the existing programs aimed at achieving such reductions. This final rule revising the DLHS to 10 µg/ft^2 for floors and 100 µg/ft^2 for window sills is informed by the achievability of these standards in relation to their application in lead risk reduction programs, whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government. In this final rule, the Administrator is exercising his Congressionally delegated function to identify LBP hazards, which the statute defines as those conditions that cause exposure to lead ''that would result in adverse human health effects as established by the Administrator,'' in light of the data and associated uncertainties and the statutory purpose of targeting intervention resources towards protection against the greatest lead risks.

EPA's hazard standards should not be considered in isolation, but must be contemplated along with the Agency's actions to address lead in other media. It is anticipated that this final rule, especially in conjunction with other federal actions, will result in better health outcomes for children. As described in the DLHS proposal in 2018 (Ref. 5), scientific advances made since the promulgation of the 2001 rule clearly demonstrate that exposure to low levels of lead result in adverse health effects. Moreover, since CDC has stated that no safe level of lead in blood has been identified, the reductions in children's BLLs as a result of this rule will help reduce the risk of adverse cognitive and developmental effects in children.

2. Selection of final DLHS. Reducing childhood lead exposure is an EPA priority, and today's final rule is one component of EPA's broad effort to reduce children's exposure to lead. While no safe level of lead in blood has been identified (Ref. 8), the reductions in children's blood-lead levels resulting from this rule are expected to reduce the risk of adverse cognitive and developmental effects in children. TSCA Section 403 required EPA to promulgate regulations that ''identify . . . lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil'' for purposes of TSCA Title IV and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LBP hazards, under TSCA section 401, are defined as conditions of LBP and lead-contaminated dust and soil that ''would result'' in adverse human health effects (15 U.S.C. 2681(10)). TSCA section 401 defines lead-contaminated dust as ''surface dust in residential dwellings'' that contains lead in excess of levels determined ''to pose a threat of adverse health effects'' (15 U.S.C. 2681(11)).

In selecting the DLHS, EPA gave significant weight to health outcomes identified in the TSD. As the TSD shows, health risks to young children decrease with decreasing dust-lead levels; incremental decreases to BLL and adverse health effects are seen at all points below the original DLHS established in 2001. Although health risks to young children decrease with decreasing dust-lead levels, no non-zero lead level, including background levels, can be shown to eliminate health risk entirely. Therefore, it is appropriate for EPA to consider factors beyond health effects when selecting new standards. Additional factors that the Agency considered include achievability of the standards in lead risk reduction programs, whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government.

EPA is concerned that if DLHS were set too low, the limited resources for hazard mitigation would be distributed more broadly, diverting them from vulnerable communities or situations that present more serious risks to those that present lower risks. As described in the Key Federal Programs to Reduce Childhood Lead Exposures and Eliminate Associated Health Impacts document, as well as the Lead Action Plan, national data suggest disparities persist among and within communities due to factors such as race, ethnicity, and income (Ref. 20). In 2013–2016, the 95th percentile BLL of children ages 1 to 5 years in families with incomes below poverty level was 3.0 µg/dL (median is 0.9 µg/dL,) and among those in families at or above the poverty level it was 2.1 µg/dL (median is 0.7 µg/dL), a difference that is statistically significant. In 2011–2016, 2.2% of children in families below the poverty level had a BLL at or above 5 µg/dL, compared to 0.6% of children in families at or above the poverty level, a difference that is statistically significant. The 97.5th percentile in 2013–2016 is 3.3 µg/dL, a slight decrease from the value for 2011–2014 (Ref. 31).

As noted earlier in the preamble, EPA continues to believe that it is a reasonable exercise of its discretion to set hazard standards based on consideration of the potential for risk reduction, including whether such actions are achievable, and with consideration given to the existing programs aimed at achieving such

reductions. Additional factors that the Agency considered include whether lower dust-lead loadings can be reliably detected by laboratories, resources for addressing LBP hazards, and consistency across the federal government. As discussed in Units I.D. and II.A.2. of the proposal, EPA worked with HUD's Office of Lead Hazard Control and Healthy Homes (OLHCHH) to survey the office's LHC grantees to assess the achievability of candidate DLHS (Ref. 26). Survey results showed that reductions in dust-lead levels to 10 μg/ft² on floors and to 100 μg/ft² on window sills were shown to be technically achievable using existing cleaning practices, even though, at the time, the reductions had to be just down to 40 and 250 μg/ft², respectively. As explained in the survey's final report, testing results were collected from 1,552 housing units treated by 98 grantees, and included 7,211 floor and 4,893 window sill dust samples. The data were analyzed to determine the percentage of samples with dust-lead loadings at or below various levels. For floors, 72% of samples showed dust-lead levels at or below 5 μg/ft², 85% were at or below 10 μg/ft², 90% were at or below 15 μg/ft², and 94% were at or below 20 μg/ft². For window sills, 87% of samples showed dust-lead levels at or below 40 μg/ft², 91% were at or below 60 μg/ft², 96% were at or below 80 μg/ft², and 97% were at or below 100 μg/ft² (Ref. 26). This final rule revising the DLHS to 10 μg/ft² for floors and 100 μg/ft² for window sills is informed by the achievability of these standards in relation to their application in lead risk reduction programs. These standards will complement other federal actions aimed at reducing lead exposures for all children. EPA also believes that the standards will continue to inform where intervention resources should be directed for children with higher exposures. These are the lowest levels that EPA believes are reliably achievable using existing lead-hazard control practices and that are aligned with the clearance levels required under certain HUD grant programs. As such, these levels provide greater uniformity across the federal government than other options suggested by commenters and provide consistency for the regulated and public health communities.

EPA received a number of comments during the public comment period suggesting that EPA promulgate DLHS lower than the proposed levels at 10 μg/ft² for floors and 100 μg/ft² for window sills. Several commenters specifically suggested DLHS for floors at 5 μg/ft², and/or 40 μg/ft² for window sills. In the TSD, EPA models the risk of adverse health effects associated with dust-lead exposures at differing potential candidate standards (19 options) in children living in pre-1940 and pre-1978 housing, as well as associated potential health effects in this subpopulation. As explained in the EPA's proposal and section 3.2.3 of the TSD, floors have a larger impact on children's exposure to dust lead than sills because they take up more square footage of the housing unit and children spend more of their time in contact with the floor rather than the sills. Consequently, candidate standards that reduce floor dust-lead loadings more than sill dust-lead loadings have the biggest impact on exposure because of the greater likelihood and magnitude of children's exposure to floor dust-lead. For example, a candidate standard of 40 μg/ft² for floors and 100 μg/ft² for window sills is likely to be less effective than a standard of 10 or 20 μg/ft² for floors and 250 μg/ft² for window sills.

In addition, at least one study suggests that dust-lead may reaccumulate after LHC activities, especially when cleaning and interim controls are used, and therefore DLHS levels lower than 100 μg/ft² for window sills (*e.g.,* 40 μg/ft²) may not be maintained over time, and would therefore render a lower DLHS to be a less effective indication of what property owners and residents can do to achieve a reduction in lead exposure (Ref. 32).The study shows that after cleaning the geometric mean dust-lead level was 45 μg/ft² and the median dust-lead level was 57 μg/ft², both of which are slightly above commenters' suggested window sill dust-lead level of 40 μg/ft². But from six months through six years post-intervention, the window sill dust-lead levels were well above this level. At six months the geometric mean dust level was 105 μg/ft² and the median was 104 μg/ft², which is much closer to a DLHS for window sills at 100 μg/ft², rather than 40 μg/ft². These results call into question whether window sill levels at or below 40 μg/ft² can be maintained over time with routine cleaning practices, particularly interim controls. These inconsistencies, along with the other concerns discussed in this preamble, are why EPA has declined to select a lower DLHS for window sills as suggested by the commenters.

Dust sampling is a critical element of the lead-based paint program because it is how members of the public learn whether dust-lead hazards are present in their homes and properties. Dust sampling is conducted by wiping a representative surface of known area with a wet wipe and sending the wipe to a laboratory for analysis. The laboratory that conducts the analysis must be recognized by EPA's NLLAP. See TSCA section 405(b), 15 U.S.C. 2685(b); 40 CFR 745.90(c)(1); 40 CFR 745.223; 40 CFR 745.227(f); 40 CFR 745.327(c). EPA's NLLAP defines the minimum requirements and abilities that a laboratory must meet to attain EPA recognition as an accredited lead testing laboratory in the Laboratory Quality System Requirements (LQSR) (Ref. 33).

Several commenters expressed concern about laboratories' ability to meet lower limits resulting from a revision to the DLHS, and one commenter went further to recommend that EPA thoroughly examine laboratories' ability to accurately measure at lower levels. Several commenters specifically requested DLHS for floors at 5 μg/ft² and/or 40 μg/ft² for window sills. EPA agrees that a thorough understanding of laboratories' ability to meet lower LQSR limits as a result of revised DLHS is important, especially in consideration of commenters' suggestions for lower DLHS than were proposed and finalized in this rule. As indicated in the proposed rule (Ref. 5), EPA continues to believe in the importance of being able to assess whether the dust-lead loadings reflected in the revised DLHS can be reliably measured by laboratories. If NLLAP-recognized laboratories were unable to demonstrate meeting the LQSR requirements, then stakeholders would be unable to use those laboratories in conducting activities required by EPA's LBP program. Those laboratories would either take actions to meet the lower LQSR limits or discontinue analysis of lead dust wipe samples from their portfolio of services. If too many laboratories were to discontinue lead dust wipe analysis from their portfolios, it could be problematic for the regulated community that conducts the sampling (as well as residents, property owners, and other stakeholders), in the form of increased cost of analysis per sample, increased waiting periods that make testing for dust-lead hazards untenable, or a combination of both. As the number of NLLAP-recognized labs decrease, the potential for risk reduction is diminished.

In order to obtain a better understanding of laboratories' capabilities and capacity for dust wipe analysis, EPA conducted teleconferences with two accrediting organizations (Refs. 34; 35; and 36), five federally funded laboratories (Refs. 37; 38; 39; 40; and 41), and nine state or

privately funded laboratories (Refs. 42; 43; 44; 45; 46; 47; 48; 49; and 50). The clientele of the two accrediting organizations represent 99% of the laboratories recognized by NLLAP for dust-lead testing. Fourteen teleconferences with NLLAP-recognized laboratories represent approximately 13% of the NLLAP-recognized laboratories, and one of the privately funded laboratory contacts with whom EPA spoke is a parent company of sixteen (or approximately 15%) NLLAP-recognized laboratories (Ref. 45). EPA believes the accrediting organizations and laboratories with which teleconferences were held are representative of NLLAP-recognized laboratories. These teleconferences further informed the discussion below, which examines laboratory requirements and laboratories' ability to meet those requirements, various approaches by which laboratories can meet the lower LQSR limits, and how the viability of those approaches changes according to the DLHS in this final rule and why revised DLHS below those levels would impair the potential for risk reduction.

EPA established NLLAP to recognize laboratories that demonstrate the ability to accurately analyze paint chips, dust, or soil samples for lead. NLLAP-recognized laboratories must follow EPA's LQSR which identifies the limits laboratories must achieve (Ref. 33). All NLLAP-recognized laboratories are required to demonstrate they can achieve a quantitation limit and a method detection limit (Ref. 33), and accrediting organizations must use the LQSR when evaluating laboratories performing environmental testing activities under NLLAP. A quantitation limit, also known as a reporting limit (Ref. 5) or minimum reporting limit (Ref. 51), is the minimum level or quantity of lead ''that can be quantified to a specified accuracy.'' (Ref. 33) A method detection limit is ''[t]he minimum concentration of [lead] that . . . has a 99% probability of being identified, qualitatively or quantitatively measured, and reported to be greater than zero.'' (Ref. 33) NLLAP-recognized laboratories that analyze dust wipe samples for lead must show they can achieve a quantitation limit ''equal to or less than . . . 50% of the lowest action level [*i.e.,* regulatory limit] for dust wipe samples.'' (Ref. 33) The quantitation limit must also be ''at least 2 times but no greater than 10 times the method detection limit.'' (Ref. 33) When this final rule becomes effective, the ''lowest action level for dust wipe samples'' will be the DLHS for floors at 10 μg/ft². Therefore, as a result of this rulemaking, laboratories that wish to maintain or obtain NLLAP recognition must be able to demonstrate a quantitation limit equal to or less than 5 μg/ft², and a method detection limit no less than 0.5 μg/ft² and no greater than 2.5 μg/ft².

In the proposed rule, EPA requested comment on the achievability of lower standards, including the ability of laboratories to accurately test to lower levels, in part to gain information on how the rule would affect the status of NLLAP-recognized laboratories. One commenter claimed that EPA found that the proposed DLHS are ''detectable among the labs used by'' the HUD grantees that are already subject to the lower levels. Another commenter asserted that ''100% of the labs that conduct lead tests are already equipped to test lead dust with lower standards than [are] currently being used.'' EPA agrees that the final DLHS are achievable by HUD LHC grantees but disagrees with the commenter's assertion that ''100% of the labs that conduct lead tests are already equipped to test'' for dust-lead at lower dust-lead levels than the previous DLHS. As mentioned in the proposed rule, HUD's policy guidance revision has already required its OLHCHH's LHC grantees to use clearance levels of 10 μg/ft² for floors and 100 μg/ft² for window sills when conducting LHC activities (Ref. 51). Therefore, 100% of the laboratories *used by these grantees* were using laboratories with a reporting limit equal to or less than 5 μg/ft². Although this means that ''there is no technological barrier to reducing the current standard to the'' revised DLHS, and the laboratories *used by the grantees* are able to do so (Ref. 5), it does not mean that all of the NLLAP-recognized laboratories are already able to meet the lower LQSR limits associated with the revised DLHS. Based on EPA's additional research, the agency believes a little less than half of NLLAP-recognized laboratories are already able to meet the lower LQSR limits associated with the revised DLHS. In addition, the other laboratories that wish to maintain or obtain NLLAP recognition will need to take actions to meet the lower LQSR limits as a result of this rulemaking (Ref. 14). EPA also notes that if the DLHS were revised to levels lower than this final rule, the Agency is not confident based on available data that the laboratories used by the HUD grantees could meet the lower LQSR limits.

There are a number of approaches by which laboratories can meet the lower LQSR limits. These approaches, in order of increasing burden for doing so (including financial, time, and personnel resources), are: Instruct their customers to increase the wipe area; modify sample preparation and revise accreditation; or acquire new instrumentation, modify sample preparation, and revise accreditation. Through EPA's research on laboratories' capability and capacity, EPA believes that most if not all of the laboratories that will need to take actions to meet the lower LQSR limits will be able to do so by instructing customers to increase the wipe area, modifying the sample preparation and revising accreditation, or executing some combination of those approaches with a revised DLHS at 10 μg/ft² for floors and 100 μg/ft² for window sills (Ref. 14).

However, if EPA were to revise the DLHS to levels lower than the levels in this final rule, the viability of those less burdensome approaches diminishes sharply. With DLHS levels suggested by commenters at 5 μg/ft² for floors, EPA estimates that a little over 40% of the NLLAP-recognized laboratories would either have to acquire new instrumentation, modify sample preparation, and revise accreditation, or discontinue dust wipe analysis for lead from their portfolio (Ref. 14). As further explained in the following paragraphs, EPA is concerned that laboratories that are faced with the decision of whether to meet lower LQSR limits may end up discontinuing dust wipe analysis for lead from their business models. This diminished capacity for laboratories that perform dust wipe analysis could in turn be problematic for the regulated community that conducts the sampling, either in the form of increased cost of analysis per sample, increased waiting periods that make testing for dust-lead hazards untenable, or a combination of both. As the number of NLLAP-recognized labs decrease, this could inadvertently put more children at risk of prolonged lead exposure.

Increasing the wipe area is a less burdensome, acceptable way that many laboratories can meet the lower LQSR limits associated with revisions to the DLHS in this final rule of 10 μg/ft² for floors and 100 μg/ft² for window sills. Dust wipes are typically used to sample a floor area of 1 ft² (Ref. 52). Increasing the wipe area will increase the amount of lead collected, making it more likely that the dust wipe sample will be measurable above the new quantitation limit without incurring additional expense. Some laboratories have indicated that they are able to test such samples by instructing their customers to wipe an area of 2 ft² (Ref. 14). In addition, several commenters relayed

that samples have been taken using a 2 ft² wipe area, and some laboratories have indicated that this is how they are meeting the HUD grant policy requirements. The commenters declare that a laboratory using less sensitive instrumentation will have difficulty meeting the lower requirements associated with the revised DLHS without the expansion of the wipe area. Commenters also note there have not been any problems reported by HUD grantees concerning the increased wipe area. Additionally, using a 2 ft² wipe area satisfies EPA's LQSR limits. A laboratory that modifies its sample preparation or instrumentation for dust wipe analysis would have to incur the additional burden of modifying or acquiring a new accreditation (Ref. 36), but an increase in the wipe area does not necessarily alter the sample preparation or instrumentation. Therefore, a laboratory that only requires increased wipe areas may not incur that additional burden. EPA agrees with the commenters that expanding the wipe area to 2 ft² can be an acceptable way for laboratories to meet the lower requirements associated with revisions to the DLHS in this final rule.

There are several potential issues, however, with expanding the sampling area to 4 ft² (Refs. 35 and 44). First, although one laboratory EPA contacted felt that it would be able to use its currently less sensitive instrumentation by instructing its customers to wipe a 4 ft² area (Ref. 45), there was no consensus among the laboratories with whom EPA spoke as to whether it is practical to increase the sampling area to 4 ft² in order to demonstrate compliance with the LQSR if the DLHS for floors was decreased to 5 µg/ft² (Ref. 14). The larger wipe area could interfere with the effectiveness of the sampling method and cause problems with preparation procedures and laboratory instrumentation (Ref. 14). Therefore, EPA does not believe that increasing the wipe area to 4 ft² would be a good approach for laboratories faced with the decision of how to meet the lower LQSR limits with less sensitive instrumentation, for a DLHS level lower than 10 µg/ft² for floors.

In addition, in some cases, window sills do not have enough surface area to allow for a sampling area that is large enough to collect a sufficient amount of dust-lead to meet all laboratories' quantitation limits with their existing analytical equipment.

Thus, EPA believes that setting the DLHS at 10 µg/ft² for floors and 100 µg/ft² for window sills is the best way to maintain the current number of NLLAP-recognized laboratories by ensuring the requirements can be implemented, which in turn helps to maximize the potential of this rule for continued risk reduction.

With DLHS at 10 µg/ft² for floors, laboratories that are not able to meet the LQSR limits by simply increasing the wipe area, due to their own variable processes and equipment, should be able to do so by modifying the sample preparation and revising their accreditation to meet new testing limits. There are several potential changes laboratories can make to modify their sample preparation that might allow a laboratory to lower its quantitation limit and method detection limit while using the same analytical instrumentation. To analyze dust wipe samples, laboratories take the dust wipe, heat it in a solution, and then analyze that solution for lead. Hence, increasing the concentration of lead in the digestate will facilitate achieving measurements above the quantitation limit without acquiring new instrumentation. This can be accomplished by reducing the final volume by using a higher acid concentration or evaporating the digestate and thereby the final concentration of lead for analysis. Additionally, laboratories may be able to use different equipment for heating the solution that would allow use of a lower volume of the digestate. Laboratories that institute these modifications would not need to start from scratch with an entirely new accreditation, but would have to modify their existing accreditation to maintain NLLAP recognition. However, these modifications to sample preparation have their limits. Several of the laboratories that EPA talked to indicated that these modifications would become less viable if the DLHS were to decrease below the levels in this final rule.

If the DLHS were set to levels lower than 10 µg/ft² for floors and 100 µg/ft² for window sills, EPA believes that an increasing number of the laboratories that need to take actions to meet the lower LQSR limits will have to use a different type of analytical instrument that is more sensitive, especially if the DLHS were set to 5 µg/ft² for floors and 40 µg/ft² for window sills, as some commenters requested. The majority of the laboratories that would have to use a different type of analytical instrument would have to purchase new instrumentation and revise their accreditation. This accreditation revision would likely have to include an on-site inspection from an accreditation body (Ref. 36). One commenter mentioned that if new instrumentation were required, such an upgrade could cost between $80,000–$250,000, ''not including many consumable materials and retrofitting the laboratory for the equipment.'' EPA agrees with the commenter that the expense of new instrumentation can be significant, and notes that from its own research, the time required to purchase the new equipment, have it installed, run validation studies, optimize the methods and train personnel on its use, and then to revise the accreditation with an on-site inspection can be quite disruptive to a laboratory's operations. This is especially true for smaller laboratories with more limited resources. As more laboratories conclude that they must acquire new instrumentation and revise their accreditation with an on-site inspection, the likelihood of more laboratories discontinuing dust wipe analysis from their portfolios increases.

After the promulgation of this final rule lowering the DLHS, laboratories that need to take actions to meet the lower LQSR limits will have to take time to review their situation, determine the changes they need to make, decide whether they want to continue in the NLLAP program, and select among the approaches previously described. For DLHS lower than 10 µg/ft² for floors, the number of laboratories that would need to acquire new instrumentation, modify sample preparation, and revise their accreditation with an on-site inspection increases, which would take the most time and resources to accomplish. Laboratories that are faced with the decision to either take these actions or discontinue dust wipe analysis for lead from their portfolios, are much more likely to discontinue the analysis from their portfolios if they cannot simply increase the wipe area or modify their sample preparation. Based on EPA's research on laboratories' capabilities and capacity, EPA believes more laboratories may discontinue dust wipe analysis for lead from their portfolios if the DLHS were set lower than in this final rule. For these reasons, in addition to those discussed earlier in section III.A.(2), EPA believes it is within its discretion to set the DLHS at 10 µg/ft² for floors and 100 µg/ft² for window sills in consideration of the potential for risk reduction, including whether such actions are achievable in relation to their application in lead risk reduction programs.

3. Effect of this change on EPA and HUD Programs. a. EPA Risk Assessments. As stated earlier in this preamble, EPA's risk assessment work practice standards provide the basis for risk assessors to determine whether LBP hazards are present in target housing

and COFs. As part of a risk assessment, dust samples are taken from floors and window sills to determine if dust-lead levels exceed the DLHS. Results of the sampling, among other things, are documented in a risk assessment report which is required under the LBP Activities Rule (Ref. 21). In addition to the sampling results, the report must describe the location and severity of any dust-lead hazards found and describe interim controls or abatement measures needed to address the hazards. Under the LBP Activities Rule, risk assessors will compare dust sampling results for floors and window sills to the new, lower DLHS from this rule. Sampling results above the new hazard standard will indicate that a dust-lead hazard is present on the surfaces tested. EPA expects that this will result in more hazards being identified in a portion of target housing and COFs that undergo risk assessments. The final rule does not change any other risk assessment requirements.

b. EPA-HUD Disclosure Rule. Under the Disclosure Rule (Ref. 6), prospective sellers and lessors of target housing must provide purchasers and renters with a federally approved lead hazard information pamphlet and disclose known LBP and/or LBP hazards. The information disclosure activities are required before a purchaser or renter is obligated under a contract to purchase or lease target housing. Records or reports pertaining to LBP or LBP hazards must be disclosed, including results from dust sampling regardless of whether the level of dust-lead is below the hazard standard. For this reason, the lower dust-lead hazard standard will not result in more information being disclosed because property owners would already be disclosing results that show dust-lead below the original DLHS of 40 μg/ft^2 on floors or below 250 μg/ft^2 on window sills. However, a lower dust-lead hazard standard may prompt a different response on the lead disclosure form, *i.e.,* that a lead-based paint hazard is present rather than not, which will occur when a dust-lead level is below the original standard but at or above the standard in this final rule.

c. Renovation, Repair and Painting (RRP) Rule. To avoid confusion about the applicability of this final rule, EPA notes that revising the DLHS will not trigger new requirements under the existing RRP Rule. The existing RRP work practices are required where LBP is present (or assumed to be present), and are not predicated on dust-lead loadings exceeding the hazard standards. The existing RRP regulations do not require dust sampling prior to or at the conclusion of a renovation and, therefore, will not be directly affected by this change to the DLHS.

d. HUD Requirements for Federally-assisted or Federally-owned housing. Under sections 1012 and 1013 of Title X, HUD established LBP hazard notification, evaluation, and reduction requirements for certain pre-1978 HUD-assisted and federally-owned target housing, known as the Lead Safe Housing Rule (LSHR). See 24 CFR part 35, subparts B through R. The programs covered by these requirements range from supportive housing services to foreclosed HUD-insured single-family insured housing to public housing. For programs where hazard evaluation is required, the DLHS provide criteria to risk assessors for identifying LBP hazards in residences covered by these programs. For programs that require abatement of LBP hazards, the DLHS are used to identify residences that contain dust-lead hazards as part of determining where abatement will be necessary.

e. HUD Guidelines. The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing were developed in 1995 under section 1017 of Title X. They provide detailed, comprehensive, technical information on how to identify LBP hazards in residential housing and COFs, and how to control such hazards safely and efficiently. The Guidelines were revised in 2012 to incorporate new information, technological advances, and new federal regulations, including EPA's LBP hazard standards. Based on EPA's changes in this final rule, HUD plans to revise Chapter 5 of the Guidelines on risk assessment and reevaluation and Chapter 15 on clearance based on those changes.

f. LSHR Clearance Requirements. While this final rule does not change the clearance levels under EPA's regulations, it will have the effect of changing the clearance levels that apply to hazard reduction activities under HUD's LSHR. The LSHR requires certain hazard reduction activities to be performed in certain federally-owned and assisted target housing including abatements, interim controls, paint stabilization, and ongoing LBP maintenance. Hazard reduction activities are required in this housing when LBP hazards are identified or when maintenance or rehabilitation activities disturb paint known or presumed to be LBP. The LSHR's clearance regulations, 24 CFR 35.1340, specify requirements for clearance of these projects (when they disturb more than de minimis amounts of known or presumed lead-based painted surfaces, as defined in 24 CFR 35.1350(d)), including a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Clearance testing of abatements and non-abatements is required by 24 CFR 35.1340(a) and (b), respectively.

The LSHR's clearance regulations cross-reference regulatory provisions to establish clearance levels for abatements that are different than those for non-abatement activities. The LSHR clearance regulations for both abatements and non-abatement activities, at 24 CFR 35.1340(d), cross-reference the standards, at 24 CFR 35.1320(b), to be used by risk assessors for conducting clearance; in turn, the standards at 24 CFR 35.1320(b) cross-reference EPA's DLHS at 40 CFR 745.227(h). In addition, the LSHR clearance regulations for abatements, at 24 CFR 35.1340(a), which set forth that clearance must be performed in accordance with EPA regulations, cross-reference EPA's clearance standards for abatements at 40 CFR 745.227(e). Because the EPA's DLHS and dust-lead clearance standards for abatements were the same, cross-referencing different EPA regulatory provisions, at 40 CFR 745.227(e) and (h), had no effect on hazard reduction activities under the LSHR.

The LSHR clearance regulations for non-abatement activities, at 24 CFR 35.1340(b) do not cross-reference EPA's clearance standards at 40 CFR 745.227(e). Only EPA's DLHS at 40 CFR 745.227(h) are referenced at 24 CFR 1340(d) as the clearance standards for non-abatement activities, because EPA does not have its own clearance standards for them. Accordingly, as explained in the proposed rule, non-abatement activities under the LSHR must be cleared using the EPA's DLHS when this final rule becomes effective.

EPA's LBP activities regulations on work practice requirements, at 40 CFR 745.65(d), specify that clearance requirements applicable to LBP hazard evaluation and hazard reduction activities are found in both the LSHR, at 24 CFR part 35, subpart R, and EPA regulations at 40 CFR part 745, subpart L. For abatements covered by both agencies' regulations, the LSHR regulations, at 24 CFR 35.145 and 35.1340(a), require clearance levels following abatement of LBP or LBP hazards to be at least as protective as EPA's clearance levels for abatements at 40 CFR 745.227(e).

This final rule revises the DLHS from 40 μg/ft^2 and 250 μg/ft^2 to 10 μg/ft^2 and 100 μg/ft^2 on floors and window sills, respectively. As a result of this final action, EPA's DLHS will be lower than EPA's clearance standards for

abatements, and according to HUD, abatements under HUD's LSHR will be cleared using the EPA's DLHS.

g. Effects of a Revision on Previous LBP-related Activities. Since the DLHS do not compel specific actions, revisions to the DLHS would not in and of themselves retroactively compel actions. Inspection reports and risk assessments describe conditions at a specific time. A report that indicates no presence of LBP and/or a LBP hazard should not imply the absence of those conditions in perpetuity. In addition, this rulemaking by itself does not impose retroactive requirements to regulated entities that have previously complied with the disclosure rule. A seller or lessor must properly disclose any available records or reports pertaining to LBP, LBP hazards and/or any lead hazard evaluative reports ''before the purchaser or lessee is obligated under any contract to purchase or lease target housing that is not otherwise an exempt transaction pursuant to § 745.101'' (40 CFR 745.107). The seller or lessor is not required to disclose reports or records that may be created in the future, after the close of that transaction, in perpetuity. Additionally, any LBP-free certification that was issued by a certified inspector, based on the previous DLHS, and was issued before the effective date of this rulemaking, is still valid going forward and may continue to be used for exemption to the disclosure rule. However, the DLHS are incorporated into requirements mandated by state, federal, tribal, and other programs that may require actions based on the revised DLHS. Those other authorities may want to consider guidance or other communications with their regulated communities, so those entities understand how to comply with the various programs that reference the DLHS. A more comprehensive version of EPA's response on these issues can be found in section 2.c. of the response to comments document. (Ref. 30).

B. The Definition of Lead-Based Paint

As noted in the preamble, EPA has neither opined nor concluded that the definition of LBP may not be sufficiently protective. In response to the administrative petition (Ref. 28) and throughout the litigation, EPA maintained that it necessarily would first consider *whether* revision to the definition of LBP was appropriate. In the proposed rule, EPA requested comment on making no change to the definition of LBP.

The definition of LBP is incorporated throughout EPA's LBP regulations, and application of this definition is central to how EPA's LBP program functions. EPA believes that accounting for feasibility and health effects would be appropriate when considering a revision. Given the current, significant data gaps presented below and the new approaches that would need to be devised to address them, EPA continues to lack sufficient information to conclude that the current definition requires revision or to support any specific proposed change to the definition of LBP. Some commenters in support of changing the definition of LBP discussed paint itself as a hazard, advocating for analysis separate and distinct from the causal relationship between LBP and dust-lead hazards. One commenter declared that, given examples of an independent paint-lead hazard, the current definition is ''clearly inadequate.'' EPA reviewed these comments and has expanded the discussion of data gaps elsewhere in the preamble to include direct ingestion of paint. EPA did not receive any data during the public comment period to further inform whether a revision to the current definition of LBP is warranted or even possible at this time.

Evaluating whether revising the definition of LBP is appropriate requires analyzing levels of lead in paint that are lower than what was examined previously by EPA and other federal agencies. In the proposal, EPA requested any new available data or analyses of the relationship among levels of lead in paint, dust and risk of adverse health effects. Although some commenters supported updating the definition of LBP and/or said that the current level is inadequate, EPA did not receive data or analyses that would further inform whether a revision to the definition is warranted at this time. More information is needed to establish a statistically valid causal relationship between concentrations of lead in paint (lower than the current definition) and dust-lead loadings which cause lead exposure. Additionally, information is still needed to quantify the direct ingestion of paint through consumption of paint chips or through teething on painted surfaces. Finally, it is important to understand how capabilities among various LBP testing technology would be affected under a possible revision to the definition.

1. Relationship among lead in paint, environmental conditions, and exposure. EPA would need to further explore the availability and application of statistical modeling approaches that establish robust linkages between the concentration of lead in paint below the current definition and dust-lead on floors before EPA could develop a technically supportable proposal to revise the definition of LBP based on this route of exposure. To that end, EPA is coordinating with HUD to evaluate available data and approaches. Efforts suggest that most available empirical data and modeling approaches are only applicable at or above the current LBP definition (0.5% and 1 mg/cm^2). The highest dust-lead loadings from LBP are expected to be a result of paint removal activities during renovation. During renovation, LBP may be disturbed and abraded, leading to elevated dust-lead loading available for incidental ingestion. EPA developed a model to estimate lead-based dust loadings from renovation activities in various renovation scenarios in 2014 and a similar model was developed in 2011 by Cox et al. However, the underlying data that supported EPA's 2014 model for LBP was EPA's 2007 dust study, which included concentrations of lead in paint ranging from 0.8% to 13% by weight. The data that supported Cox et al. 2011 ranged from 0.7 to 13.2 mg/cm^2 (converted to approximately 0.6% to 31% by weight) of lead in paint (Refs. 53; 54; and 55). Given that the range of concentrations that support these models are well above the petitioners' requested concentration of lead in paint, there would be significant uncertainty associated with using these models to make predictions regarding lead in paint at concentrations an order of magnitude below the current definition.

In an attempt to address this uncertainty and build a modeling approach, EPA conducted a literature search for studies that co-report lead concentrations in paint and dust in order to identify available data (Ref. 53). Among other things, EPA looked to the literature to establish statistically valid associations between low concentrations of LBP and lead in dust, but was unable to find sufficient information to estimate concentrations of lead in household dust from paint concentrations below 0.8% by weight. Thus, EPA still needs to consider generation of new data, since, as discussed elsewhere in this document, EPA believes there is significant uncertainty associated with estimating dust-lead loadings for levels of lead in paint up to an order of magnitude lower than levels in the current definition using the existing models (Ref. 53), Cox et al. (Ref. 54). Such data is needed for EPA to develop an approach to estimate dust-lead from lower levels of lead in paint so that EPA could estimate incremental blood lead changes and associated health effects changes as described in the existing dust-lead

approach. This may involve conducting laboratory or field studies to characterize the relationship between LBP and dust-lead at lower levels of lead in paint (<0.5%) (Ref. 53).

2. Quantify exposure from direct paint ingestion. EPA would need to understand and develop an approach for estimating the amount of direct paint consumption and subsequent exposure by children before EPA could develop a technically supportable proposal to revise the definition of LBP based on ingestion of paint chips and direct teething of painted surfaces. Past studies have documented pica behavior as a risk factor for exposure to lead from LBP, however these studies have not provided a quantitative estimate of paint ingestion. Epidemiological studies generally rely on caregiver observations to classify whether a child has ever been known to consume paint chips. As described further in the Definition of Lead-Based Paint Considerations (Ref. 53), past studies estimate that a fraction of young children are known to have directly ingested paint, and published case studies of individual children provide radiographic evidence of paint chip ingestion. However, neither provide quantitative estimates of the amount of LBP ingested over time by children, information which is needed to quantify exposure.

3. Feasibility. In the proposal, EPA requested any new available data on the technical feasibility of a revised definition of LBP. EPA lacks sufficient information to support a change to the definition of LBP with respect to feasibility. Significant data gaps prevent the Agency from evaluating and subsequently determining that a change to the existing definition is warranted. EPA did not receive any comments with substantive information about whether portable field technologies utilized in EPA's LBP Activities and RRP programs, as well as HUD's LSHR, perform reliably at significantly lower concentrations of lead in paint.

Portable X-ray fluorescence (XRF) LBP analyzers are the primary analytical method for inspections and risk assessments in housing because they can be used to quickly, non-destructively and inexpensively determine if LBP is present on many surfaces. These measurements do not require destructive sampling or paint removal. Renovation firms may also hire inspectors or risk assessors to conduct XRF testing to identify the presence of LBP. When using XRF technology, the instrument exposes the substrate being tested to electromagnetic radiation in the form of X-rays or gamma radiation. In response to radiation, the lead present in the substrate emits energy at a fixed and characteristic level. The emission is called ''X-Ray Fluorescence,'' or XRF (Ref. 52).

XRF Performance Characteristic Sheets (PCS) have been developed by HUD and/or EPA for most commercially available XRF analyzers (XRFs). In order to comport with the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, an XRF instrument that is used for testing paint in target housing or pre-1978 COFs must have a HUD-issued XRF PCS. XRFs must be used in accordance with the manufacturer's instructions and the PCS. The PCS contains information about XRF readings taken on specific substrates, calibration check tolerances, interpretation of XRF readings, and other aspects of the model's performance. For every XRF analyzer evaluated by EPA and/or HUD, the PCS defines acceptable operating specifications and procedures. The ranges where XRF results are positive, negative or inconclusive for LBP, the calibration check tolerances, and other important information needed to ensure accurate results are also included in the PCS. An inspector and risk assessor must follow the XRF PCS for all LBP activities, and only devices with a posted PCS may be used for LBP inspections and risk assessments (Ref. 52).

XRF analyzers and their corresponding PCS sheets were developed to be calibrated with the current definition of LBP. Therefore, these instruments would need to be re-evaluated to determine the capabilities of each instrument model available in the market to meet a potentially revised definition of LBP, and the corresponding PCS would need to be amended accordingly. If, as a result of a revised definition of LBP, the use of XRFs suddenly became unavailable, the effectiveness of the LBP activities programs would be severely harmed. Since these instruments are the primary analytical method for inspections and risk assessments performed pursuant to the LBP activities regulations, EPA would need to understand how a potential revision to the definition of LBP would affect the ability of the regulated community to use this technology.

When conducting renovations, contractors must determine whether or not their project will involve LBP, and thus fall under the scope of the RRP regulations under 40 CFR part 745, subpart E, or in certain jurisdictions, authorized state and Indian tribal programs under subpart Q (see Unit III.C). Under the RRP rule, renovators have the flexibility to choose among four strategies: Use (1) a lead test kit, (2) an XRF instrument, (3) paint chip sampling to indicate whether LBP is present; or (4) assume that LBP is present and follow all the work-practice requirements. For those using lead test kits, only test kits recognized by the EPA can be used for this purpose. EPA-recognized lead test kits used for the RRP program were evaluated through EPA's Environmental Technology Verification (ETV) Program or by the National Institute of Standards and Technology. ETV was a public-private partnership between EPA and nonprofit testing and evaluation organizations that verified the performance of innovative technologies. ETV evaluated the reliability of the technology used for on-site testing of LBP at the regulated level, under controlled conditions in a laboratory. ETV ended operations in early 2014. EPA would need to evaluate lead test kits using ETV-equivalent testing for a potential revision of the definition of LBP. This would allow EPA to evaluate the reliability of test kits for testing LBP under controlled conditions at levels lower than the current LBP definition, so contractors could continue to use this important tool in compliance with the RRP regulations.

The regulated community uses XRF analyzers for inspections and risk assessments and uses lead test kits to determine the presence of LBP during renovations. In consideration of any potential revised definition of LBP, EPA would need to fully understand the repercussions of such a revision on these portable field technologies in order to ensure the technological feasibility of any new revision. The methods EPA would need to employ to do so would involve complex processes that include evaluating the potential ability of XRF analyzers to detect LBP at lower levels than the current definition, the ability to recalibrate performance characteristic sheets for each available model of XRF analyzer, and re-evaluating lead test kits under controlled conditions in a laboratory. EPA currently lacks sufficient information to support such an undertaking.

C. State Authorization

Pursuant to TSCA section 404, a provision was made for interested states, territories and tribes to apply for and receive authorization to administer their own LBP activities programs, as long as their programs are at least as protective of human health and the environment as the Agency's program and provides adequate enforcement.

The regulations applicable to state, territorial and tribal programs are codified at 40 CFR part 745, subpart Q. As part of the authorization process, states, territories and tribes must demonstrate to EPA that they meet the requirements of the LBP Activities Rule. Over time, the Agency may make changes to these requirements. To address the changes in this final rule and future changes to the LBP Activities Rule, the Agency is requiring states, territories and tribes to demonstrate that they meet any new requirements imposed by this rulemaking in order to maintain or obtain authorization. Under this requirement, authorized states, territories and tribes have up to two years to demonstrate that their programs include any new requirements that EPA promulgates. A state, territory or tribe must indicate that it meets the requirements of the LBP Activities program in its application for authorization or, if already authorized, in a report it must submit in accordance with 40 CFR 745.324(h) no later than two years after the effective date of the new requirements. If an application for authorization has been submitted but not yet approved, the state, territory or tribe must demonstrate that it meets the new requirements by either amending its application, or in a report it submits under 40 CFR 745.324(h) no later than two years after the effective date of the new requirements. The Agency believes that this requirement allows sufficient time for states, territories and tribes to demonstrate that their programs contain requirements at least as protective as any new requirements that EPA may promulgate.

D. Effective Date

EPA has considered the impacts of the revised DLHS on NLLAP-recognized laboratories. This rule will become effective on January 6, 2020 in order to provide a reasonable amount of time for NLLAP-recognized laboratories to take actions to meet the lower LQSR limits so they can continue providing dust wipe testing services to the regulated community at the time the rule becomes effective.

In order to obtain a better understanding of laboratories' capability and capacity for dust wipe analysis, EPA conducted teleconferences with two accrediting organizations (Refs. 34; 35; and 36), five federally funded laboratories (Refs. 37; 38; 39; 40; and 41), and nine state or privately funded laboratories (Refs. 42; 43; 44; 45; 46; 47; 48; 49; and 50). Based on these conversations, EPA estimated that over half of accredited laboratories would have to take actions to meet the lower LQSR limits. They can accomplish this by asking their customers to increase the wipe area sampled and/or revising their operating procedures, validating the changes, and revising their accreditation accordingly. Such actions can take months to complete. EPA therefore believes that the effective date provides needed flexibility for laboratories while ensuring that the revised DLHS become effective in a timely manner.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Public Law 102–550, Title X—Housing and Community Development Act, enacted October 28, 1992 (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or ''Title X'') (42 U.S.C. 4851 *et seq.*).
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4. EPA. Lead; Identification of Dangerous Levels of Lead; Final Rule. **Federal Register** (66 FR 1206, January 5, 2001) (FRL–6763–5).
5. EPA. Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint; Proposed Rule. **Federal Register** (83 FR 30889, July 2, 2018) (FRL–9976–04).
6. HUD, EPA. Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing; Final Rule. **Federal Register** (61 FR 9064, March 6, 1996) (FRL–5347–9).
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11. HHS, National Toxicology Program. *NTP Monograph on Health Effects of Low-Level Lead.* National Institute of Environmental Health Sciences, Research Triangle Park, NC. NIH Pub. No. 12–5996. ISSN 2330–1279. June 13, 2012. *https://ntp.niehs.nih.gov/ntp/ohat/lead/final/monographhealtheffects lowlevellead_newissn_508.pdf.*
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14. EPA, Office of Pollution Prevention and Toxics. *Economic Analysis of the Final Rule to Revise the TSCA Dust-Lead Hazard Standards.* June 2019.
15. CDC. *Lead Poisoning in Children* (February 2011). *https://www.cdc.gov/healthcommunication/toolstemplates/entertainmented/tips/LeadPoisoningChildren.html.*
16. Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences. *Lead—ToxFAQs™ CAS # 7439–92–1,* August 2007. *https://www.atsdr.cdc.gov/toxfaqs/tfacts13.pdf.*
17. EPA. *Exposure Factors Handbook Chapter 5 (Update): Soil and Dust Ingestion.* U.S. EPA Office of Research and Development, Washington, DC, EPA/600/R–17/384F, 2017. *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252.*
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Child-Occupied Facilities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL–5389–9).
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35. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and American Industrial Hygiene Association. September 4, 2018.
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37. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Lawrence Livermore National Laboratory. October 11, 2018.
38. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Navy & Marine Corp Public Health Center. October 30, 2018.
39. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Navy Environmental & Preventative Medicine, Unit 2 CIHL. October 31, 2018.
40. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Norfolk Naval Shipyard, Environmental Chemistry Laboratory. October 25, 2018.
41. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and US Army Public Health Center, Aberdeen Proving Ground. October 18, 2018.
42. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and ACT Environmental Services, Inc. November 15, 2018.
43. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Atlas Environmental Laboratory. November 6, 2018.
44. EPA, Office of Pollution Prevention and Toxics. Summary of discussion between EPA and Eastern Analytical Services, Inc. November 6, 2018.
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V. Statutory and Executive Order Reviews

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

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket. The Agency prepared an analysis of the potential costs and benefits associated with this action, which is available in the docket (Ref. 14).

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

This action is considered an Executive Order 13771 regulatory action (82 FR 9339, February 3, 2017). Details on the estimated costs of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not directly impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Under 24 CFR part 35, subpart A, and 40 CFR part 745, subpart F, sellers and lessors must already provide purchasers or

lessees any available records or reports ''pertaining to'' LBP, LBP hazards and/or any lead hazard evaluative reports available to the seller or lessor. Accordingly, a seller or lessor must disclose any reports showing dust-lead levels, regardless of the value. Thus, this action would not result in additional disclosures. Because there are no new information collection requirements to consider under the proposed rule, or any changes to the existing requirements that might impact existing information collection request burden estimates, additional OMB review and approval under the PRA is not necessary.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities. The small entities subject to the requirements of this action are small businesses that are landlords who may incur costs for lead hazard reduction measures in compliance with the HUD Lead Safe Housing Rule (LSHR); residential remodelers (who may incur costs associated with additional cleaning and sealing in houses undergoing rehabilitation subject to the HUD LSHR); and abatement firms (who may also incur costs associated with additional cleaning and sealing under the LSHR). The Agency has determined that approximately 15,000 small businesses would be subject to this rule, of which 96% have cost impacts less than 1% of revenues, 4% have impacts between 1% and 3% of revenues, and less than 1% have impacts greater than 3% of revenues. Details of the analysis of the potential costs and benefits associated with this action are presented in EPA's Economic Analysis, which is available in the docket (Ref. 14).

The rule sets health-based hazard standards for dust lead loadings on floors and window sills. The DLHS do not require the owners of properties covered by this final rule to evaluate their properties for the presence of dust-lead hazards, or to take action if dust-lead hazards are identified. Although these regulations do not compel specific actions to address identified LBP hazards, these standards are directly incorporated by reference into certain requirements mandated by HUD in housing subject to the LSHR. Aside from the HUD regulations, this rule does not impose new federal requirements on small entities.

EPA's Economic Analysis estimates potential costs for activities in two types of target housing—those subject to the HUD LSHR and those where a child with a blood lead level exceeding a federal or state threshold lives. The analysis presents low and high scenarios for the number of housing units where a child with a blood lead level exceeding a federal or state threshold lives. For the low scenario, environmental investigations are assumed to be conducted when a child's blood lead level exceeds the threshold set by that child's state. These thresholds vary from 5 µg/dL to 20 µg/dL, depending on the state. For the high scenario, environmental investigations are assumed to be conducted when a child's blood lead level exceeds the CDC's reference level of 5 µg/dL.

In order to estimate the broader potential impacts of the rule, EPA assumed that environmental investigations triggered by a child with a blood lead level exceeding a federal or state threshold include dust wipe testing of the child's home and that a clean-up occurs whenever the investigation indicates that dust-lead levels exceed a hazard standard. As previously indicated, the rule does not require these actions. Where dust-lead levels are below the standards in the 2001 rule but above the standards in this final rule, the potential clean-up costs are also included in the economic analysis. The low and high scenarios for the number of housing units affect the estimated number of small business that might incur costs for cleaning and additional dust wipe testing once the hazard standards in this final rule are in effect. Based on the two scenarios, a total of 22,000 to 48,000 small businesses are considered in the analysis (this total includes those firms mentioned above in the discussion of the HUD LSHR). About 7,000 to 33,000 are lessors leasing housing where a child with a blood lead level exceeding a federal or state threshold resides.

When considering this broader set of firms, EPA's analysis indicates that nearly 300 landlords that are small businesses may have cost impacts over 3% under the low scenario, and almost 1,500 may have such impacts under the high scenario. However, the high scenario makes a series of assumptions that are likely to overstate costs and impacts. The high scenario assumes that in all instances where a child's blood lead level is between the threshold set by that child's state and the CDC reference value, the dust lead levels are tested in the residence even when not required; that in all cases where the loadings are above the hazard standard in a rental unit the landlord takes action, and incurs costs, to reduce the dust lead levels even when that is not required. The analysis further assumes that in all those cases the costs are borne entirely by the landlord (as opposed to being passed through or recouped in whole or in part through increased rent). As a result of this series of conservative assumptions, the high scenario functions as a bounding estimate. A more realistic assessment of the potential impacts is that they are between the high and low scenarios. In light of these considerations, even if the broader set of firms were to be considered, EPA would certify that this action would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The total estimated annual cost of the proposed rule is $32 million to $117 million per year (Ref. 14), which does not exceed the inflation-adjusted unfunded mandate threshold of $156 million.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). 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. States that have authorized LBP Activities programs must demonstrate that they have DLHS at least as protective as the standards at 40 CFR 745.227. However, authorized states are under no obligation to continue to administer the LBP Activities program, and if they do not wish to adopt new DLHS they can relinquish their authorization. In the absence of a state authorization, EPA will administer these requirements. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Tribes that have authorized LBP Activities programs must demonstrate that they have DLHS at least as protective as the standards at 40 CFR

745.227. However, authorized tribes are under no obligation to continue to administer the LBP Activities program, and if they do not wish to adopt new DLHS they can relinquish their authorization. In the absence of a Tribal authorization, EPA will administer these requirements. Thus, Executive Order 13175 does not apply to this action.

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

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is economically significant as defined in Executive Order 12866, and because the environmental health or safety risk addressed by this action may have a disproportionate effect on children. (Ref. 18)

The primary purpose of this rule is to reduce exposure to dust-lead hazards in target housing where children reside and in target housing or COFs. EPA's analysis indicates that there will be approximately 50,000 to 200,000 children per year affected by the rule (Ref. 14).

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (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.

J. National Technology Transfer and Advancement Act (NTTAA)

Since this rulemaking does not involve technical standards, NTTAA section 12(d) (15 U.S.C. 272 note) does not apply to this action.

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

This action is not expected to have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in the Economic Analysis, which is available in the docket (Ref. 14). EPA's Economic Analysis estimates that the average baseline blood lead levels of children who are affected by the rule (particularly children in minority and low-income households) are higher than the nationwide average. The revised hazard standards would reduce exposure to lead for all residents of affected housing. Therefore, EPA has determined that the regulatory options will not have disproportionately high and adverse human health or environmental effects on any population, including any minority population or low-income population.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead poisoning, Reporting and recordkeeping requirements.

Dated: June 21, 2019.

Andrew R. Wheeler,

Administrator.

Therefore, 40 CFR chapter I, subchapter R, is amended as follows:

PART 745—[AMENDED]

■ 1. The authority citation for part 745 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2681–2692 and 42 U.S.C. 4852d.

■ 2. In § 745.65, paragraph (b) is revised to read as follows:

§ 745.65 Lead-based paint hazards.

* * * * *

(b) *Dust-lead hazard.* A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 10 μg/ft^2 on floors or 100 μg/ft^2 on interior window sills based on wipe samples.

* * * * *

■ 3. In § 745.227, paragraph (h)(3)(i) is revised to read as follows:

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

* * * * *

(h) * * *

(3) * * *

(i) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 10 μg/ft^2 for floors and 100 μg/ft^2 for interior window sills, respectively;

* * * * *

■ 4. In § 745.325, paragraph (e) is revised to read as follows:

§ 745.325 Lead-based paint activities: State and Tribal program requirements.

* * * * *

(e) *Revisions to lead-based paint activities program requirements.* When EPA publishes in the **Federal Register** revisions to the lead-based paint activities program requirements contained in subpart L of this part:

(1) A State or Tribe with a lead-based paint activities program approved before the effective date of the revisions to the lead-based paint activities program requirements in subpart L of this part must demonstrate that it meets the requirements of this section in a report that it submits pursuant to § 745.324(h) but no later than two years after the effective date of the revisions.

(2) A State or Tribe with an application for approval of a lead-based paint activities program submitted but not approved before the effective date of the revisions to the lead-based paint activities program requirements in subpart L of this part must demonstrate that it meets the requirements of this section either by amending its application or in a report that it submits pursuant to § 745.324(h) but no later than two years after the effective date of the revisions.

(3) A State or Tribe submitting its application for approval of a lead-based paint activities program on or after the effective date of the revisions must demonstrate in its application that it meets the requirements of the new lead-based paint activities program requirements in subpart L of this part.

[FR Doc. 2019–14024 Filed 7–8–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XS002

Snapper-Grouper Fishery of the South Atlantic; 2019 Commercial Accountability Measure and Closure for the Other Jacks Complex

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the

lesser amberjack, almaco jack, and banded rudderfish complex (Other Jacks Complex) commercial sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2019 fishing year through this temporary rule. NMFS projects that commercial landings of the Other Jacks Complex will reach the combined commercial annual catch limit (ACL) by July 16, 2019. Therefore, NMFS closes the commercial sector for this complex in the South Atlantic EEZ, on July 16, 2019, and it will remain closed until the start of the next fishing year on January 1, 2020. This closure is necessary to protect the lesser amberjack, almaco jack, and banded rudderfish resources.

DATES: This temporary rule is effective at 12:01 a.m., local time, on July 16, 2019, until 12:01 a.m., local time, on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes lesser amberjack, almaco jack, and banded rudderfish, which combined are the Other Jacks Complex. The Other Jacks Complex is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for the Other Jacks Complex is 189,422 lb (85,920 kg), round weight. Under 50 CFR 622.193(l)(1)(i), NMFS is required to close the commercial sector for the Other Jacks Complex when the commercial ACL has been reached, or projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial sector for this complex is projected to reach its ACL by July 16, 2019. Therefore, this temporary rule implements an AM to close the commercial sector for the Other Jacks Complex in the South Atlantic, effective at 12:01 a.m., local time, on July 16, 2019.

The operator of a vessel with a valid commercial permit for South Atlantic snapper-grouper having lesser amberjack, almaco jack, or banded rudderfish on board must have landed and bartered, traded, or sold such species prior to 12:01 a.m., local time, on July 16, 2019. During the commercial closure, the recreational bag limit specified in 50 CFR 622.187(b)(8) and the possession limits specified in 50 CFR 622.187(c) apply to all harvest or possession of lesser amberjack, almaco jack, or banded rudderfish in or from the South Atlantic EEZ, while the recreational sector is open. These recreational bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of whether such species were harvested in state or Federal waters. During the commercial closure, the sale or purchase of lesser amberjack, almaco jack, or banded rudderfish taken from the South Atlantic EEZ is prohibited.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of the fish in the Other Jacks Complex, a component of the South Atlantic snapper-grouper fishery, and is consistent with the FMP, the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(l)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and public comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for the Other Jacks Complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the AM itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the species in the Other Jacks Complex, since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 3, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–14534 Filed 7–8–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190214116–9516–02]

RIN 0648–BI69

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2019 Recreational Management Measures

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

ACTION: Final rule.

SUMMARY: This action adjusts fishing year 2019 recreational management measures for Gulf of Maine cod and haddock and Georges Bank cod. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the Northeast Multispecies Fishery Management Plan. The intended effect of this action is to achieve, but not exceed, the fishing year 2019 recreational catch limits.

DATES: Effective July 5, 2019.

ADDRESSES: Analyses supporting this rulemaking include the environmental assessment for Framework Adjustment 57 to the Northeast Multispecies Fishery Management Plan that the New England Fishery Management Council prepared. Copies of this analysis are available from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The supporting documents are also accessible via the internet at: *http://www.nefmc.org/management-plans/northeast-multispecies*.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, phone: 978–281–9116; email: *Emily.Keiley@noaa.gov*.

SUPPLEMENTARY INFORMATION:

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1. Gulf of Maine Recreational Management Measures for Fishing Year 2019

Background

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies groundfish fishery opens on May 1 each year and runs through April 30 of the following calendar year. The FMP sets recreational sub-annual catch limits (sub-ACL) for GOM cod and haddock for each fishing year. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause or mitigate the effects of an overage if one occurs.

The proactive AM provision in the FMP requires the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions authorizing this action can be found in 50 CFR 648.89(f)(3) of the Northeast Multispecies FMP's implementing regulations.

According to the most recent stock assessments, conducted in 2017, the GOM cod and haddock stocks are increasing, although cod remains overfished and subject to a rebuilding plan. Framework Adjustment 57 (83 FR 18985; May 1, 2018) set 2018 and 2019 ACLs and sub-ACLs based on the 2017 stock assessments. Framework 58, a pending action, does not adjust the fishing year 2019 recreational sub-ACLs for GOM cod or haddock, and the 2019 sub-ACLs remain at the same level as in 2018. The 2019 recreational sub-ACL for GOM cod is 220 mt, the 2019 recreational sub-ACL for GOM haddock is 3,358 mt. Recreational catch and effort data are estimated by the Marine Recreational Information Program (MRIP). Preliminary estimates of GOM cod and haddock catch for fishing year 2018 indicate that the recreational fishery did not achieve the 2018 sub-ACL of either stock. The development of the proposed measures was detailed in the proposed rule, and that discussion is not repeated here (84 FR 20609; May 10, 2019; also see the correction of one number in table 2 on page 20610 of the proposed rule at 84 FR 22104; May 16, 2019).

The Groundfish Committee and Executive Committee on behalf of the Council recommended more conservative measures than the Recreational Advisory Panel (RAP), while still allowing a limited directed cod fishery (Table 1). We proposed the Council's recommended measures: For GOM cod, two 2-week open seasons (September 15–30 and April 15–30), 1 fish per person per day, with a minimum size of 21 inches (53.3 cm); and for GOM haddock, an increase in the possession limit from 12 to 15 fish per person per day, opening the fall closure, resulting in open seasons of May 1-February 28/29 and April 15–30, and a 17-inch (43.2-cm) minimum size. However, for the reasons described below, we are not implementing the April 15–30 cod open season.

Fishing Year 2019 Gulf of Maine Cod and Haddock Recreational Management Measures

In light of the comments we received on the proposed rule, the degree of uncertainty in the model's projections (as described in the proposed rule), condition of the GOM cod stock, and recent history of recreational management performance, we have determined that we cannot approve the GOM cod measures as proposed. For GOM cod, we are implementing more conservative measures than recommended by the Council, to better account for uncertainty in the bioeconomic model's predictions, minimize impacts on cod spawning, and reduce the chance of the recreational fishery exceeding its GOM cod sub-ACL. We proposed the Council's recommendation of two 2-week open seasons for GOM cod, April 15–30 and September 15–30. However, the majority of public comments were not in favor of the proposed open seasons for GOM cod. We received public comments opposed to the April open season due to the potential adverse impacts on spawning cod relative to the limited opportunity to catch cod during only two weeks in the spring. In addition, April 15–30 is the same timing as the Massachusetts Bay Spring Spawning Closure for commercial groundfish vessels, which was implemented to protect spawning cod. We reconsidered the April open season for GOM cod in the proposed rule in response to comments that highlighted the potential risk of this open season relative to the limited benefits to anglers. Additionally, comments were received on the poor status of the GOM cod stock, inadequate rebuilding progress, and recent history of significant recreational overages. Overall, these comments revealed that the risks of opening this season outweighed perceived potential benefits to a degree that required reconsidering its suitability. Considering these comments, coupled with the significant uncertainty in the projected catch estimates, we are only approving the September 15–30 open season for GOM cod, a time when cod spawning is not known to occur. This open season will enable recreational anglers from all adjacent states to access the GOM cod stock, while minimizing the risk of exceeding the GOM cod sub-ACL. During this season, anglers will be able to retain one fish per person per day, with a minimum size of 21 inches.

In this final rule, we are approving the GOM haddock measures as proposed. This final rule increases the possession limit from 12 to 15 fish per person per day. We are also removing the current fall (September 17–October 31) GOM haddock closure. The GOM haddock minimum size will remain 17 inches (43.2 cm). These measures are intended to increase access to the healthy GOM haddock stock. Although we expect interactions with cod to increase with the new open season, the model projects a minimal increase in cod catch, resulting in total cod removals less than the GOM cod sub-ACL. The resulting increase in GOM cod catch, due to the new haddock measures, is one of the factors we considered when deciding what measures would be appropriate for GOM cod. We are implementing more conservative directed cod measures to minimize the probability that the GOM cod sub-ACL is exceeded.

TABLE 1—FINAL 2019 RECREATIONAL MANAGEMENT MEASURES FOR GOM COD AND HADDOCK

GOM haddock			GOM cod		
Bag limit	Minimum size	Open season	Bag limit	Minimum size	Open season
15	17″ (43.2 cm)	May 1–Feb 28; Apr 15–Apr 30	1	21″ (53.3 cm)	Sept 15–30.

2. Georges Bank Cod Recreational Management Measures for Fishing Year 2018

Background

As part of Framework 57, the Council provided the Regional Administrator authority to adjust the Georges Bank (GB) cod recreational management measures for fishing years 2018 and 2019. Unlike GOM cod and haddock, there is no recreational sub-ACL for GB cod and no accountability measures for the recreational fishery when an overage occurs. The Council did not consider a recreational sub-ACL in Framework 57 but did recommend a catch target of 138 mt for us to use when considering adjustments to GB cod measures. The catch target was based on the most recent 5-year (calendar years 2012–2016) average recreational catch. The Council expects that measures designed to achieve this target amount for the recreational fishery will help the overall fishery attain, but not exceed, its overall ACL. To avoid using potentially anomalous results from the highly variable MRIP catch estimates for GB cod, we used a 3-year average catch estimate to better represent long-term trends. We then compared that catch estimate with the catch target to determine if adjustments to the management measures were needed. This year, the Council asked that we consider alternative methods to evaluate GB cod catch and examine management needs. Even if the preliminary catch estimate for 2018 was zero, the 3-year average would still be greater than the catch target of 138 mt due to an extremely high 2016 catch estimate.

2019 Georges Bank Cod Management Measures

Catch of GB cod was substantially less in 2017 (53 mt) compared to 2016 (477 mt). Preliminary estimates of 2018 catch (57 mt) are similar to 2017, indicating that estimated 2016 catch may have been an anomaly. Given that 2017 and 2018 catch levels are low compared to the catch target, the Groundfish Committee and Council recommended liberalizing management measures for GB cod, reducing the minimum size from 23 inches to 21 inches (58.4 to 53.3 cm). The RAP proposed a lower minimum size of 19 inches (48.3 cm). We proposed the Council's recommendations for GB cod. A 21-inch (53.3-cm) minimum fish size is consistent with the minimum size for GOM cod and is expected to increase catch by approximately 20 percent (based on size frequencies of 2018 catch). Decreasing the minimum size will allow anglers to retain some fish they would have caught and then discarded. The estimated increase in catch would still result in catch lower than the catch target, if effort in 2019 is similar to 2017 and 2018. Given the variability and uncertainty in the GB cod MRIP estimates, a precautionary approach to revising measures is warranted to ensure that the catch target and ACL are not exceeded. In addition, having consistent minimum sizes in Gulf of Maine and Georges Bank is likely to increase compliance. We are approving the GB cod measures as proposed.

TABLE 2—FINAL 2019 RECREATIONAL MANAGEMENT MEASURES FOR GB COD

Georges bank cod		
Possession limit	Minimum size	Open season
10	21″ (53.3 cm)	All Year.

3. Comments and Responses

We received 29 comments on the proposed rule, from 27 members of the public, the New York Recreational and For-Hire Fishing Alliance (NYRFHA), and the Conservation Law Foundation (CLF). Two of these comments were not relevant to this rulemaking and are not discussed further. Three comments supported the proposed measures for GB cod, and no comments were submitted in opposition of the proposed GB cod measures. Twenty-six comments addressed the proposed GOM measures, and some of these comments addressed both Gulf of Maine and Georges Bank proposed measures. Four individuals and the NYRFHA supported the proposed measured for GOM cod and haddock, the remaining 21 comments did not support the proposed measures for GOM cod, and six did not support some or all of the proposed changes to the GOM haddock measures.

Gulf of Maine Cod Management Measures

Comment 1: Eleven individuals did not support the proposed measures for GOM cod, and suggested more liberal cod measures for recreational anglers. The majority of these individuals suggested that we allow year-round possession of one or more cod. One commenter suggested that a larger size limit might enable us to open a longer season. The remaining comments suggested that we extend and shift the open season to encompass the summer months (June, July, and August). Many of these commenters also noted that the open seasons proposed would have limited benefit for private recreational anglers due to the timing (early spring and late fall) when many people do not have their boats in the water and conditions are less favorable.

Response: The recreational fishery has exceeded its GOM cod sub-ACL in four of the last six years. These overages have contributed to two overages of the total ACL and ABC. GOM cod is overfished and subject to a rebuilding plan; overfishing is also occurring. The GOM cod stock shows a truncated size and age structure, consistent with a population experiencing high mortality. Additionally, there are no positive signs of incoming recruitment, continued low survey indices, and the current spatial distribution of the stock is considerably less than its historical range within the Gulf of Maine.

The most recent GOM cod assessment, which was conducted in 2017, suggests that the stock is increasing, but remains at a low level. If this increasing trend continues, we expect additional stock rebuilding to provide increased opportunities for recreational and commercial fishermen in the future. We will evaluate recreational measures again before the 2020 fishing year and make any necessary adjustments. However, for fishing year 2019, we could not liberalize cod measures more than what we are implementing. We are implementing more conservative measures than proposed due to comments that highlighted concerns about impacts on GOM cod spawning. Additional information on this change

is provided in the response to Comment 3, below.

Using the bioeconomic model, we analyzed a wide variety of minimum fish sizes, seasons and possession limits for GOM cod and haddock. The goal of the model is to maximize opportunities while maintaining catch within the sub-ACLs. While it is difficult to predict the performance of recreational measures, the bioeconomic model has underestimated recreational catch historically. We evaluated approximately 100 different combinations of seasons, minimum sizes, and possession limits for GOM cod and haddock. Model runs that included cod access during the summer generally resulted in projected catch over the GOM cod recreational sub-ACL.

While the bioeconomic model suggests that management measures more liberal than what we are implementing would result in cod catch less than the 220-mt sub-ACL, the uncertainty associated with those projections is high. The bioeconomic model attempts to describe the impact that directed haddock fishing has on cod mortality in the Gulf of Maine, as the two stocks are often found together. The model demonstrates that proposed measures for haddock are likely to increase cod interactions, and therefore, mortality. The degree to which the new haddock measures will affect cod mortality is highly uncertain because the model is predicting behavior in months that were previously closed. Other significant sources of uncertainty have been described in the preamble of the proposed rule (84 FR 20609), and are not repeated here. Given these uncertainties, the status of the GOM cod stock, and the recent recreational overages, we are unable to liberalize GOM cod recreational management measures to the extent requested by these commenters.

We are supporting a variety of cooperative research efforts to improve our understanding of recreational fisheries so that we can increase fishing opportunities while we continue to rebuild the cod stock. Current examples include an evaluation of discard mortality, a cod bycatch avoidance program, and a study of different tackle and its impact on catch rates.

Comment 2: One individual commented specifically in support of the RAP's proposed GOM management measures, stating that the Center's bioeconomic model showed that these options would not result in the recreational fishery exceeding its sub-ACL for GOM cod.

Response: We disagree. As stated during the RAP meeting and described in the proposed rule, there is a significant amount of uncertainty, more so than in previous years, in the bioeconomic model's predictions. For this reason, coupled with the recent recreational sub-ACL overages of GOM cod, and the overall status of the stock, we cautioned the RAP that their recommendations, without additional justification, would likely not be approvable. The Groundfish Committee and Council's recommended measures were intended to balance the need to take a precautionary approach and the recreational communities' interest in gaining access to the GOM cod fishery.

Comment 3: Five individuals were not supportive of the proposed measures for GOM cod, specifically the timing of the proposed April 15–30 opening. These concerns were based on the timing of the opening relative to cod spawning.

Response: We agree, and we are not approving the April 15–30 opening for GOM cod. We reconsidered the April open season for GOM cod in the proposed rule in response to these comments that highlighted the potential risk of this open season relative to the limited benefits to anglers. Historically, the month of April has been an important time for cod spawning in the Gulf of Maine. The Omnibus Essential Fish Habitat Amendment 2 included the Spring Massachusetts Bay Spawning Protection area, which is closed from April 15–30 to protect spawning cod. Private recreational anglers may fish in the closure, and charter/party vessels may obtain a Letter of Authorization for access. Commenters noted that opening a directed cod fishery during this same period might have concentrated effort in this near-shore area, during a time that overlaps with cod spawning. The risk of promoting fishing during a spawning season outweighs the potential benefits that may have been realized from opening a short two-week season very early in the season. While recreational anglers are permitted to target haddock and other groundfish species, we agree with the commenters that opening a directed GOM cod fishery during this time would be contrary to our efforts to reduce impacts on spawning cod.

Comment 4: Three individuals, including a kayaking cod fisherman, were concerned that the timing of the proposed GOM cod seasons coupled with the short duration would create safety issues for recreational anglers. One commenter stated that the short seasons would ''create an effort run,'' and that limiting the opportunities to target cod would concentrate effort during these times ''reducing the safety for those at sea.'' Other individuals referenced the poor conditions during the early spring and late fall, and how this would be limiting or dangerous for private recreational anglers.

Response: We agree that fishing for cod from a kayak in Federal waters of the Gulf of Maine, during the early spring and late fall, is not safe and that you may need a bigger boat. Conditions during the spring and fall in the Gulf of Maine are variable, and may significantly affect the amount of effort that occurs during these seasons. We recognized that the proposed timing would have limited opportunities for many anglers to participate in the GOM cod fishery. The timing was selected because effort is generally less during these times, resulting in less potential catch of GOM cod and less risk of an overage of the recreational GOM cod sub-ACL. We are not approving the April GOM cod open season, as discussed in the responses to Comments 1 and 3, above.

Comment 5: One individual stated that we assume a 100-percent discard mortality rate for GOM cod. This statement was used to support an argument that converting these dead discards to landings would not increase mortality on the GOM cod stock.

Response: The assumed discard mortality rate for GOM cod is 15 percent. Despite the assumed 15 percent mortality rate, cod bycatch in the directed GOM haddock fishery has resulted in cod catch greater than the recreational sub-ACL in four of the last six years. Additionally, allowing possession of cod will likely result in behavioral changes because anglers are likely to target cod, which may lead to an overall increase in catch.

Comment 6: Ten individuals did not support the proposed measures for GOM cod, and suggested that we keep the recreational GOM cod fishery closed. The rationale supporting this varied. Seven individuals felt that the GOM cod stock is in poor condition and targeted fishing should be prohibited. Three individuals commented that the two 2-week openings would have limited benefit to the recreational fishery and if that is all the resource can support, we should not bother opening it at all. Several individuals were concerned about the ability to enforce these short seasons, and accurately collect data on the catch during these time periods.

Response: As stated in our response to Comment 1, we agree that the GOM cod stock is in poor condition and a conservative approach to its management is warranted. We are not opening the April season for GOM cod as proposed. We are opening a 2-week season in September to enable limited recreational access to the GOM cod

stock. The proactive AM provision in the FMP requires the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. While we agree a precautionary approach is necessary, we are approving measures that, according to the model, have a high probability of resulting catch less than the GOM cod sub-ACL. Leading up to fishing year 2020, we will have data from MRIP, as well as updated stock assessments incorporating revised MRIP estimates that will allow us to re-evaluate catch and effort from the 2019 fishing year, as well as the status of the GOM cod stock. If adjustments are necessary to ensure recreational catch does not exceed the recreational sub-ACL, they will be made in the 2020 recreational rule in consultation with the Council.

Comment 7: Five individuals questioned the data on GOM cod, specifically that the biomass of the GOM cod stock is low. Overall, these anglers cited their recent experiences catching numerous cod while fishing in the Gulf of Maine. One fishermen asked ''Where are you finding this d[e]arth of cod??'' These commenters felt that recreational measures should be liberalized because there are actually more cod available than indicated by the stock assessment.

Response: It is important to us that the public has confidence in the data we must rely on to manage the fishery. The significant uncertainty and variability of the data is something we consider when we utilize the best available science to inform our decisions. The most recent assessment of GOM cod suggests that the stock is increasing, but remains at a low level. If this trend continues, we expect additional stock rebuilding to provide increased opportunities for recreational and commercial fishermen in the future. The GOM cod stock assessment is scheduled to be updated this fall. This update will incorporate significant MRIP data updates. MRIP catch and effort estimates (1981–2017) based on the Coastal Household Telephone Survey (CHTS) were transitioned to the new, mail-based Fishing Effort Survey (FES). However, the most recently available stock assessments and sub-ACLs were based on the CHTS estimates. Evaluation of catch and development of management measures will continue to use data in the CHTS-equivalent until new assessments are conducted for these two stocks using FES information. That means, for fishing year 2018, FES data had to be converted back into CHTS values. The introduction of another model (back-calibration from CHTS to FES) and the associated assumptions adds a new layer of uncertainty. We will evaluate recreational measures again before the 2020 fishing year to make any necessary adjustments.

Comment 8: Two individuals commented specifically on the proposed September opening for GOM cod. These comments stated that the timing of this opening is not ideal, with respect to water and air temperature and the impact this has on discard mortality. They suggested that the opening should have been timed when the air and water temperature are highest to maximize the impact of converting dead discards into landings.

Response: The assumed discard rate for recreationally caught GOM cod is 15 percent. This rate does not vary between seasons, unlike the GOM haddock discard rate. Additional research is needed to enable us to factor in seasonally specific discard rates to the calculation of mortality and ultimately the application to management decisions.

Comment 9: Six individuals commented on the disparity between commercial and recreational access to the GOM cod stock. Specifically, they stated that commercial fishermen continue to fish for GOM cod, while recreational anglers have been prohibited from retaining them.

Response: We recognize the perceived discrepancy because the recreational fishery has not been able to target GOM cod in recent years, and in 2019, only a limited directed season will be opened. Each year, we are required to set recreational management measures designed to achieve, but not exceed, the recreational sub-ACLs. Framework 57 sets the 2019 ACLs based on updated 2017 assessments. The recreational sub-ACLs are based on a fixed percentage of the total catch limit. Management measures are set for the recreational and commercial fishery to achieve their respective sub-ACLs. While directed recreational fishing for GOM cod has been limited, the recreational fishery has still exceeded its sub-ACL for GOM cod. Although the assumed discard mortality rate for GOM cod is only 15 percent, the mortality associated with cod bycatch in the directed GOM haddock fishery has resulted in cod catch greater than the recreational sub-ACL in four of the last six years.

Comment 10: Four individuals and the NYRFHFA supported the proposed measures for GOM cod as proposed.

Response: We are partially approving the GOM cod measures we proposed. The rationale for keeping the April season closed for cod has been included in response to Comment 3, and not repeated here.

Gulf of Maine Haddock Management Measures

Comment 11: Six individuals did not support an increase to the haddock possession limit from 12 to 15 fish. These individuals were concerned about the potential impacts to the haddock stock, and several stated that even with the 12-fish limit, they were not ''limiting out'' during trips.

Response: The RAP, Groundfish Committee, and Council recommended an increase in the haddock possession limit from 12 to 15 fish per person per day. We proposed and are implementing the increased 15-fish possession limit. The GOM haddock stock is not overfished, and overfishing is not occurring. The most recent stock assessment for GOM haddock, conducted in 2017, concluded that spawning stock biomass in 2016 was estimated to be 47,821 mt, which is 706 percent of the biomass target. The bioeconomic model projects GOM haddock catch, even under the most liberal recommendations would be significantly less than the catch target. We are increasing the haddock possession limit to increase catch of this healthy stock.

Comment 12: Three individuals stated that they did not support the proposed size limit for GOM haddock. One individual stated that even the current size limit (17 inches, 43.2 cm) does not allow fish to reach maturity, and spawn, prior to being a legal-size fish to retain.

Response: When the proposed rule published, the **Federal Register** made an error when transcribing one of the tables. In that table, the proposed minimum size for GOM haddock was listed as 15 inches (38.1 cm). This was an error. We published a correction document (84 FR 22104) on May 16, 2019. We did not propose a reduction to the GOM haddock minimum size, and it will remain unchanged at 17 inches (43.2 cm). Additionally, haddock begin to reproduce between the ages of 1 and 4 years old and at 10.5 to 11.7 inches (26.7 to 29.7 cm) long. The selection of minimum size for both the commercial and recreational fishery considers maturity at size and age.

Georges Bank Management Measures

Comment 13: Two individuals and the New York Recreational and For-Hire Fishing Alliance supported the proposed GB cod measures. Two of these comments came from for-hire businesses that operate in the southernmost range of GB cod. They

stated that the cod they encounter is smaller than their northern counterparts, and the current minimum size of 23 inches (58.4 cm), implemented in fishing year 2018, disproportionally affected their fishery.

Response: We have approved the GB cod recreational management measures as proposed, reducing the minimum size from 23 to 21 inches (58.4 to 53.3 cm). We were able to liberalize measures, as the reduced minimum size is not expected to result in catch about the recreational catch target. The reduced minimum size will also enable anglers to retain some fish that they would have otherwise discarded.

Classification

The Regional Administrator, Greater Atlantic Region, NMFS, determined that these measures are necessary for the conservation and management of the Northeast multispecies fishery and that the measures are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to make this rule effective upon filing in the **Federal Register**. This final rule liberalizes recreational management measures for GB cod, GOM cod, and GOM haddock. Delaying the effective date of this rule increases the likelihood that recreational catch in the 2019 fishing year will not achieve the GB cod catch target, or the GOM cod and haddock sub-ACLs. Thus, delaying implementation of these measures would be contrary to the public interest.

The Northeast multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Altering recreational management measures in-season negatively affects business planning for the for-hire segment of the fishery, causes confusion in the fishery, and may result is less compliance with the regulations. Implementing these measures as soon as possible will reduce the negative effects associated with in-season adjustments. Because of the seasonal nature of the fishery, industry would permanently forego the revenues associated with the increase in the haddock bag limit if we further delayed implementation of this action. Thus, delaying implementation of these measures would be contrary to the public interest.

Recreational fishing participants are anticipating this action will go into effect as soon as possible. They have participated in the required Council process that has attempted to overcome delays caused by the partial government shutdown with the intent of implementing these measures as close to May 1 as possible to avoid further disruption and adverse economic impacts from further delays. The collection and processing of recreational data already creates a very compressed period for development and consideration of options, consulting with the Council, and completing proposed and final rulemaking. MRIP data is collected on a calendar-year basis in 2-month waves. Preliminary data from the summer and fall, when recreational effort is significant, is not available until December, and analyses are not ready until January at the earliest. In addition to the compressed schedule during a typical year, the partial Federal government shutdown significantly delayed the development, evaluation, and implementation of recreational measures for GOM cod and haddock and GB cod. We are required to consult with the Council before conducting rulemaking to adjust recreational management measures for these fisheries. In a typical year, this process begins in January when we prepare potential management options and consult with the Council including its Recreational Advisory Panel. We generally receive the Council's final recommendation in early February, which allows us to begin our rulemaking process. The partial shutdown disrupted this schedule, and we did not receive the Council's recommendations until early March. The Council made important accommodations to its process in order to streamline the development of recommendations, but we are still behind schedule relative to a typical year, and new management measures were not in place for the May 1 start of the fishing year. Further delaying the effectiveness of this action would be contrary to the public interest.

For the reasons outlined, NMFS finds that there is good cause to waive the requirement to provide a 30-day delay in implementation.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 3, 2019.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.89, revise paragraphs (b)(1) and (c)(1) and (2) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) *Minimum fish sizes.* Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes, measured in total length, as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Species	Minimum size	
	Inches	cm
Cod:		
Inside GOM Regulated Mesh Area [1]	21	53.3
Outside GOM Regulated Mesh Area [1]	21	53.3
Haddock:		
Inside GOM Regulated Mesh Area [1]	17	43.2
Outside GOM Regulated Mesh Area [1]	18	45.7
Pollock	19	48.3
Witch Flounder (gray sole)	14	35.6
Yellowtail Flounder	13	33.0
American Plaice (dab)	14	35.6
Atlantic Halibut	41	104.1
Winter Flounder (black back)	12	30.5
Redfish	9	22.9

[1] GOM Regulated Mesh Area specified in § 648.80(a).

* * * * *

(c) * * *

(1) *Private recreational vessels.* Persons aboard private recreational fishing vessels during the open season listed in the column titled ''Open Season'' in Table 2 to this paragraph (c), may not possess more fish in or from the EEZ than the amount listed in the column titled ''Possession Limit'' in Table 2 to this paragraph (c).

(i) *Closed season.* Persons aboard private recreational fishing vessels may not possess species, as specified in the column titled ''Species'' in Table 2 to this paragraph (c), in or from the EEZ during that species closed season as specified in the column titled ''Closed Season'' in Table 2 to this paragraph (c).

TABLE 2 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	September 15–30	1	May 1–September 14; October 1–April 30.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 15–30.	15	March 1–April 14.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

(ii) [Reserved]

(2) *Charter or Party Boats.* Persons aboard party or charter boats during the open season listed in the column titled ''Open Season'' in Table 3 to this paragraph (c), may not possess more fish in or from the EEZ than the amount listed in the column titled ''Possession Limit'' in Table 3 to this paragraph (c).

TABLE 3 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	September 15–30	1	May 1–September 14; October 1–April 30.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 15–30.	15	March 1–April 14.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See Paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

* * * * *

[FR Doc. 2019–14583 Filed 7–5–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 131
Tuesday, July 9, 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 email 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 19th 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. 2019–13404 Filed 7–8–19; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0523; Product Identifier 2019–NM–050–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS 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 all Airbus SAS Model A330–200, –200F, and –300 series airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. 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 23, 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 Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2019–0523; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

SUPPLEMENTARY INFORMATION:

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–2019–0523; Product Identifier 2019–NM–050–AD'' at the beginning of your comments. The FAA specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA 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 FAA will also post a report summarizing each substantive verbal contact received 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 2019–0049, dated March 11, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200, –200F, and –300 series airplanes. The MCAI states:

> The airworthiness limitations for the Airbus A330 aeroplanes, which are approved by EASA, are currently defined and published in the A330 ALS [airworthiness limitations section] documents. The airworthiness limitations applicable to the Certification Maintenance Requirements (CMR), which are approved by EASA, are published in the ALS.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2016–0066 [corresponds to FAA AD 2016–26–05, Amendment 39–18763 (82 FR 1170, January 5, 2017) (''AD 2016–26–05'')] to require accomplishment of all maintenance tasks as described in A330 ALS Part 3 at Revision 05.
>
> Since that [EASA] AD was issued, Airbus published the ALS, as defined in this [EASA] AD, including new and/or more restrictive tasks.
>
> For the reasons described above, this [EASA] AD takes over the requirements for Airbus A330 aeroplanes from EASA AD 2016–0066 and requires accomplishment of the actions specified in the ALS.

The unsafe condition is a safety-significant latent failure (that is not annunciated) that, in combination with one or more other specific failures or events could result in a hazardous or catastrophic failure condition. 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–2019–0523.

Relationship Between Proposed AD and AD 2016–26–05

This NPRM does not propose to supersede AD 2016–26–05. Rather, the FAA has determined that a stand-alone AD is more appropriate to address the changes in the MCAI. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2016–26–05.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus A330 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 06, dated October 15, 2018. The service information describes maintenance instructions and airworthiness limitations, including updated inspections and intervals, to be incorporated into the maintenance or inspection program. 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 a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the agency 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 revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. The FAA considers those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Costs of Compliance

The FAA estimates that this proposed AD affects 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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):

Airbus SAS: Docket No. FAA–2019–0523; Product Identifier 2019–NM–050–AD.

(a) Comments Due Date

The FAA must receive comments by August 23, 2019.

(b) Affected ADs

This AD affects AD 2016–26–05, Amendment 39–18763 (82 FR 1170, January 5, 2017) (''AD 2016–26–05'').

(c) Applicability

This AD applies to Airbus SAS Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before October 15, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address a safety-significant latent failure (that is not annunciated) that, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 06, dated October 15, 2018. The initial compliance time for doing the tasks is at the time specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 06, dated October 15, 2018, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2016–26–05

Accomplishing the actions required by this AD terminates all requirements of AD 2016–26–05.

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

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) AD 2019–0049, dated March 11, 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–2019–0523.

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

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 28, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14399 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0493; Product Identifier 2019–NM–043–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2011–18–15, which applies to certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2011–18–15 requires initial and repetitive torque checks of the bolt preload; detailed inspection of the barrel nuts and cradle for cracking, pitting, and corrosion if the bolt preload is correct; and replacement of hardware if necessary. Since the FAA issued AD 2011–18–15, the agency has determined that incorporation of a new design change is necessary to address the root cause of the failure of the barrel nuts. This proposed AD would retain the existing requirements and add new inspections and replacement of certain hardware, which would terminate the repetitive torque checks and inspections. This AD also removes airplanes from the applicability. 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 23, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd.qseries@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0493; 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: Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0493; Product Identifier 2019–NM–043–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. The FAA will consider all comments received by the closing date and may amend this proposed AD based on those comments.

The FAA will post all comments received, 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 received about this proposed AD.

Discussion

The FAA issued AD 2011–18–15, Amendment 39–16797 (76 FR 54093, August 31, 2011) (''AD 2011–18–15''), for certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2011–18–15 requires initial and repetitive torque checks of the bolt preload; detailed inspection of the barrel nuts and cradle for cracking, pitting, and corrosion if the bolt preload is correct; and replacement of hardware if necessary. AD 2011–18–15 resulted from in-service reports of cracked barrel nuts found at the front spar locations of the wing-to-fuselage attachment joints, and reports of a loose washer in the barrel nut assembly. The FAA issued AD 2011–18–15 to address cracked barrel nuts and a loose washer in the barrel nut assembly, which could result in failure of the barrel nuts, compromising the structural integrity of the wing-to-fuselage attachments, and possible separation of the wing from the airplane during flight.

Actions Since AD 2011–18–15 Was Issued

Since the FAA issued AD 2011–18–15, the manufacturer has developed a design change (replacement of the existing wing front spar barrel nuts with new barrel nuts that are more resistant to hydrogen embrittlement, and installation of new bolts and pre-load indicating washers). The FAA has determined that the design change will address the root cause of the failure of the barrel nuts.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD

CF–2011–24R1, dated January 21, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

There have been several in-service reports of cracked barrel nuts found at the front spar locations of the wing to fuselage attachment joints. Additionally, three operators have reported finding a loose washer in the barrel nut assembly. Failure of the barrel nuts could compromise the structural integrity of the wing to fuselage attachments.

The investigation determined that these cracks are due to hydrogen embrittlement.

The original version of this [Canadian] AD mandated initial and repetitive detailed inspections of the barrel nuts, part number (P/N) DSC228–16.

Since the original version of this [Canadian] AD, Bombardier Inc. has developed a design change to address the root cause of the failure of the barrel nuts. This design change replaces the existing wing front spar barrel nuts, P/N DSC228–16, with new Inconel 718 barrel nuts, P/N B0203072–16S, which are more resistant to hydrogen embrittlement. The design change also includes new bolts and new pre-load indicating washers.

Revision 1 of this [Canadian] AD mandates this design change as a terminating action to the repetitive inspection requirements of Part II of this [Canadian] AD. A torque verification has also been introduced to address loose washers in the barrel nut assembly.

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–2019–0493.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information.

- Bombardier Alert Service Bulletin A84–57–25, Revision A, dated July 16, 2018. This service information describes procedures for initial and repetitive torque checks of the bolt preload, detailed inspection of the barrel nuts and cradle for cracking, pitting, and corrosion if the bolt preload is correct, and replacement of hardware if necessary.
- Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018. This service information describes procedures for a visual inspection of the saddle washer and retainer for any damage (cracks) and corrosion, and replacement of the existing wing front spar barrel nuts, bolts, and pre-load indicating washers.

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 FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain all of the requirements of AD 2011–18–15. This proposed AD would also require accomplishing the actions specified in the service information described previously, which would terminate the repetitive torque checks and inspections and the corrective actions for incorrect bolt preload.

Revised Applicability

The FAA also revised the applicability of this AD from what was specified in AD 2011–18–15 to remove airplane serial numbers 4438 and subsequent. The terminating actions specified in this proposed AD are accomplished on those airplanes during production.

Costs of Compliance

The FAA estimates that this proposed AD affects 54 airplanes of U.S. registry.

The FAA 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
Retained actions from AD 2011-18-15	15 work-hours × $85 per hour = $1,275	$10,492	$11,767	$635,418
New proposed actions	15 work-hours × $85 per hour = $1,275	10,492	11,767	635,418

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 removing Airworthiness Directive (AD) 2011–18–15, Amendment 39–16797 (76 FR 54093, August 31, 2011), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2019–0493; Product Identifier 2019–NM–043–AD.

(a) Comments Due Date

The FAA must receive comments by August 23, 2019.

(b) Affected ADs

This AD replaces AD 2011–18–15, Amendment 39–16797 (76 FR 54093, August 31, 2011) (''AD 2011–18–15'').

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4437 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by in-service reports of cracked barrel nuts found at the front spar locations of the wing-to-fuselage attachment joints, and a loose washer in the barrel nut assembly. The FAA is issuing this AD to address cracked barrel nuts and a loose washer in the barrel nut assembly, which could result in failure of the barrel nuts, compromising the structural integrity of the wing-to-fuselage attachments, and possible separation of the wing from the airplane during flight.

(f) Compliance

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

(g) Retained Initial and Repetitive Inspections, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2011–18–15, with revised service information. At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a torque check to determine if the bolt preload is correct, and if the preload is correct, before further flight, do a detailed inspection of each barrel nut and cradle for cracking, pitting or corrosion, in accordance with paragraph 3.B., part A, of the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011; or Bombardier Alert Service Bulletin A84–57–25, Revision A, dated July 16, 2018. After the effective date of this AD, only Bombardier Alert Service Bulletin A84–57–25, Revision A, dated July 16, 2018, may be used. Repeat the torque check and, as applicable, the inspection thereafter at intervals not to exceed 2,000 flight hours or 12 months, whichever occurs first.

(1) For airplanes that have accumulated 1,900 or more total flight hours as of September 15, 2011 (the effective date of AD 2011–18–15), or for which it has been 12 months or more since the date of issuance of the original Canadian airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness as of September 15, 2011: Within 100 flight hours or 10 days after September 15, 2011, whichever occurs first.

(2) For airplanes that have accumulated less than 1,900 total flight hours as of September 15, 2011 (the effective date of AD 2011–18–15), and for which it has been less than 12 months since the date of issuance of the original Canadian airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness as of September 15, 2011: Prior to the accumulation of 2,000 total flight hours or within 12 months since the date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness, whichever occurs first.

(h) Retained Corrective Actions for Incorrect Bolt Preload, With Revised Service Information

This paragraph restates the requirements of paragraph (h) of AD 2011–18–15, with revised service information. If any bolt preload is found to be incorrect (*i.e.,* the ring can be rotated during any torque check required by paragraph (g) of this AD), before further flight, replace all hardware at that location (except the saddle washer and retainer) in accordance with paragraph 3.B., part B, of the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011; or paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018. After the effective date of this AD, only Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018, may be used.

(i) Retained Corrective Actions for Barrel Nut/Cradle Discrepancies, With Revised Service Information

This paragraph restates the requirements of paragraph (i) of AD 2011–18–15, with revised service information. If any crack, pitting, or corrosion of the barrel nut or cradle is found during any inspection required by paragraph (g) of this AD, before further flight, replace all hardware at that location (except the saddle washer and retainer) in accordance with paragraph 3.B., part B, of the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011; or paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018. After the effective date of this AD, only Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018, may be used.

(j) New Requirement of This AD: Replacement and Visual Inspection

Within 12,000 flight hours or 72 months after the effective date of this AD, whichever occurs first: Do a visual inspection of the saddle washer and retainer for any damage (cracks) or corrosion; and replace the wing front spar barrel nuts, bolts, and pre-load indicating washers; in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–57–26, Revision C, dated July 16, 2018.

(k) New Corrective Actions for Damage (Cracks) or Corrosion

If any damage (cracks) or corrosion is found during any inspection required by paragraph (j) of this AD: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (p)(2) of this AD.

(l) New Provision of This AD: Terminating Actions for Repetitive Torque Checks and Detailed Inspections

Accomplishment of the applicable actions required by paragraphs (j) and (k) of this AD, at all four barrel nut locations, terminates the repetitive torque checks and detailed inspections of paragraph (g) of this AD.

(m) Parts Installation Prohibition

As of the effective date of this AD, no person may install, on any airplane, a barrel nut having part number DSC228–16.

(n) Retained Special Flight Permit Provisions, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2011–18–15, with no changes. Special flight permits, as described in 14 CFR 21.197 and 21.199, may be issued to operate the airplane to a location where the requirements of this AD can be accomplished, but concurrence by the Manager, New York ACO Branch, FAA, is required before issuance of the special flight permit. Before using any approved special flight permits, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office (FSDO). Operators must request a repair drawing from

Bombardier, which provides recommendations for a one-time special flight permit. The repair drawing will be applicable to the operator's aircraft serial number only. Special flight permits may be permitted provided that the conditions specified in paragraphs (n)(1), (n)(2), (n)(3), (n)(4), and (n)(5) of this AD are met.

(1) Only one barrel nut out of four is cracked, one cradle is cracked, or one washer is loose; all other strut (wing front spar) bolt locations must be free of damage.

(2) The airplane must operate with reduced airspeed not to exceed 180 KIAS (knots indicated air speed). No passengers and no cargo are onboard.

(3) The airplane must not operate in known or forecast turbulence, other than light turbulence.

(4) The airplane descent rate on landing flare-out is not to exceed 5 feet per second.

(5) Heavy braking or hard turning of the airplane upon landing is to be avoided if possible.

(o) Credit for Previous Actions

(1) This paragraph restates the provisions of paragraph (j) of AD 2011–18–15, with revised formatting and updated service information. This paragraph provides credit for torque checks, initial inspections, and replacements required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (o)(1)(i) through (o)(1)(v) of this AD, which is not incorporated by reference in this AD. The repetitive inspections required by paragraph (g) of this AD must be continued at the time specified.

(i) Bombardier Alert Service Bulletin A84–57–19, dated February 1, 2008.

(ii) Bombardier Alert Service Bulletin A84–57–19, Revision A, dated February 6, 2008.

(iii) Bombardier Alert Service Bulletin A84–57–19, Revision B, dated March 6, 2008.

(iv) Bombardier Alert Service Bulletin A84–57–19, Revision C, dated August 20, 2008.

(v) Bombardier Alert Service Bulletin A84–57–19, Revision D, dated August 12, 2011.

(2) This paragraph provides credit for the actions required by paragraphs (h), (i), (j), and (k) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (o)(2)(i) through (o)(2)(iii) of this AD. This service information is not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 84–57–26, dated March 21, 2013.

(ii) Bombardier Service Bulletin 84–57–26, Revision A, dated July 18, 2014.

(iii) Bombardier Service Bulletin 84–57–26, Revision B, dated February 26, 2015.

(3) This paragraph provides credit for the actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (o)(3)(i) and (o)(3)(ii) of this AD.

(i) Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011, which was incorporated by reference in AD 2011–18–15.

(ii) Bombardier Alert Service Bulletin A84–57–25, Revision A, dated July 16, 2018, which is incorporated by reference in this AD.

(p) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) AMOCs approved previously for AD 2011–18–15 are approved as AMOCs for the corresponding provisions of this AD.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2011–24R1, dated January 21, 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–2019–0493.

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

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd.qseries@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 28, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14391 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0252; Product Identifier 2019–NM–048–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes, Model 757 airplanes, and Model 767–200, –300, –300F, and –400ER series airplanes. This proposed AD was prompted by reports of nuisance stick shaker activation while the airplane accelerated to cruise speed at the top of climb. This proposed AD was also prompted by an investigation of those reports that revealed that the angle of attack (AOA) (also known as angle of airflow) sensor vanes could not prevent the build-up of ice, causing the AOA sensor vanes to become immobilized, which resulted in nuisance stick shaker activation. This proposed AD would require a general visual inspection of the AOA sensors for a part number, and replacement of affected AOA sensors. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 23, 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–2019–0252.

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–2019–0252; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; fax: 562–627–5210; email: *jeffrey.w.palmer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0252; Product Identifier 2019–NM–048–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of nuisance stick shaker activation while the airplane was accelerating to cruise speed at the top of the climb. A review of recorded flight data and weather reports indicated that the cause of the nuisance stick shaker activation was immobilized AOA sensor vanes, which were frozen because the heaters in the AOA sensors vanes were not sufficient to prevent ice build-up in the AOA sensor faceplate and vane. This can be caused by water entering the AOA vane pivot and freezing during takeoff. This condition, if not addressed, could result in inaccurate or unreliable AOA sensor data being transmitted to airplane systems and consequent loss of controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019; and Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018. The service information describes procedures for a general visual inspection of the AOA sensors for a certain part number, and replacement of affected AOA sensors. These documents are distinct since they apply to different airplane models.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019; and Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018; described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information,'' and except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0252.

Differences Between This Proposed AD and the Service Information

Although Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019, recommends accomplishing the inspection within 2,750 flight hours; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019, recommends accomplishing the inspection within 9,960 flight hours; and Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018, recommends accomplishing the inspection within 3,470 flight hours, we have determined that this compliance time will not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this AD, we considered the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modifications. In light of all of these factors, we find the compliance times specified in the applicable service information, or within 36 months after the effective date of this AD, whichever occurs first, represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with the Boeing.

Costs of Compliance

We estimate that this proposed AD affects 1,287 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$109,395.
Replacement	Up to 3 work-hours × $85 per hour = Up to $255	Up to $54,000	Up to $54,255	Up to $69,826,185.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2019–0252; Product Identifier 2019–NM–048–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 23, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, identified in paragraphs (c)(1) through (c)(3) of this AD, certificated in any category.

(1) Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, as identified in Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019.

(2) Model 757–200, –200PF, –200CB, and –300 series airplanes, as identified in Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019.

(3) Model 767–200, –300, –300F, and –400ER series airplanes, as identified in Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by reports of nuisance stick shaker activation while the airplane accelerated to cruise speed at the top of climb. This AD was also prompted by an investigation of those reports that revealed that the angle of attack (AOA) (also known as angle of airflow) sensor vanes could not prevent the build-up of ice, causing the AOA sensor vanes to become immobilized, which resulted in nuisance stick shaker activation. We are issuing this AD to address ice build-up in the AOA sensor faceplate and vane, which may immobilize the AOA sensor vanes, and could result in inaccurate or unreliable AOA sensor data being transmitted to airplane systems and consequent loss of controllability of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Within 36 months after the effective date of this AD or at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019; or Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018; as applicable, whichever occurs first, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019; or Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018; as applicable. All replacements of the affected AOA sensors must be done before further flight.

(h) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019; Boeing Alert Service Bulletin 757–34A0611, Revision 1, dated March 22, 2019; or Boeing Alert Service Bulletin 767–34A0828, dated December 6, 2018; as applicable, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of

paragraphs (i)(4)(i) and (i)(4)(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.

(j) Related Information

(1) For more information about this AD, contact Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; fax: 562–627–5210; email: *jeffrey.w.palmer@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 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 10, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14502 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

Notice of Request for Information on Information and Documentation Required for Clean Claims for Care and Services

AGENCY: Department of Veterans Affairs.

ACTION: Request for information.

SUMMARY: The Department of Veterans Affairs (VA) is requesting information from the public to inform VA's determination regarding the information and documentation that VA will require certain health care entities and providers to submit with certain claims for payment for hospital care, medical services, or extended care services. Specifically, VA is requesting input regarding what information and documentation VA should require non-Federal health care entities and providers to submit with certain claims for payment for hospital care, medical services, or extended care services furnished under chapter 17 of title 38, United States Code (U.S.C.) in order for such claims to constitute ''clean claims'' under section 1703D of title 38 U.S.C.

DATES: Comments must be received on or before August 8, 2019.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''Notice of Request for Information on Information and Documentation Required for Clean Claims for Care and Services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. During the comment period, comments may also be viewed online through the Federal Docket Management System at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Office of Community Care (10D), Veterans Health Administration (VHA), Department of Veterans Affairs, Ptarmigan at Cherry Creek, Denver, CO 80209; *Joseph.Duran2@va.gov,* (303) 370–1637 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (commonly called MISSION Act, Pub. L. 115–182), created new section 1703D of title 38 U.S.C. concerning claims for payment for hospital care, medical services, and extended care services furnished by non-Federal entities and providers under chapter 17 of title 38 U.S.C. Section 1703D(f)(1) requires VA to provide to all non-Federal health care entities and providers participating in a program to furnish such care or services a list of information and documentation that VA requires to establish a clean claim under section 1703D. Section 1703D(f)(2) requires VA to consult with entities in the health care industry, in the public and private sectors, to determine the information and documentation that VA will include in that list. This notice identifies some of the information and documentation that VA proposes including in that list and solicits feedback from the public (in particular entities in the health care industry), to determine if these requirements regarding information and documentation are appropriate. This notice also requests input regarding any other information and/or documentation requirements that entities in the health care industry recommend VA include in that list. Responses to this notice will support VA's determination of which information and documentation will be required for a claim to be considered clean under section 1703D.

This notice is a request for information only. Commenters are encouraged to provide complete, but concise, responses to the specific requests and statements outlined below. VA may choose to contact individual commenters, and such communications would serve to further clarify their written comments.

Request for Information: VA requests information that will assist in developing a list of information and documentation, as mandated by section 1703D(f)(1), that will be required to establish a clean claim under section 1703D. The information and documentation identified on that list will be that which is necessary for accurate adjudication of the claim, to include data elements that, at a minimum: Accurately identify the patient; accurately identify the entity or provider that furnished the care and/or services; and accurately identify the care and services furnished. VA's specific requests for information follow:

1. VA requests information related to the statements below:

A. VA proposes that entities and providers must submit paper claims for institutional (facility) charges on the Centers for Medicare and Medicaid Services (CMS)—1450 Form; Form Title: UB–04 Uniform Bill.

B. VA proposes that entities and providers must submit paper claims for non-institutional (professional) charges on the CMS–1500 Form; Form Title: Health Insurance Claim Form.

C. VA proposes that entities and providers must submit electronic claims for institutional (facility) charges in the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12N 837I (Institutional) format, the electronic claim version of CMS–1450.

D. VA proposes that entities and providers must submit electronic claims for non-institutional (professional)

charges in the ANSI ASC X12N 837P (Professional) format, the electronic claim version of CMS–1500.

E. VA proposes that claims must contain the correct member identifier, which, at this time, is the veteran's or beneficiary's Social Security Number.

F. In 2019, VA will have Electronic Data Interchange (EDI) ASC X12N/005010X210 Patient Information (275) transaction attachment capabilities with the implementation of an X12 275 solution. However, a recent Council for Affordable Quality Healthcare (CAQH) report, ''A Report of Healthcare Industry Adoption of Electronic Business Transactions and Cost Savings'', indicated that there is very little adoption of the 275 electronic administrative transaction type throughout the health care industry (*https://www.caqh.org/sites/default/files/explorations/index/report/2018-index-report.pdf*). VA is interested in understanding the barriers to and timelines for wider 275 transaction adoption to consider potential complications to broad implementation of an EDI claim submission mandate.

2. In addition to information regarding the specific statements above, VA also requests any other information and/or documentation that entities and providers in the health care industry recommend VA include on the list.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on June 26, 2019, for publication.

Dated: July 3, 2019.

Luvenia Potts,

Program Specialist, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019–14527 Filed 7–8–19; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0339; FRL–9995–60–Region 7]

Air Plan Approval; Missouri; Revocation of Kansas City Area Transportation Conformity Requirements Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of Missouri's request to remove the transportation conformity rule for the Kansas City area.

DATES: Comments must be received on or before August 8, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0339 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: Jed D. Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7588; email address *wolkins.jed@epa.gov.*

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

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II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is the EPA taking?
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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0339, 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 CSR 10–2.390 Kansas City Area Transportation Conformity Requirements. Pursuant to 40 CFR 93.102 (b) transportation conformity must be conducted in all non-attainment and maintenance areas and States must adopt State Plans to conduct transportation conformity. The Kansas City Area, Clay, Jackson, and Platte Counties, were designated non-attainment for the 1979 one hour ozone standard (40 CFR 81.326, March 3, 1978). On July 23, 1992 the Kansas City Area was redesignated as attainment/maintenance (57 FR 27939, July 23, 1992). Pursuant to CAA Section 175A, the maintenance status lasted for two consecutive ten year periods from the effective date of the EPA's approval of the first ten-year maintenance plan and redesignation of the area to attainment for the NAAQS. On July 23, 2012, the second maintenance plan ended as did the requirement for transportation conformity in the Kansas City Area. Pursuant to 40 CFR 51.1118, as the Kansas City Area is in attainment for all standards, the Kansas City Area Transportation Conformity Requirements are no longer needed. If in the future, the Kansas City Area was to be determined to be non-attainment with a standard requiring conformity, the State would have to develop new transportation conformity requirements. Furthermore, the Kansas City Area Transportation Conformity Requirements are not relied on in any other maintenance or attainment plan.

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 from May 15, 2018 to August 2, 2018, and received no comments on this rule. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

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, 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.

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: June 24, 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 ''10–2.390'' under the heading ''Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area''.

[FR Doc. 2019–14005 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0700; FRL–9996–34–Region 5]

Air Plan Approval; Indiana; Attainment Plan for the Morgan County Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve as a State Implementation Plan (SIP) revision the Morgan County-related elements of an Indiana submission to EPA dated October 2, 2015, as supplemented on February 8, 2019. The October 2015 submission addresses attainment of the 2010 sulfur dioxide (SO_2) national ambient air quality standard (NAAQS) for four areas. The February 8, 2019 supplement provides additional modeling information regarding the adequacy of the plan for Morgan County. EPA proposes to conclude that Indiana has appropriately demonstrated that the plan provisions provided for attainment of the 2010 SO_2 NAAQS in the Morgan County area by the applicable attainment date and that the plan meets the other applicable requirements under the Clean Air Act.

DATES: Comments must be received on or before August 8, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0700 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located

outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this preamble.

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I. Why was Indiana required to submit an SO_2 plan for Morgan County?

On June 22, 2010, EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a)–(b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS, including the Indianapolis (Marion County), Morgan County, Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas within Indiana. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These area designations were effective October 4, 2013. Section 191(a) of the Clean Air Act directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. Under Clean Air Act section 192(a), the states are required to demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation, which is October 4, 2018.

In response to the requirement for SO_2 nonattainment plan submittals, Indiana submitted nonattainment plans for the above four areas on October 2, 2015. EPA published proposed action on three of these areas, namely the Indianapolis, Southwest Indiana, and Terre Haute areas on August 15, 2018, at 83 FR 40487, and published final action on two of these areas (Indianapolis and Terre Haute) on March 22, 2019, at 84 FR 10692. Today's action does not address those three areas, but addresses the fourth area, in Morgan County. The remainder of this preamble describes the requirements that SO_2 nonattainment plans must meet in order to obtain EPA approval, provides a review of the state's plan for Morgan County with respect to these requirements, and describes EPA's proposed action on the plan for Morgan County.

In addition to its submittal, Indiana sent multiple supplemental letters addressing the Morgan County SO_2 nonattainment plan. On November 15, 2017, Indiana provided clarifications on the derivation of emissions inventories and on other issues pertinent to the Morgan County plan as well as to the other three plans in the state's October 2, 2015 submittal. On June 7, 2017, Indiana withdrew the control requirements for Hydraulic Press Brick from consideration as part of the Morgan County SIP. However, on February 12, 2019, Indiana reactivated its request for action on these control requirements. Also, on February 8, 2019, Indiana submitted additional technical information in support of a conclusion that the Morgan County plan provides for attainment even when analyzed with a more conservative background concentration.

II. Requirements for SO_2 Nonattainment Area Plans

Nonattainment SIPs must meet the applicable requirements of the Clean Air Act, specifically Clean Air Act sections 110, 172, 191 and 192. EPA's regulations governing nonattainment SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements residing at subparts F and G, respectively. Soon after Congress enacted the 1990 Amendments to the Clean Air Act, EPA issued comprehensive guidance on SIPs, in a document entitled the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' published at 57 FR 13498 (April 16, 1992) (General Preamble). Among other things, the General Preamble addressed SO_2 SIPs and fundamental principles for SIP control strategies. *Id.,* at 57 FR 13545–13549, 13567–13568. On April 23, 2014, EPA issued guidance for meeting the statutory requirements in SO_2 SIPs submitted under the 2010 NAAQS, in a document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.* In this guidance EPA described the statutory requirements for a complete nonattainment area SO_2 SIP, which includes: An accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of reasonable further progress (RFP); implementation of reasonably available control measures (RACM) (including reasonably available control techniques (RACT)); new source review (NSR); enforceable emissions limitations and control measures; and adequate contingency measures for the affected area. A synopsis of these requirements is also provided in the notice of proposed rulemaking on the Illinois SO_2 nonattainment plans, published on October 5, 2017 at 82 FR 46434.

In order for EPA to fully approve a SIP as meeting the requirements of Clean Air Act sections 110, 172 and 191–192 and EPA's regulations at 40 CFR part 51, the SIP for the affected area needs to demonstrate to EPA's satisfaction that each of the aforementioned requirements have been met. Under Clean Air Act sections 110(l) and 193, EPA may not approve a SIP that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement, and no requirement in effect (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990) in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless it ensures equivalent or

greater emission reductions of such air pollutant.

III. Requirements for Attainment Demonstrations

Clean Air Act sections 172(c)(1), 172(c)(6) and 192(a) direct states with SO_2 areas designated as nonattainment to demonstrate that the submitted plan provides for attainment of the NAAQS. 40 CFR part 51 subpart G further delineates the control strategy requirements that SIPs must meet, and EPA has long required that all SIPs and control strategies reflect four fundamental principles of quantification, enforceability, replicability, and accountability. General Preamble, at 13567–68. SO_2 attainment plans must consist of two components: (1) Emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, appendix W (Guideline on Air Quality Models) and demonstrates that these emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, the emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures and must be quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear, unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and objective so that two independent entities applying the procedures would obtain the same result), and accountable (source specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

EPA's April 2014 guidance recommends that the emission limits be expressed as short-term average limits (*e.g.,* addressing emissions averaged over one or three hours), but also describes the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria. Indiana's plan for Morgan County involves mostly work practice requirements (*i.e.,* requirements that the primary boilers at Indianapolis Power and Light-Eagle Valley burn natural gas and that Hydraulic Press Brick employ sorbent injection generally achieving 50 percent emission control) and does not rely on any longer term average limits.

Preferred air quality models for use in regulatory applications are described in appendix A of EPA's Guideline on Air Quality Models.[1] In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in appendix A to the April 23, 2014 SO_2 nonattainment area SIP guidance document referenced above. Appendix A provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in this guidance is generally necessary for the attainment demonstration to offer adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* Guideline on Air Quality Models) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, EPA believes that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases those sources located outside the nonattainment area which may affect attainment in the area) is technically appropriate, efficient and effective in demonstrating attainment in nonattainment areas because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET. Estimated concentrations should include ambient background concentrations, should follow the form of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010 clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hr SO_2 National Ambient Air Quality Standard''.

IV. Review of Indiana's Modeled Attainment Plan for Morgan County

The following discussion evaluates various features of the modeling that Indiana used in its attainment demonstration for Morgan County.

A. Model Selection and General Model Inputs

Indiana's attainment demonstrations used AERMOD, the preferred model for these applications as identified in the Guideline on Air Quality Models. Indiana's October 2015 submittal used version 14134 of this model, which was the most recent version at the time the state conducted its nonattainment planning. However, the supplemental modeling that Indiana submitted in February 2019 used the current version of AERMOD, version 18081. Indiana utilized the regulatory default mode for all air quality modeling runs.

Indiana's receptor grid and modeling domain for the Morgan County area generally followed the recommended approaches from the Guideline on Air Quality Models. Receptor spacing for each modeled facility fence line was every 50 meters, then 100-meter spacing of receptors out to a distance of 0.5 kilometers, every 250 meters out to 2.5 kilometers, every 500 meters out to 5 kilometers, and every 1000 meters out to 10 kilometers from each facility. The resulting receptor grid contained 10,445 receptors. An examination of the modest modeled spatial gradients near the facility boundaries leads to the conclusion that no facility in the area contributes to violations within any other facility's property, so that the exclusion of receptors within facility fencelines was acceptable.

Indiana determined that Morgan County should be modeled with rural dispersion characteristics. Indiana did not provide an Auer analysis or provide other rationale for this selection. Nevertheless, the nonattainment area, consisting of two townships (Clay and Washington Townships) have a 2016 estimated population of 21,379 people in an area of 232.3 square kilometers, an average population density of 92 people per square kilometer. By comparison, the Guideline on Air Quality Models suggests that areas with less than 750 people per square kilometer warrant being modeled with rural dispersion characteristics. Therefore, EPA concurs with Indiana's determination that this

[1] EPA published revisions to the *Guideline on Air Quality Models* on January 17, 2017.

area warrants being modeled with rural dispersion coefficients.

B. Meteorological Data

Indiana used the Indianapolis National Weather Service (NWS) surface data and the Lincoln, Illinois upper air station (WBAN 048233) data for modeling Morgan County. EPA finds these selections appropriate.

C. Emissions Data

Indiana identified two sources in Morgan County emitting over 100 tons per year. Indianapolis Power and Light's Eagle Valley power plant, which conducts continuous SO_2 emissions monitoring, emitted 3,436 tons of SO_2 in 2012. Hydraulic Press Brick, a manufacturer of building aggregate, has a less certain emission rate (in part due to uncertainties in the quantity of sulfur in the shale that is a raw material in the process), but was estimated to have emitted 350 tons of SO_2 in 2010. Further discussion of the modeled emissions is provided below.

D. Emission Limits

An important prerequisite for approval of an attainment plan is that the emission limits that provide for attainment be quantifiable, fully enforceable, replicable, and accountable. See General Preamble at 13567–68.

In preparing its plans, Indiana adopted revisions to a previously approved state regulation governing emissions of SO_2. These rule revisions were adopted by the Indiana Environmental Rules Board following established, appropriate public review procedures. For Eagle Valley, the revised rule identifies the four primary emission sources and requires these sources to burn natural gas. The nominal compliance date for this requirement is January 1, 2017, but in fact Eagle Valley stopped burning coal in April 2016, after which all electricity generation at this facility has been based on burning natural gas. For Hydraulic Press Brick, the revised rule requires use of a limestone injection system to achieve either 50 percent control efficiency or 2.5 pounds of SO_2 per million British thermal units (lbs/MMBTU), and in no case to emit more than 6.0 lbs/MMBTU. These requirements were also effective on January 1, 2017. These limits are codified in 326 IAC 7, titled ''Sulfur Dioxide Rules,'' specifically in 326 Indiana Administrative Code 7–4–11.1 (326 IAC 7–4–11.1). Indiana also submitted rules specifying the compliance date for these requirements (in 326 IAC 7–1.1–3) and the associated monitoring, testing, and recordkeeping and reporting requirements (in 326 IAC 7–2–1). The rule provisions provide unambiguous, permanent requirements for emission control which, if violated, would be clear grounds for an enforcement action.

Given the requirement for Eagle Valley to burn natural gas, EPA finds the low emission rate that Indiana modeled for this plant to be an appropriate reflection of allowable emissions. Indiana did not explicitly model Hydraulic Press Brick, choosing instead to address this source as part of the background concentration. The adequacy of Indiana's background concentration to reflect the impact of this source and other unmodeled emissions in the area is addressed in the following section.

E. Background Concentrations

Indiana determined background concentrations for Morgan County using hourly measurements at the Centerton School monitor (site number 18–109–1001). In its original analysis, documented in its submittal of October 2, 2015, Indiana determined background concentrations for this area by selecting the 99th percentile of a monitoring data set that excluded values when the monitor was downwind of either the Eagle Valley plant or Hydraulic Press Brick, except that values below 10 ppb were retained in the analysis. The 99th percentile among the pertinent values was 9.4 ppb, or 24.6 micrograms per cubic meter ($\mu g/m^3$).

The purpose of background concentrations in a model simulation is to represent the impact of emissions from sources that are not explicitly modeled. Indiana explicitly modeled the allowable emissions from Eagle Valley, and so Indiana's approach, determining background concentrations in a manner that excluded occasions with significant impacts from Eagle Valley, was appropriate for avoiding double counting the impacts of this source. However, Indiana did not explicitly model Hydraulic Press Brick, choosing instead to represent this source as part of the background concentration in the modeling. For this reason, EPA found it inappropriate that Indiana excluded occasions with impacts from Hydraulic Press Brick in its determination of a background concentration.

To address this concern, Indiana conducted additional analyses to identify background concentrations that would better represent the impacts of Hydraulic Press Brick and minor other SO_2 sources in the area, which it submitted on February 8, 2019. This analysis used data from the same monitoring site as Indiana's prior analysis (site number 18–109–1001), using data from the most recent available three calendar years of data (2015 to 2017). Indiana again used meteorological data from the Indianapolis National Weather Service site for this analysis.

Examination of these data led to the finding that aside from occasions when Eagle Valley was upwind of the monitor, the highest concentrations were observed when winds were in a relatively narrow band of wind directions approximately centered on Hydraulic Press Brick being upwind of the monitor. Ordinarily background concentrations are determined by examining concentrations for almost all wind directions, excluding data for a modest set of directions when modeled sources are upwind. However, in this case Indiana followed the reverse approach, excluding occasions when Hydraulic Press Brick was not upwind of the monitor and considering concentrations only for a relatively small band of wind directions in which the largest unmodeled source (Hydraulic Press Brick) was most directly upwind. In particular, the data set used in this analysis included concentrations when the winds were from between 25 degrees and 60 degrees (roughly from NNE to ENE). This approach was designed to estimate the maximum background concentration that could be attributed to unmodeled sources in the area, including a conservative representation of the impacts of Hydraulic Press Brick.

EPA guidance offers both the option to determine a single background concentration, to be used for all seasons and all hours, and the option to determine separate season- and hour-specific background concentrations. Indiana applied both options in this case. The resulting single background concentration was 96.0 $\mu g/m^3$, or 36.7 ppb. The resulting season- and hour-specific background concentrations ranged from 2.8 to 114.5 $\mu g/m^3$ (1.1 ppb to 43.7 ppb). Indiana then used these background concentrations in additional model runs to provide a supplemental assessment of whether its plan provides for attainment.

F. Summary of Results

Modeling for Morgan County in Indiana's October 2, 2015 submittal showed a design value of 35.9 $\mu g/m^3$ (13.7 ppb). Modeling in Indiana's February 8, 2019 submittal used two approaches that provided a more conservative representation of background concentrations. The

modeling run using a single background concentration for all seasons and hours showed a design value of 103.69 μg/m^3 (39.6 ppb). The modeling run using season- and hour-specific background concentrations yielded a design value of 117.33 μg/m^3 (44.8 ppb), slightly higher than the run using a single background concentration. Both of these runs show design values well below 196.4 μg/m^3 (75 ppb). Therefore, EPA concludes that Indiana's plan provides for attainment in this area.

Pursuant to the requirements in Indiana's rules, Hydraulic Press Brick began sorbent injection, to achieve either 50 percent control or 2.5 lbs/MMBTU of SO_2, beginning by January 1, 2017. With this approximate start date, the period from 2015 to 2017 used in Indiana's assessment of background concentrations reflected two years without this control measure and one year with it. While insufficient data are available to estimate the air quality benefits of this control measure, the continued implementation of this measure is expected to result in lower future background concentrations and to assure that background concentrations will not increase above these levels. Indiana's letter of February 12, 2019 requests EPA approval of the control requirements for Hydraulic Press Brick, which will help assure that background concentrations will remain at or below the level in Indiana's estimate, thereby helping assure that Indiana's plan provides for attainment.

V. Review of Other Plan Requirements

A. Emissions Inventory

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable states to: (1) Estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and (2) assess the expected improvement in air quality within the nonattainment area due to the adoption and implementation of control measures. As noted above, the state must develop and submit to EPA a comprehensive, accurate and current inventory of actual emissions from all sources of SO_2 emissions in each nonattainment area, as well as any sources located outside the nonattainment area which may affect attainment in the area. *See* Clean Air Act section 172(c)(3).

Indiana provided a comprehensive, accurate, and current inventory of SO_2 emissions for Morgan County. Indiana identified two sources in the county that emitted over 100 tons of SO_2 per year, namely Eagle Valley and Hydraulic Press Brick. Indiana also summarized emissions in the following source categories: Electric-generating units (EGUs), non-EGUs (point), non-point (area), non-road, and on-road sources of SO_2. This summary of emissions is shown in Table 1. Indiana uploads point source emissions to the National Emissions Inventory (NEI) annually. For the 2011 base year inventory, emissions from EGU and non-EGUs are actual reported emissions. Data for airport, area, non-road, and on-road emissions were compiled from the EPA Emissions Modeling Clearinghouse (SO_2 NAAQS Emissions Modeling platform 2007/2007v5) for the 2008 NEI and the 2018 projected inventory year. Data were interpolated between 2008 and 2014 to determine the airport, area, non-road, and on-road emissions 2011 inventory and between 2014–2020 for 2018. These inventories can be found in appendix H of the submitted attainment demonstration. Also, for each of the four areas addressed in its submittal, including Morgan County, Indiana provided modeling inputs that include a listing of the individual sources with sufficient proximity to and impact on the nonattainment areas to warrant being explicitly included in the modeling analysis.

Indiana's emission inventory indicated that Eagle Valley in 2012 emitted 3,436 tons of SO_2. This precisely matches the emissions quantity that Eagle Valley reported to EPA under applicable emissions monitoring and reporting requirements. Indiana indicated that Hydraulic Press Brick in 2010 emitted 350 tons of SO_2. This is similar to the SO_2 emission rate reported in the 2011 National Emission Inventory, though no emissions of SO_2 are reported in the 2014 National Emission Inventory. Notwithstanding the difficulty of estimating emissions from this source, particularly as it relates to the quantity of SO_2 emissions that arises from sulfur in the shale that the facility uses as a raw material, EPA believes that Indiana's SIP submittal provides a suitable estimate of the emissions from this source for planning purposes.

TABLE 1—2011 ACTUAL EMISSIONS INVENTORY FOR MORGAN COUNTY

	2011 Emissions in Morgan County (tpy)
EGU	10,875
Other Point	387
Area	24
Non-road	1
On-road	10
Total	11,297

By providing a comprehensive, accurate, and current inventory of SO_2 emissions for Morgan County, Indiana has met the emission inventory requirement of Clean Air Act section 172(c)(3) for this area. This inventory represents emissions in 2011, a time when the areas were violating the standard. The state also provided allowable attainment year emissions in its modeling analysis.

B. RACM/RACT

In its submission, Indiana discusses its rationale for concluding that the nonattainment plans meet the RACM/RACT requirements in accordance with EPA guidance. For most criteria pollutants, RACT is control technology as needed to meet the NAAQS that is reasonably available considering technological and economic feasibility. However, Indiana cites EPA guidance that the definition of RACT for SO_2 is, simply, ''that control technology which is necessary to achieve the NAAQS (40 CFR 51.100(o))''. *See* General Preamble, 57 FR 13547 (April 16, 1992), synopsizing the SO_2 RACT requirement in 40 CFR 51.100(o). Indiana in fact requires the control technology that modeling shows to be necessary to ensure attainment of the SO_2 NAAQS by the applicable attainment date.

In addition, Indiana has adopted and submitted limits that require effective control of the most significant sources in Morgan County. The requirement for Eagle Valley to burn natural gas brings the emissions of this source nearly to zero. The requirement for Hydraulic Press Brick to operate a sorbent injection system in a manner that generally achieves 50 percent emission control requires operating a control that is cost effective and achieves a relatively high degree of control for this type of source. Thus, while Indiana did not conduct a cost effectiveness analysis of these controls, and EPA does not require such an analysis, the controls required in this area appear to represent a full set of reasonably available emission control.

Indiana has determined that these measures suffice to provide for timely attainment. EPA concurs and proposes

to conclude that the state has satisfied the requirements in sections 172(c)(1) and (6) to adopt and submit all RACT/RACM and emission limitations and control measures as needed to attain the standards as expeditiously as practicable.

C. New Source Review (NSR)

As Indiana's submittal explains, EPA approved Indiana's nonattainment new source review rules on October 7, 1994 (94 FR 24838). As Indiana notes, these rules provide for appropriate new source review for SO_2 sources undergoing construction (or major modification) in the Morgan County area. No modification of the approved rules is necessary to meet the NSR requirements. Therefore, EPA concludes that this requirement has already been met for these areas.

D. RFP

Indiana's adopted rules in 326 IAC 7 require that control measures be implemented no later than January 1, 2017. Indiana has concluded that this plan requires that affected sources implement appropriate control measures as expeditiously as practicable in order to ensure attainment of the standard by the applicable attainment date. Indiana concludes that this plan therefore provides for RFP in accordance with the approach to RFP described in EPA's guidance. EPA concurs and proposes to conclude that the plan provides for RFP.

E. Contingency Measures

Indiana's approach to contingency measures is one of the subjects of a clarification memo that Indiana submitted on November 15, 2017. In this memo, Indiana explained its rationale for concluding that its plans met the requirement for contingency measures in accordance with EPA guidance. Specifically, Indiana relies on EPA's guidance, noting the special circumstances that apply to SO_2, and explaining on that basis why the contingency measures requirement in Clean Air Act section 172(c)(9) is met for SO_2 by having a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement of applicable emissions limitations. Indiana stated that it has such an enforcement program as codified in Indiana Code Title 13, Articles 14 and 15, identifying violators and taking prompt, appropriate enforcement action. On this basis, EPA proposes to conclude that Indiana's nonattainment plans satisfy contingency measure requirements for the Morgan County nonattainment area.

Indiana's rules also provide for additional contingency measures as necessary, following a review of any air quality problems that become identified and following a review of options for mitigating the problems that arise. However, Indiana is not relying on these provisions to satisfy the requirements for contingency measures.

VI. EPA's Proposed Action

EPA is proposing to approve Indiana's SIP submission, which the state submitted to EPA on October 2, 2015 and supplemented on November 15, 2017, June 7, 2017, February 8, 2019, and February 12, 2019, for attaining the 2010 1-hour SO_2 NAAQS for the Morgan County area. This SO_2 nonattainment plan includes Indiana's attainment demonstration for this area. The nonattainment plan also addresses requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Indiana has previously addressed requirements regarding nonattainment area NSR. EPA has determined that Indiana's SO_2 nonattainment plan for Morgan County meets the applicable requirements of Clean Air Act sections 110, 172, 191, and 192.

The rules that underpin Indiana's attainment plan for Morgan County include Indiana Administrative Code, Title 326, Rule 7–4–11.1 (326 IAC 7–4–11.1, entitled ''Morgan County sulfur dioxide emission limitations''), as well as Rule 326 IAC 7–1.1–3 (entitled ''Compliance date'') and Rule 326 IAC 7–2–1 (entitled ''Reporting requirements; methods to determine compliance''). EPA has already approved the latter two rules, as part of its rulemaking on the plans for Marion and Vigo Counties. These rules provide compliance dates and recordkeeping and compliance determination provisions that apply to all four areas in Indiana's original submittal. Because these latter two rules are already part of the Indiana SIP, and no further action on these rules is necessary, EPA is proposing only to approve 326 IAC 7–4–11.1.

EPA is taking public comments for thirty days following the publication of this proposed action in the **Federal Register**. EPA will take all comments into consideration in our final action.

VII. 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 326 IAC 7–4–11.1, ''Morgan County sulfur dioxide emission limitations'', effective at the state on October 2, 2015. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office. (Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information.)

VIII. Statutory and Executive Order Reviews

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

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

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 26, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–14474 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2019–0216; FRL–9996–09–Region 5]

Air Plan Approval; Ohio; Second Maintenance Plan for 1997 Ozone NAAQS; Dayton-Springfield

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA), as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) through 2028 in the Dayton-Springfield area. The Dayton-Springfield area consists of Clark, Greene, Miami and Montgomery Counties. The Ohio Environmental Protection Agency (Ohio EPA) submitted this SIP revision to EPA on April 12, 2019.

DATES: Comments must be received on or before August 8, 2019.

ADDRESSES: Submit your comments, identified by Docket No. EPA–EPA–R05–OAR–2019–0216 at *https://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

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

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I. Summary of EPA's Proposed Action

EPA is proposing to approve, as a revision to the Ohio SIP, an updated 1997 ozone NAAQS maintenance plan for the Dayton-Springfield area. The maintenance plan is designed to keep the Dayton-Springfield area in attainment of the 1997 ozone NAAQS through 2028.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants are referred to as ozone precursors. Scientific evidence indicates that adverse public health effects occur following exposure to ozone.

In 1979, under section 109 of the Clean Air Act (CAA), EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).[1] EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004 (69 FR 23857), EPA designated the Dayton-Springfield as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to EPA a request to be redesignated to attainment, referred to as a ''maintenance area''.[2]

One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

[2] Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years. CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.[3] The Calcagni Memorandum provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). *See* Calcagni Memorandum at 9.

On November 6, 2006, Ohio EPA submitted to EPA a request to redesignate the Dayton-Springfield area to attainment for the 1997 ozone NAAQS.[4] This submittal included, as a revision to the Ohio SIP, a plan to provide for maintenance of the 1997 ozone NAAQS in the Dayton-Springfield area through 2018. EPA approved the Dayton-Springfield area maintenance plan and redesignated the area to attainment for the 1997 ozone NAAQS on August 13, 2007 (72 FR 45169).[5]

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[6] However, in *South Coast Air Quality Management District* v. *EPA*[7] (South Coast II), the D.C. Circuit vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for ''orphan maintenance areas,'' *i.e.,* areas that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these ''orphan maintenance areas'' under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, on April 12, 2019, Ohio submitted a second maintenance plan for the Dayton-Springfield area that shows that the area is expected to remain in attainment of the 1997 ozone NAAQS through 2028, *i.e.,* through the end of the full 20-year maintenance period.

III. EPA's Evaluation of Ohio's SIP Submittal

A. Second Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

On April 12, 2019, Ohio EPA submitted, as a SIP revision, a plan to provide for maintenance of the 1997 ozone standard in the Dayton-Springfield area through 2028, more than 20 years after the effective date of the redesignation to attainment. As discussed below, EPA finds that Ohio's second maintenance plan includes the necessary components and proposes approve the maintenance plan as a revision to the Ohio SIP.

1. Attainment Inventory

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Dayton-Springfield area that reflects typical summer day VOC and NO_X emissions in 2005. This inventory is summarized in Table 1 below.

TABLE 1—DAYTON-SPRINGFIELD AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2005 IN TONS PER DAY (tpd)

Source category	VOC	NO_X
Nonroad	12.16	84.66
Onroad	55.37	20.24
Point	3.45	36.64
Area	46.23	4.65
Total	115.21	146.19

In addition, because the Dayton-Springfield area continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. Ohio EPA is using 2014 summer day emissions from EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Table

[3] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'').

[4] Ohio EPA supplemented this submittal on November 6, 2006, December 4, 2006, December 13, 2006, January 11, 2007, March 9, 2007, March 27, 2007 and May 31, 2007.

[5] On February 11, 2013, Ohio EPA submitted a revision to the original maintenance plan, replacing onroad emissions estimates and MVEBs derived using the MOBILE6.2 model with onroad emissions estimates and MVEBs derived using the MOVES2010a model. EPA approved this revision to Ohio's SIP on October 24, 2013 (78 FR 63388).

[6] *See* 80 FR 12315 (March 6, 2015).

[7] 882 F.3d 1138 (D.C. Cir. 2018).

2 below.[8] These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

TABLE 2—DAYTON-SPRINGFIELD AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014 (tpd)

Source category	VOC	NO_X
Nonroad	8.99	10.18
Onroad	19.64	37.51
Point	2.24	4.25
Area	34.14	7.18
Total	65.01	59.12

2. Maintenance Demonstration

Ohio EPA is demonstrating maintenance through 2028 by showing that future emissions of VOC and NO_X for the Dayton-Springfield area remain at or below attainment year emission levels. 2028 is an appropriate maintenance year because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.[9] The relevant inventory scenario names are ''2014fd'' and ''2028el.'' The 2028 scenario was used to support past air quality modeling to support the regional haze program. The 2028 summer day emissions inventory for the Dayton-Springfield, OH area is summarized in Table 3 below. Table 4 documents changes in NO_X and VOC emissions in the Dayton-Springfield area between 2005, 2014 and 2028.

TABLE 3—DAYTON-SPRINGFIELD AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2028 (tpd)

Source category	VOC	NO_X
Nonroad	7.64	4.57
Onroad	6.09	11.36
Point	2.65	6.39
Area	24.73	10.39
Total	41.11	32.71

TABLE 4—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS IN THE DAYTON-SPRINGFIELD AREA BETWEEN 2005, 2014, AND 2028

[tpd]

Source category	VOC					NO_X				
	2005	2014	2028	Net Change (2005–2028)	Net Change (2014–2028)	2005	2014	2028	Net Change (2005–2028)	Net Change (2014–2028)
Nonroad	12.16	8.99	7.64	−4.52	−1.35	84.66	10.18	4.57	−80.09	−5.61
Onroad	55.37	19.64	6.09	−49.28	−13.55	20.24	37.51	11.36	−8.88	−26.15
Point	3.45	2.24	2.65	−0.80	0.41	36.64	4.25	6.39	−30.25	2.14
Area	46.23	34.14	24.73	−21.50	−9.41	4.65	7.18	10.39	5.74	3.21
Total	115.21	65.01	41.11	−74.10	−23.90	146.19	59.12	32.71	−113.48	−26.41

In summary, the maintenance demonstration for the Dayton-Springfield area shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 4 shows VOC and NO_X emissions in the Dayton-Springfield area are projected to decrease by 23.90 tpd and 26.41 tpd, respectively, between 2014 and 2028.

3. Continued Air Quality Monitoring

Ohio EPA has committed to continue to operate an approved ozone monitoring network in the Dayton-Springfield, OH area. Ohio EPA has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Ohio EPA remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of Continued Attainment

The State of Ohio has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Dayton-Springfield area. This includes the

[8] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2014-version-70-platform.*

[9] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Ohio EPA has committed to continue to operate an approved ozone monitoring network in the Dayton-Springfield, OH area. Ohio will not discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, Ohio EPA has committed to continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539).

5. Contingency Plan

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Ohio has adopted a contingency plan for the Dayton-Springfield area to address possible future ozone air quality problems. The contingency plan adopted by Ohio has two levels of response, a warning level response and an action level response.

In Ohio's plan, a warning level response will be triggered when an annual fourth high monitored value of 0.088 ppm or higher is monitored within the maintenance area. A warning level response will consist of Ohio EPA conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Ohio's plan, an action level response is triggered when a two-year average fourth high value of 0.084 ppm or greater is monitored within the maintenance area. A violation of the 1997 ozone standard within the maintenance area also triggers an action level response. In the event that the action level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, Ohio EPA, in conjunction with the metropolitan planning organization or regional council of governments, will determine what additional control measures are needed to assure future attainment of the ozone standard. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Ohio EPA may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Ohio EPA included the following list of potential contingency measures in its maintenance plan:

1. Adopt VOC reasonably available control technology (RACT) on existing sources covered by EPA Control Technique Guidelines issued after the 1990 CAA.

2. Apply VOC RACT to smaller existing sources.

3. One or more transportation control measures sufficient to achieve at least half a percent reduction in actual area wide VOC emissions. Transportation measures will be selected from the following, based upon the factors listed above after consultation with affected local governments:

a. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area wide rideshare programs, work schedule changes, and telecommuting;

b. traffic flow and transit improvements; and

c. other new or innovative transportation measures not yet in widespread use that affected local governments deem appropriate.

4. Alternative fuel and diesel retrofit programs for fleet vehicle operations.

5. Require VOC or NO_X emission offsets for new and modified major sources.

6. Increase the ratio of emission offsets required for new sources.

7. Require VOC or NO_X controls on new minor sources (less than 100 tons).

8. Adopt NO_X RACT for existing combustion sources.

9. High volume, low pressure coating application requirements for autobody facilities.

10. Requirements for cold cleaner degreaser operations (low vapor pressure solvents).

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Thus, EPA finds that the maintenance plan SIP revision submitted by Ohio EPA for the Dayton-Springfield area meets the requirements of section 175A of the CAA and proposed to approve it as a revision to the Ohio SIP.

B. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP

revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions'' (40 CFR 93.101).

The South Coast II court decision upheld EPA's revocation of the 1997 ozone NAAQS, which was effective on April 6, 2015. EPA's current transportation conformity regulation requires a regional emissions analysis only during the time period beginning one year after a nonattainment designation for a particular NAAQS until the effective date of revocation of that NAAQS (40 CFR 93.109(c)). Therefore, pursuant to the conformity regulation, a regional emissions analysis using MVEBs is not required for conformity determinations for the 1997 ozone NAAQS because that NAAQS has been revoked (80 FR 12264). As no regional emissions analysis is required for the Dayton-Springfield area, transportation conformity for the 1997 ozone NAAQS can be demonstrated by an MPO and DOT for transportation plans and TIPs by showing that the remaining criteria contained in Table 1 in 40 CFR 93.109, and 40 CFR 93.108 have been met.

IV. Proposed Action

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, and based on Ohio's representations and commitments set forth above, EPA is proposing to approve the Dayton-Springfield area second maintenance plan for the 1997 ozone NAAQS, submitted by Ohio EPA on April 12, 2019, as a revision to the Ohio SIP. The second maintenance plan is designed to keep the Dayton-Springfield area in attainment of the 1997 ozone NAAQS through 2028.

V. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 20, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–14246 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0047; FRL–9996–02–Region 8]

Approval and Promulgation of Implementation Plans; Montana; Regional Haze 5-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve Montana's regional haze progress report, submitted by the Montana Department of Environmental Quality (MDEQ) as a revision to its State Implementation Plan (SIP). Montana's SIP revision addresses requirements of the Clean Air Act (CAA) and the EPA's rules that require states to submit periodic reports describing progress toward Reasonable Progress Goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing plan addressing regional haze. Montana's progress report explains the measures that have been implemented in the regional haze plan due to be in place by the date of the progress report and that visibility in the majority mandatory federal Class I areas affected by emissions from Montana sources is improving, and that a revision of the plan is not needed at this time. The EPA is proposing approval of Montana's determination that the State's regional haze plan is adequate to meet RPGs for the first implementation period, which extended through 2018 and requires no substantive revision at this time.

DATES: Written comments must be received on or before August 8, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0047, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its

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

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FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, Environmental Protection Agency, Region 8, Mailcode 8ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6175, or by email at *gregory.kate@epa.gov.*

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

I. Background

States are required to submit progress reports that evaluate progress towards the RPGs for each mandatory Class I Federal area [1] (Class I area) within the state and in each Class I area outside the state that may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze plan. The first progress report must take the form of a SIP revision and is due five years after submittal of the initial regional haze SIP. Montana declined to submit a regional haze SIP covering all required elements in EPA's Regional Haze Rule, which resulted in the EPA administration of the majority of Regional Haze program in the State since the effective date of the Federal Implementation Program (FIP) of October 18, 2012.[2]

Twelve Class I areas are located in Montana; Anaconda-Pintlar Wilderness Area, Bob Marshall Wilderness Area, Cabinet Mountains Wilderness Area, Gates of the Mountain Wilderness Area, Glacier National Park, Medicine Lake Wilderness Area, Mission Mountain Wilderness Area, Red Rock Lakes Wilderness Area, Scapegoat Wilderness Area, Selway-Bitterroot Wilderness Area, U. L. Bend Wilderness Area and Yellowstone National Park.[3] Monitoring and data representing visibility conditions in Montana's twelve Class I areas is based on the ten Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring sites located across the State.[4]

On November 7, 2017, Montana submitted a progress report, which detailed the progress made in the first planning period toward implementation of the Long-Term Strategy (LTS) outlined in the 2012 regional haze FIP, the visibility improvement measured at Class I areas affected by emissions from Montana sources, and a determination of the adequacy of the existing regional haze plan for Montana. The State provided notice of the Progress Report and a 30-day comment period, which closed on September 22, 2017. The State received one comment of support from Montana-Dakota Utilities. The EPA is proposing to approve Montana's November 7, 2017 SIP submittal on the basis that it satisfies the requirements of 40 CFR 51.308.

II. EPA's Evaluation of Montana's Progress Report and Adequacy Determination

A. Regional Haze Progress Report

This section describes the contents of Montana's progress report and the EPA's analysis of the report, as well as an evaluation of the determination of adequacy required by 40 CFR 51.308(h) and the requirement for state and Federal Land Manager coordination in 40 CFR 51.308(i).

1. Status of Implementation of Control Measures

In its Progress Report, Montana summarizes the emissions reduction measures that were relied upon by Montana in the regional haze plan for ensuring reasonable progress at the Class I areas within the State. EPA's regional haze FIP established RPGs for 2018 and established a LTS. [5] [6] In its Progress Report, the State describes both state and federal emission reduction measures including applicable federal programs (*e.g.,* mobile source rules, Mercury and Air Toxics Rule), various existing Montana air quality measures (the Montana Renewable Portfolio Standard, major source closure, cancellation, and derating) and a description of the State's Smoke Management Plan (SMP). Montana also reviewed the status of Best Available Retrofit Technology (BART) requirements for the BART-eligible sources in the State. The Montana FIP includes emissions limits for the BART-eligible sources that were determined to contribute to visibility impairment.[7] The three units subject to BART are listed below in Table 1: Sources Subject to BART in Montana.

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). See 40 CFR part 81, subpart D for list of Class I Federal areas.

[2] 77 FR 57864 (September 18, 2012).

[3] Montana Progress Report, Figure 1–1, p. 1–1.

[4] Montana Progress Report, Figure 1–3, p. 1–4.

[5] 77 FR 23995, April 20, 2012, Table 1—Visibility Impact Reductions Needed Based on Best and Worst Days Baselines, Natural Conditions, and Uniform Rate of Progress Goals for Montana Class I Areas.

[6] 77 FR 24047, April 20, 2012.

[7] 82 FR 17951, April 14, 2017. BART emissions limits for NO_X and SO_2 were vacated by the U.S. Court of Appeals for the 9th Circuit on June 9, 2015 for Colstrip Units 1 and 2 and remanded those portions of the FIP back to EPA for further proceedings. *National Parks Conservation Association* v. *EPA,* 788 F.3d 1134 (9th Cir. 2015).

TABLE 1—SOURCES SUBJECT TO BART IN MONTANA [8]

BART-eligible source	BART source category
Ash Grove Cement Company	Portland Cement Plants.
Oldcastle Cement (formerly Holcim (US), Inc.)	Portland Cement Plants.
Colstrip Steam Electric Station Units 1 & 2 (formerly PPL Montana, LLC).	Fossil-Fuel Fired Steam Electric Plants of more than 250 BTUs per hour Heat Input.

In its Progress Report, Montana provides the status of these BART-eligible sources in the State.

Colstrip Units 1 and 2: The United States Court of Appeals for the Ninth Circuit vacated the emissions limits from the FIP for Colstrip Units 1 and 2 on June 9, 2015.[9] The court determined the FIP emissions limits to be arbitrary and capricious and remanded the decision back to the EPA. The operator and part owner, Talen Energy, did install emission control technologies, including separated overfire air controls, prior to the vacatur of the original FIP BART limits.[10] In its Progress Report, the State explains that nitrogen oxide (NO_X) and sulfur dioxide (SO_2) show a downward trend at Colstrip Units 1 and 2.[11] Additionally, Talen Energy and the other owners of Colstrip Units 1 and 2 entered into an agreement with the Sierra Club in 2016, wherein it was agreed that the units will close by July 1, 2022.[12] The agreement also established NO_2 and SO_2 emissions limits. These emissions limits, listed below, will stay in effect until the units ceases operations as the Consent Decree is binding.[13]

- Unit 1 NO_X limit—0.45 lb/MMBtu (30-day rolling average)
- Unit 2 NO_X limit—0.20 lb/MMBtu (30-day rolling average)
- Units 1 and 2 SO_2 limit—0.40 lb/MMBtu (30-day rolling average)

Oldcastle Cement: In its Progress Report, Montana describes efforts by Oldcastle Cement to meet the BART emissions limits. While Oldcastle Cement is meeting both particulate matter (PM) and SO_2 BART limits established by the FIP, a revision to the FIP establishing a new NO_X limit became effective on October 12, 2017.[14] Additionally, the facility applied additional emission control technology (*i.e.,* selective non-catalytic reduction (SNCR)) in order to meet the new NO_X emissions standards and it is meeting those limits.[15]

Ash Grove Cement: In its Progress Report, Montana states that Ash Grove Cement installed various emission control technologies, including SNCR modifications to kiln burners, and baghouse control technology to meet the emission limits established for the cement plant.[16] A revised SO_2 limit for Ash Grove Cement was reached under a consent decree and the cement plant was required to meet the new SO_2 limit of no more than 2.0 lb/ton of clinker (30-day rolling average) by April 8, 2015 and an initial NOx limit of no more than 8.0 lb/ton of clinker (30-day rolling average) 30 days after September 10, 2014.[17] Additionally, Montana states in its Progress Report that Ash Grove Cement is achieving all of its consent decree and FIP emission limits.[18]

TABLE 2—CURRENT STATUS OF MONTANA SOURCES SUBJECT TO BART

	Particulate matter (PM)		Nitrogen oxides (NO_X)		Sulfur dioxides (SO_2)	
	Limit	Status	Limit	Status	Limit	Status
Colstrip Units 1 & 2.	0.10 lb/mmBtu	In Compliance	0.15 lb/mmBtu	See footnote [19]	0.08 lb/mmBtu	See footnote.[20]
Oldcastle Cement	0.77 lb/ton clinker	In Compliance	6.5 lb/ton clinker ..	See footnote [21]	1.3 lb/ton clinker ..	In Compliance.
Ash Grove Cement	See footnote [22]	In Compliance	8.0 lb/ton clinker ..	In Compliance	11.5 lb/ton clinker	In Compliance.

In its Progress Report, Montana provides an update on the State's Smoke Management Plan (SMP).[23] The State provides its open burning rules, as are written in the Administrative Rules of Montana and approved in the SIP, in its Progress Report, which ''considers smoke management techniques and the visibility impacts of smoke when developing, issuing and conditioning permits, and when making dispersion forecast recommendations.'' [24] The SMP is currently the only part of the State's regional haze plan that is approved into the SIP. In its Progress Report, the State provides a description of coordination between Montana and the adjacent State of Idaho to coordinate burn activities of large open burners and federal land managers, including the U.S. Forest Service and the Bureau of Land Management, through participation in the Montana/Idaho Airshed Group.[25] Additionally, Montana describes active

[8] 77 FR 23998, April 20, 2012, Table 8—List of BART-Eligible Sources in Montana.

[9] *National Parks Conservation Association* v. *EPA*, 788 F.3d 1134 (9th Cir. 2015).

[10] Montana Progress Report, 2–5.

[11] Montana Progress Report, p.3–3.

[12] Montana Progress Report, pp. 2–5. *Sierra Club* v. *Talen Montana, LLC et al.,* No. 1:13–cv–00032–DLC–JCL, D. Mon. (2016), Doc. 316–1., p. 6.

[13] Montana Progress Report, 2–5. *Sierra Club* v. *Talen Montana, LLC et al.,* No. 1:13–cv–00032–DLC–JCL, D. Mon. (2016), Doc. 316–1., pp. 7–8.

[14] 82 FR 42738.

[15] Montana Progress Report, 2–6. See 'Oldcastle Compliance Reporting' for additional information.

[16] Montana Progress Report, 2–5 to 2–6.

[17] *United States* v. *Ash Grove Cement Company,* No. 2:13–cv–02299–JTM–DJW, D. Kan. (2013), Doc. 27 as amended by Doc. 28.

[18] Montana Progress Report, 2–6.

[19] As discussed above, these emissions limits were vacated by the U.S. Court of Appeals for the 9th Circuit on June 9, 2015. However, the State describes emissions trending downward for NO_X and SO_2 in its Progress Report given the application of SOFA emission control technology. Montana Progress Report, p. 3–2.

[20] Emissions limits vacated by the U.S. Court of Appeals for the 9th Circuit on June 9, 2015.

[21] A revision to the FIP NO_X emission limit became effective October 12, 2017. In its Progress Report, Montana describes Oldcastle Cement's plans to install SCNR emission control, re-commissioning and optimization to meet the new NO_X limit. Montana Progress Report, p. 2–6.

[22] The process weight of the kiln is used to calculate the emission limit and varies. Montana Progress Report, p. 2–4.

[23] Montana Progress Report, p. 2–12.

[24] Ibid. At this time, the State's Smoke Management Plan is the only element of the regional haze program as set out in 40 CFR 51.308 that is approved in the SIP.

[25] Ibid.

involvement during the fall and winter burn seasons by the State's open burn coordinator and meteorologist to evaluate burn type, size and location, and provide close monitoring of the impacts of smoke in the state.[26] Finally, the State cites use of Best Available Control Technology (BACT) requirements for burners as a control measure to meet the requirements of the Regional Haze Rule (RHR).[27]

EPA proposes to find that Montana has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding the implementation status of control measures because the State's Progress Report provides documentation of the implementation of measures within Montana, including the BART-eligible sources in the State subject to BART.

2. Summary of Emissions Reductions

In its Progress Report, Montana presents information on emissions reductions achieved across the State from the pollution control strategies discussed above. The Progress Report includes statewide SO_2, NO_X, and PM (fine ($PM_{2.5}$) and course (PM_{10})) emissions data from Western Regional Air Partnership (WRAP) emissions inventories.[28] The Progress Report includes the 2002 WRAP emissions inventory (Plan02d) as baseline, the 2014 National Emissions Inventory (NEI) as updated data from the baseline, and 2018 WRAP data (Preliminary Reasonable Progress Inventory for 2018 (2nd Revision) (PRP18b)) as projected emissions.[29]

TABLE 3—CHANGES IN MONTANA TOTAL EMISSIONS, STATEWIDE

[Tons per year]

Pollutant (all sources)	2002 (Plan02d)	2014 NEI	Difference
SO_2	51,922.70	25,320.91	[30] −51%
NO_X	243,141.75	165,673.41	[31] −32%
$PM_{2.5}$	77,239.46	113,655.55	[32] 47%
PM_{10}	621.276.11	556,810.28	[33] −10%

As can be seen in Table 3: Changes in Montana Total Emissions, Statewide above, the emissions data shows that there were decreases in emissions of SO_2 and NO_X over the time period (*i.e.,* 2002 and 2014) of the two emissions inventories listed (Plan02d and 2014 NEI). As explained in Montana's Key Findings, ''[a]nalysis shows that, in Montana, the haziest days are primarily caused by wildfire activity both in and outside the state,'' [34] [35] (*i.e.,* Washington, Oregon, Idaho, and Canada).[36] The Report further explains that ''the methodology for calculating fire emissions has been updated over the years to better reflect actual emissions; therefore,'' when compared to the methodology used for the 2002 baseline emission inventory, ''the 2014 NEI data is likely more reflective of actual annual emissions.'' [37] The Progress Report explains that ''impacts from updated emissions estimation methods are most apparent in particulate matter emissions from fire, particularly prescribed fire.'' [38] Based on 2002 (Plan02d) and 2014 (NEI) emissions data, total fine PM emissions have increased from the baseline year of 2002 to 2014 by 47 percent.[39] In its Progress Report, the State provides coarse PM emissions data from 2002 (Plan02d) and 2014 (NEI), which shows that while overall coarse PM emissions decreased 10% from 2002 to 2014, emissions from anthropogenic fire significantly increased between 2002 and 2014.

The EPA proposes to find that Montana has adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding emissions reductions achieved because the State identifies emissions reductions for SO_2 and NO_X. Additionally, Montana presents sufficient emission inventory information and discussion regarding emissions trends for coarse and fine PM during the 2002 to 2014 time period.

3. Visibility Conditions and Changes

In its Progress Report, Montana provides information on visibility conditions for the Class I areas within its borders. The Progress Report addressed current visibility conditions and the difference between current visibility conditions and baseline visibility conditions, expressed in terms of 5-year rolling averages of these annual values, with values for the most impaired (20 percent worst days), least impaired and/or clearest days (20 percent best days). The period for calculating current visibility conditions is the most recent 5-year period preceding the required date of the progress report for which data were available as of a date 6 months preceding the required date of the progress report.

Montana's Progress Report provides figures with visibility monitoring data for the twelve Class I areas within the State and two Class I areas outside of the state shown to be impacted by Montana sources.[40] Montana reported current visibility conditions for the 2011 to 2015 5-year time period and used the 2000 to 2004 baseline period for its examination of visibility conditions and changes in the State.[41] In its Progress Report, Montana presents visibility data, in deciviews, and representative IMPROVE monitors for Class I areas without an IMPROVE monitor, as there are not IMPROVE monitors in each of

[26] Ibid.

[27] Montana Progress Report, p. 2–12.

[28] Montana Progress Report, Tables 3–2 to 3–5, pp. 3–6 to 3–9. The WRAP's inventories were developed using EPA's National Emissions Inventory (NEI) and other sources (*https://www.wrapair2.org/emissions.aspx*). The NEI is based primarily upon data provided by state, local, and tribal air agencies (including Montana) for sources in their jurisdiction and supplemented by data developed by the EPA.

[29] For the first regional haze plans, ''baseline'' conditions were represented by the 2000–2004 time period. *See* 64 FR 35730 (July 1, 1999).

[30] Montana Progress Report, p. 3–7.

[31] Montana Progress Report, p. 3–6.

[32] Montana Progress Report, p. 3–9.

[33] Montana Progress Report, p. 3–8.

[34] Montana Progress Report, p. i.

[35] Montana Progress Report, p. 4–8.

[36] Ibid.

[37] Montana Progress Report, p. 3–5.

[38] Montana Progress Report, p. 3–8. Many changes in emissions inventory methodology occurred between 2002 (Plan02d) and the most current actual emissions inventory data presented by the State (2014NEI), which may have resulted in an increase in fine particulate matter in the above comparison rather than an increase in actual emissions of this pollutant.

[39] Montana Progress Report, p. 3–9. The Report explains that the Montana FIP had anticipated a smaller growth in the emissions of fine particulates from 2002 to 2018, which it suggests could be partially explained by the different methodologies used in the NEI and a large percentage of emissions coming from both anthropogenic and natural fire.

[40] Montana Progress Report, p. 4–1.

[41] For the first regional haze plans, ''baseline'' conditions were represented by the 2000 to 2004 time period. *See* 64 FR 35730 (July 1, 1999).

Montana's twelve Class I areas. Table 4: Montana's Class I Areas and IMPROVE Sites, below, shows the IMPROVE monitors used for each Class I area.[42]

TABLE 4—MONTANA'S CLASS I AREAS AND IMPROVE SITES

Class I area	IMPROVE site
Anaconda-Pintler Wilderness Area	Sula Peak (SULA1).
Bob Marshall Wilderness Area	Monture, MT (MONT1).
Cabinet Mountains Wilderness Area	Cabinet Mountains (CABI1).
Gates of the Mtn Wilderness Area	Gates of the Mtn (GAM01).
Glacier National Park	Glacier (GLAC1).
Medicine Lake Wilderness Area	Medicine Lake (MELA1).
Mission Mountain Wilderness Area	Monture, MT (MONT1).
Red Rock Lakes Wilderness Area	Yellowstone (YELL2).
Scapegoat Wilderness Area	Monture, MT (MONT1).
Selway-Bitterroot Wilderness Area	Sula Peak (SULA1).
UL Bend Wilderness Area	U.L. Bend (ULBE1).
Yellowstone National Park	Yellowstone (YELL2).

Table 5: Visibility Progress in Montana's Class I Areas, below, shows the difference between the current visibility conditions (represented by 2011–2015 data), baseline visibility conditions (represented by 2000–2004 data), and the 2018 RPGs. In addition, EPA has supplemented the data provided by the State by including data for the baseline period, current period, and difference in deciviews using the revised visibility tracking metric described in EPA's December 2018 guidance document.[43] Although this revised visibility tracking metric is applicable to the second and future implementation periods for regional haze (and therefore not retroactively required for progress reports for the first regional haze planning period), the revised tracking metric's focus on the days with the highest daily anthropogenic impairment shifts focus away from days influenced by fire and dust events, and is therefore a better metric for showing visibility progress especially for Class I areas with strong impacts from fire, as was the case for the Class I areas within and affected by emissions from Montana during the first regional haze planning period. This supplemental data is shown in square brackets in Table 5.

TABLE 5—VISIBILITY PROGRESS IN MONTANA'S CLASS I AREAS[44]

Montana's class I area	IMPROVE site	Current period deciviews 2011–2015 (dv)	Baseline period deciviews 2000–2004 (dv)	Difference in deciviews (dv) current–baseline	MT 2018 RPG
20% Worst Days[45] [20% Most Anthropogenically Impaired Days]					
Cabinet Mountains Wilderness Area	CABI1	14.5 [10.1]	14.1 [10.7]	0.4 [−0.6]	13.31
Gates of the Mtn Wilderness Area	GAMO1	11.7 [7.6]	11.3 [9.0]	0.4 [−1.4]	10.82
Glacier National Park	GLAC1	17.0 [13.8]	22.26 [16.2]	−5.26 [−2.4]	21.48
Medicine Lake Wilderness Area	MELA1	17.9 [15.8]	17.7 [16.6]	0.2 [−0.8]	17.36
Bob Marshall Wilderness Area	MONT1	15.7 [9.7]	14.5 [10.8]	1.2 [−1.1]	13.83
Mission Mountain Wilderness Area	MONT1	15.7 [9.7]	14.5 [10.8]	1.2 [−1.1]	13.83
Scapegoat Wilderness Area	MONT1	15.7 [9.7]	14.5 [10.8]	1.2 [−1.1]	13.83
Selway-Bitterroot Wilderness Area	SULA1	16.3 [8.5]	13.4 [10.1]	2.8 [−1.6]	12.94
Anaconda-Pintler Wilderness Area	SULA1	16.3 [8.5]	13.4 [10.1]	2.8 [−1.6]	12.94
UL Bend Wilderness Area	ULBE1	14.5 [11.1]	15.1 [12.8]	−0.7 [−1.7]	14.85
Yellowstone National Park	YELL2	12.4 [7.7]	11.8 [8.3]	0.6 [−0.6]	11.23
Red Rock Lakes Wilderness Area	YELL2	12.4 [7.7]	11.8 [8.3]	0.6 [−0.6]	11.23
20% Best Days[46]					
Cabinet Mountains Wilderness Area	CABI1	2.6	3.6	−1.0	3.27
Gates of the Mtn Wilderness Area	GAMO1	0.6	1.7	−1.1	1.54
Glacier National Park	GLAC1	5.4	7.2	−1.8	6.92
Medicine Lake Wilderness Area	MELA1	6.5	7.3	−0.7	7.11
Bob Marshall Wilderness Area	MONT1	2.6	3.9	−1.3	3.60
Mission Mountain Wilderness Area	MONT1	2.6	3.9	−1.3	3.60
Scapegoat Wilderness Area	MONT1	2.6	3.9	−1.3	3.60
Selway-Bitterroot Wilderness Area	SULA1	1.6	2.6	−0.9	2.48
Anaconda-Pintler Wilderness Area	SULA1	1.6	2.6	−0.9	2.48
UL Bend Wilderness Area	ULBE1	3.7	4.8	−1.1	4.57
Yellowstone National Park	YELL2	1.5	2.6	−1.1	2.36
Red Rock Lakes Wilderness Area	YELL2	1.5	2.6	−1.1	2.36

[42] Montana Progress Report, p. 4–2.

[43] Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program (December 20, 2018), available at: *https://www.epa.gov/sites/production/files/2018-12/documents/technical_guidance_tracking_visibility_progress.pdf.*

As shown in Table 5: Visibility Progress in Montana's Class I Areas, all of the IMPROVE monitoring sites use Class I Areas within the State show improvement in visibility conditions on the 20 percent best days and are meeting the 2018 RPGs.[47] However, while only two of the Class I Areas show improvement in visibility conditions on the 20 percent worst days,[48] all Class I areas show improvement in visibility conditions when looking at the 20 percent most anthropogenically impaired days (shown in square brackets). In its Progress Report, Montana shows that organic carbon is the pollutant that has contributed the most to light extinction at its Class I Areas and that organic carbon is associated with fire.[49] Montana provides an extensive analysis of the impacts from wildfire in its Progress Report and describes wildfire and its impacts as ''the main impediment to visibility improvement on the 20% worst days.'' [50]

Additionally, in its Progress Report, Montana presents data to confirm that wildfire activity, as can be examined through monitored pollutants (organic and elemental carbon specifically) and satellite and webcam imagery, are present on the majority of days selected as the 20 percent worst days.[51] This means that webcam imagery and satellite data correlate to monitored pollutant data and further prove wildfire is a main impediment to visibility.

The EPA proposes to find that Montana has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding assessment of visibility conditions because the State provided baseline visibility conditions (2002–2004), more current conditions based on the most recently available visibility monitoring data available at the time of Progress Report development (2011–2015), the difference between these current sets of visibility conditions and baseline visibility conditions, and the change in visibility impairment from 2000 to 2015 at the Class I areas.

4. Emissions Tracking

In its Progress Report, Montana presents data from the statewide emissions inventory for the 2014 NEI and compares this data to the baseline emissions inventory for 2002 (Plan02d). The pollutants inventoried include SO_2, NO_X and PM (fine and coarse). The emissions inventories include the following type of source or activity classifications: Point; area; on-road mobile; off-road mobile; point and WRAP area (including oil and gas); fugitive and road dust; anthropogenic fire; natural fire; biogenic; and wind-blown dust from both anthropogenic and natural sources. Table 6 presents the 2002 baseline, 2014 more current data and the 2018 projected statewide emission inventories. As can be seen in Table 3, statewide emissions of both SO_2 and NO_X are lower than the projected 2018 emissions. Statewide emissions for both coarse and fine PM are projected to exceed the 2018 emission projections. As is discussed above in section 2, Montana cites changes in methodologies used in the NEI and a larger than expected amount of emissions in anthropogenic and natural fire as reasons for an increase in fine and coarse PM over the time period analyzed in the Progress Report.[52]

TABLE 6—EMISSIONS PROGRESS IN MONTANA [53]

	SO_2 (tons/year)	NO_X (tons/year)	PM coarse (tons/year)	PM fine (tons/year)
2002 Total Emissions (Plan02d)	51,922.70	243,141.75	621,276.11	77,239.46
2014 Total Emissions (NEI)	25,320.91	165,673.41	556,810.28	113,655.55
2018 Projected (PRP18b)	45,794.76	180,043.25	675,985.25	83,046.71
Change 2002—2018 (%)	−12	−26	9	8
Change 2002—2014 (%)	−51	−32	−10	47

The data for emissions from anthropogenic fire increased from 713 tons per year (Plan02d) to 26,684 tons per year (2014 NEI),[54] which shows a significant increase rather than the projected decrease. Montana cites changes in methodologies used in the NEI and a larger than expected amount of emissions in anthropogenic and natural fire as reasons for the increase in fine and coarse PM over the time period analyzed in the Progress Report.[55] Montana explains that because ''the methodology for calculating fire emissions has been updated over the years to better reflect actual emissions'' that ''the 2014 NEI data is likely more reflective of actual emissions.'' [56] Montana further acknowledges that ''it is very difficult to conduct trend analysis on fire (both prescribed and natural) because of the changes in methodology and the inherent variability of the activity.'' [57] Finally, the State explains that ''[y]ear to year prescribed fire activity can change due to weather and available resources, which in turn greatly affects emissions.'' [58]

The EPA is proposing to find that Montana adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding emissions tracking because the State compared the most recent updated emission inventory data available at the time of the Progress Report development with the baseline emissions inventory used in the modeling for the regional haze plan.

5. Assessment of Changes Impeding Visibility Progress

In its Progress Report, Montana provided an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred. The State cites incomplete implementation of BART controls, oil and gas development in Montana, and emissions from nearby states and international sources as impediments to progress in visibility conditions, each of which will be discussed below in turn.

At the time of the analysis done by the State for the Progress Report, not all BART controls had been installed, as compliance dates had not occurred for all facilities subject to BART at that time.[59] This means the impacts of the

[44] Montana Progress Report, p. 4–6.
[45] 77 FR 24090 (April 20, 2012).
[46] 77 FR 24090 (April 20, 2012).
[47] Montana Progress Report, p. 4–6.
[48] Montana Progress Report, p. 4–5.
[49] Ibid.
[50] Montana Progress Report, p. 4–8.
[51] Montana Progress Report, pp. 4–8 to 4–13.
[52] Montana Progress Report, p. 3–8.
[53] Montana Progress Report, Tables 3–2 to 3–5, pp. 3–6 to 3–9.
[54] Montana Progress Report, p. 3–8.
[55] Ibid.
[56] Montana Progress Report, p. 3–5.
[57] Montana Progress Report, p. 3–5.
[58] Ibid.
[59] Montana Progress Report, p. 5–1.

emissions reductions from BART controls have not been fully realized and are not evident in the State's Progress Report. However, Ash Grove Cement and Oldcastle Units 1 and 2 are currently in compliance with emissions limits.[60]

In its Progress Report, Montana discusses significant growth in the oil and gas sector in Montana, North Dakota and Wyoming. Montana's oil and gas sector is described in the Progress Report.[61] The State explains that emission factors for these activities are not well documented, but are becoming larger issues as oil and gas production increases.[62] The State's report includes an analysis and comparison of production data from North Dakota, Wyoming and Montana.[63] Additionally, Montana cites a Bureau of Land Management Study (BLM) study that projected emissions from the oil and gas sector will continue to impact visibility in the area from now into the future.[64] The State's report concluded that:

> The modeling indicated that the close proximity of oil and gas wells to these and other Class I Areas will make it challenging for states to achieve significant visibility improvements. Montana and neighboring states will have to further study these impacts in the process of preparing SIP revisions for the 2018–2028 implementation period.[65]

In its Progress Report, Montana describes one of its Class I areas, Medicine Lake, as being an example of the impacts of emissions from international sources. Medicine Lake is very close to the Canadian border (less than 40 miles) and has ''the worst visibility in the state on both the clearest and haziest days.'' [66] Montana analyzed weather patterns (wind direction, wind speed), satellite imagery, and regional WRAP data that showed emissions from Canada were higher than emissions from Montana and other surrounding states near Medicine Lake.[67] In its Progress Report, Montana states that emissions from Canada are not mentioned in the FIP and are outside of the State's control.[68] Additionally, the State explains that emissions from a large electric generating unit (EGU) located near Medicine Lake in Canada have remained consistent over the last decade and the State concluded that these emissions may continue to impact visibility at the Medicine Lake Class I area.[69]

The EPA proposes to find that Montana has adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding an assessment of significant changes in anthropogenic emissions. The EPA proposes to agree with Montana's conclusion that there have been significant changes in non-anthropogenic emissions of visibility-impairing pollutants which have limited or impeded progress in reducing emissions and improving visibility in Class I areas impacted by the State's sources.

6. Assessment of Current Implementation Plan Elements and Strategies

In its Progress Report, Montana acknowledges the requirements of 40 CFR 51.308(g) to assess whether the current implementation plan elements and strategies are sufficient to enable the State, or other states with Class I areas affected by emissions from the State, to meet all established reasonable progress goals. As seen in Table 5, visibility conditions have improved in the State at all IMPROVE monitoring sites and the State is meeting its RPGs in all Class I areas on the 20 percent best days. Additionally, the State discusses how anthropogenic components (light extinction from sulfates and nitrates) is decreasing across all monitored sites in the State.[70] Conversely, the State explains that visibility conditions have not improved at the majority of monitored sites on the 20 percent worst days. Even so, the State is not of the opinion that the FIP is not sufficient to address visibility impairment in its Class I areas. As discussed above, additional emission controls at sources subject to BART and changes in emissions inventories may contribute to increased visibility in Class I areas within the State. As discussed below, failure to meet all RPGs for the 20 percent worst days was due to emissions from wildfires, not anthropogenic emissions. Because the regional haze regulations define regional haze as ''visibility impairment that is caused by the emission of air pollutants from numerous *anthropogenic* sources,'' [71] the inability to meet RPGs for the 20 percent worst days due to nonanthropogenic wildfire emissions does not render Montana's regional haze plan insufficient to enable Montana to meet RPGs.

In its Progress Report, Montana discusses the impacts on visibility from wildfire at length. The State presents emissions inventory data which shows that wildfire contributes significantly more to elemental and organic carbon emissions than anthropogenic fire and that the lack of visibility on the 20 percent worst days was due to natural fire and not controlling anthropogenic sources of these pollutants.[72] Additionally, the State describes anthropogenic emissions as decreasing over time. The State explains that ''continued implementation of air pollution control measures . . . make it likely that anthropogenic emissions of visibility-impairing pollutants will continue to decrease with time'' and that ''Class I Areas affected by emissions from Montana sources will also continue to benefit from controls that have not yet taken full effect due to the timing of the Montana FIP (2012) and the compliance dates described therein (some as late as fall of 2017).'' [73] International sources are also shown to impact visibility conditions in Montana at the Medicine Lake Class I Area and Montana acknowledges that the FIP may be insufficient due to international emissions.[74]

The EPA proposes to find that Montana has adequately addressed the applicable provisions of 40 CFR 51.308(g) and agrees with the State's determination that, other than the Medicine Lake Class I area, its regional haze plan is sufficient to meet the RPGs for its Class I areas.

7. Review of Current Monitoring Strategy

For progress reports for the first implementation period, the provisions under 40 CFR 51.308(g) require a review of the State's visibility monitoring strategy and any modifications to the strategy as necessary. In its Progress Report, Montana summarizes the existing monitoring network in the State to monitor visibility at the twelve Class

[60] Montana Progress Report, p. 5–2.

[61] Montana Progress Report, p. 5–4.

[62] Ibid.

[63] Montana Progress Report pp. 5–4—5–8.

[64] Ramboll Environ US Corporation and Kleinfelder, Inc., ''Bureau of Land Management Montana/Dakotas State Office PGM Modeling Study Air Resource Impact Assessment,'' September 2016.

[65] Montana Progress Report, p. 5–7.

[66] Montana Progress Report, p. 5–8.

[67] Montana Progress Report, pp. 5–8 to 5–19.

[68] Montana Progress Report, p. 5–20.

[69] Montana Progress Report, p. 6–8. Regarding the Canadian EGU that the State notes is located near Medicine Lake, EPA explains that EPA became aware of information on the SaskPower website that suggests that emissions from this EGU may be decreasing in the next 11 years. ''SaskPower 2017–2018 Annual Report'' p. 59 (Canada has developed regulatory requirements regarding greenhouse gas emissions for coal-fired generation, which may also decrease emissions that impact visibility). *https://www.saskpower.com/about-us/Our-Company/Current-Reports,* and ''Emission Goal Fact Sheet,'' *https://www.saskpower.com/Our-Power-Future/Powering-2030/Emissions.*

[70] Montana Progress Report, 6–2 and 6–3.

[71] 40 CFR 51.301 (emphasis added).

[72] Montana Progress Report, 6–4 and 6–5.

[73] Montana Progress Report, p. 6–7.

[74] Montana Progress Report, p. 6–8.

I areas within the State, which consists of Montana relying on the national IMPROVE network to meet monitoring and data collection goals.[75] There are currently IMPROVE sites located near seven of the twelve Class I areas within Montana, as well as representative surrogate monitors located near the remaining five Class I areas in Montana.[76] In the Progress Report, the State concludes that no modifications to the existing visibility monitoring strategy are necessary. The State will continue its reliance on the IMPROVE monitoring network. The IMPROVE monitoring network is the primary monitoring network for regional haze, both in Montana and nationwide.

The EPA proposes to find that Montana has adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding the monitoring strategy because the State reviewed its visibility monitoring strategy and determined that no further modifications to the strategy are necessary.

B. Determination of Adequacy of the Existing Regional Haze Plan

The provisions under 40 CFR 51.308(h) require states to determine the adequacy of their existing implementation plan to meet established goals. Montana's Progress Report includes a negative declaration regarding the need for additional actions or emissions reductions in Montana beyond those already in place and those to be implemented by 2018 according to Montana's FIP.[77] In its Progress Report, Montana notifies the EPA that the FIP may be inadequate to address regional haze at the Medicine Lake Wilderness Area Class I area due to the influence of international emissions.[78] Discussion of this issue is addressed above.

The EPA proposes to conclude that Montana has adequately addressed 40 CFR 51.308(h) because (1) the visibility trends in the majority of Class I areas in the State indicate that the relevant RPGs will be met via emission reductions already in place (except as explained above that some RPGs will not be met due to nonanthropogenic wildfire emissions not subject to control pursuant to Montana's regional haze plan), and therefore the FIP does not require substantive revisions at this time to meet those RPGs, and (2) because Montana has notified EPA that the FIP may be inadequate to address regional haze at the Medicine Lake Wilderness Area Class I area due to international emissions.

[75] Montana Progress Report, p. 4–3.

[76] Montana Progress Report, p. 4–2.

[77] Montana Progress Report, p. 6–8.

[78] Ibid.

III. Proposed Action

The EPA is proposing to approve Montana's November 7, 2017, Regional Haze Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 28, 2019.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2019–14249 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket No. FMCSA–2018–0292]

RIN 2126–AC14

Third Party Commercial Driver's License Testers

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

ACTION: Notice of Proposed Rulemaking.

SUMMARY: FMCSA proposes to allow States to permit a third party skills test examiner to administer the Commercial Driver's License (CDL) skills test to applicants to whom the examiner has also provided skills training. Under this proposal, States would have the option to permit this practice, which is currently prohibited under FMCSA rules. The Agency believes that allowing States to permit this practice could alleviate CDL skill testing delays and reduce inconvenience and cost for third party testers and CDL applicants, without negatively impacting safety.

DATES: Comments on this document must be received on or before September 9, 2019.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2018–0292 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Ms. Nikki McDavid, Chief of the CDL Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, by email at *Nikki.mcdavid@dot.gov,* or by telephone at 202–366–0831. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking (NPRM) is organized as follows:

I. Public Participation and Request for Comments
A. Submitting comments
B. Viewing comments and documents
C. Privacy Act
D. Waiver of Advance Notice of Proposed Rulemaking
II. Executive Summary
III. Abbreviations
IV. Legal Basis
V. Background
VI. Discussion of Proposed Rulemaking
VII. Section-by-Section
VIII. Regulatory Analyses
A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)
C. Regulatory Flexibility Act
D. Assistance for Small Entities
E. Unfunded Mandates Reform Act of 1995
F. Paperwork Reduction Act
G. E.O. 13132 (Federalism)
H. E.O. 12988 (Civil Justice Reform)
I. E.O. 13045 (Protection of Children)
J. E.O. 12630 (Taking of Private Property)
K. Privacy
L. E.O. 12372 (Intergovernmental Review)
M. E.O. 13211 (Energy Supply, Distribution, or Use)
N. E.O. 13175 (Indian Tribal Governments)
O. National Technology Transfer and Advancement Act (Technical Standards)
P. Environment (NEPA)

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA–2018–0292), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov,* put the docket number, FMCSA–2018–0292, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is exempt from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives that is not designated specifically as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2018–0292, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

D. Waiver of Advance Notice of Proposed Rulemaking

Under the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking ''if a proposed rule is likely to lead to the promulgation of a major rule'' (49 U.S.C. 31136(g)(1)). As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

II. Executive Summary

49 CFR 383.5 defines a ''third party skills test examiner'' as a person employed by a third party tester who is authorized by the State to administer the CDL skills test. Section 383.75(a)(7) prohibits a third party skills test examiner who is also a skills instructor from administering the CDL skills test to an applicant who received skills training from that examiner. The Agency proposes to remove that restriction and permit the States to allow this practice at their discretion.

Removing the restriction may reduce testing delays and improve how quickly a driver could be hired. Additionally, the increased efficiency in skills testing could benefit third party testers and CDL applicants by reducing the time and cost spent to complete testing. FMCSA believes the proposed change would not undermine the integrity or effectiveness of CDL skills training or testing. The Agency's proposal to remove the skills testing restriction on third party examiners responds to public comment received in response to the DOT's Notification of Regulatory Review (82 FR 45750 (Oct. 2, 2017)), discussed further below. This proposal, if adopted as a final rule, would be a deregulatory action as defined by Executive Order (E.O.)13771, ''Reducing Regulation and Controlling Regulatory Costs.''

Costs and Benefits

The proposed removal of the restriction would not impose new costs on Commercial Learner's Permit holders (CLP) holders, SDLAs, motor carriers, third party testers or third party skills examiners. FMCSA believes the proposed change may increase the efficiency of CDL skills testing by reducing testing delays and improving how quickly a driver may be hired while maintaining an equivalent level of safety.

III. Abbreviations and Acronyms

ANPRM Advance Notice of Proposed Rulemaking
BEA Bureau of Economic Analysis
BLS Bureau of Labor Statistics
CDL Commercial Driver's License
CDLIS Commercial Driver's License Information System
CFR Code of Federal Regulations
CLP Commercial Learner's Permit
CMV Commercial Motor Vehicle
CMVSA Commercial Motor Vehicle Safety Act
CSTIMS Commercial Skills Test Information Management System
DOT U.S. Department of Transportation
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
FR Federal Register
IT Information Technology
MAP–21 Moving Ahead for Progress in the 21st Century Act
MPR Master Pointer Record
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
PIA Privacy Impact Assessment
PII Personally Identifiable Information
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RIN Regulation Identifier Number
SBA Small Business Administration
SDLA State Driver Licensing Agency
§ Section Symbol
U.S.C. United States Code

IV. Legal Basis for the Rulemaking

This NPRM would modify a requirement adopted in the final rule, ''Commercial Driver's License Testing and Commercial Learner's Permit Standards'' (78 FR 17875 (Mar. 25, 2013)). This proposed change is based primarily on the broad authority of the Commercial Motor Vehicle Safety Act of 1986, as amended (the 1986 Act) (Pub. L. 99–570, Title XII, 100 Stat. 3207–170, codified at 49 U.S.C. chapter 313), which established the CDL program. The 1986 Act required the Secretary, after consultation with the States, to prescribe uniform minimum standards for the issuance of CDLs, including ''minimum standards for written and driving tests of an individual operating a commercial motor vehicle'' (49 U.S.C. 31305(a)(1)). This proposal would amend one of the current CDL testing requirements imposed on the States.

This NPRM is also consistent witth the concurrent authorities of the Motor Carrier Safety Act of 1984, as amended (the 1984 Act) (Pub. L. 98–554, Title II, 98 Stat. 2832, codified at 49 U.S.C. 31136); and the Motor Carrier Act of 1935, as amended (the 1935 Act) (Chapter 498, codified at 49 U.S.C. 31502). The 1984 Act grants the Secretary broad authority to issue regulations ''on commercial motor vehicle safety,'' including to ensure that ''commercial motor vehicles are . . . operated safely.'' 49 U.S.C. 31136(a)(1). The proposed change is consistent with the safe operation of CMVs. In accordance with section 31136(a)(2), the removal of the restriction on third party examiners would not impose any ''responsibilities . . . on operators of commercial motor vehicles [that would] impair their ability to operate the vehicles safely.'' This proposed rule does not directly address medical standards for drivers (section 31136(a)(3)) or possible physical effects caused by driving CMVs (section 31136(a)(4)). FMCSA does not anticipate that drivers would be coerced (section 31136(a)(5)), as a result of this rulemaking.

The Motor Carrier Act of 1935, codified at 49 U.S.C. 31502(b), provides that ''The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' This NPRM, addressing skills testing requirements, is related to the safe operation of motor carrier equipment .

Lastly, the Administrator of FMCSA is delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. Chapters 311, 313, and 315 as they relate to commercial motor vehicle operators, programs, and safety.

V. Background

On May 9, 2011, FMCSA published a final rule amending the CDL knowledge and skills testing standards and establishing minimum Commercial Learner's Permit Standards (76 FR 26854). That final rule included a provision prohibiting driver training schools from administering the CDL skills test to applicants who received skills training from that school, unless there is no skills testing alternative location within 50 miles of the school and an examiner does not train and test the same skills applicant (§ 383.785(a)(7)). In adopting the prohibition, FMCSA noted that its purpose was ''to reduce both the opportunity for fraud and unintended bias in skills testing.'' [1]

Following publication of the May 9, 2011 final rule, FMCSA received petitions requesting reconsideration of § 383.75(a)(7) on the grounds that the prohibition was too restrictive and would create hardship for States, training schools, and motor carriers. The Agency granted the petitions,[2] ultimately revising the provision in a March 25, 2013, final rule (78 FR 17875). In the 2013 final rule, FMCSA acknowledged the ''hardship and unintended consequences that this provision could cause for States,

[1] 76 FR 26854, 26869 (May 9, 2011).

[2] *See* ''Before the Federal Motor Carrier Safety Administration, Decision on Petition for Reconsideration'' (August 12, 2012), available in Docket No. FMCSA–2007–27659.

schools, and aspiring CDL holders.'' [3] Accordingly, the revised (and current) version of § 383.75(a)(7), in effect since April 24, 2013, permits CDL training schools to skills-test their student applicants, as long as the individual examiner who provided skills training to the applicant does not administer the skills test to that applicant. In making this change, FMCSA noted that ''prohibiting individual examiners from administering skills tests to student applicants they have trained will further the Agency's and Congress's fraud prevention objectives.'' [4]

In October 2017, as part of the Administration's ongoing efforts to review existing regulations to evaluate their continued necessity and determine whether they are crafted effectively to solve current problems, DOT published a ''Notification of Regulatory Review'' seeking the public's input on existing rules and other agency actions (82 FR 45750 (Oct. 2, 2017)). In response to that notification, SAGE Truck Driving Schools (SAGE) recommended that FMCSA eliminate the prohibition, set forth in § 383.75(a)(7), that prevents a third party skills examiner from administering a CDL skills test to an applicant who received skills training from that examiner.[5] In support of its recommendation, SAGE made the following points: (1) The prohibition is unnecessary because State-based CDL testing compliance agencies have many other effective tools to detect and prevent fraud in CDL skills testing; (2) it causes significant inconvenience and cost for third party testers, CDL applicants, the transportation industry, and the public; (3) it needlessly makes CDL training and testing operation more difficult and costly, thereby exacerbating the CMV driver shortage; and (4) it contributes to CDL testing delays in some States.

For the reasons discussed below, FMCSA agrees with SAGE's recommendation to remove the current prohibition on third party skills test examiners and proposes to amend § 383.75(a)(7) accordingly.

VI. Discussion of Proposed Rule

The Agency, having reconsidered the efficacy of § 383.75(a)(7) in light of SAGE's comments, proposes to permit third party examiners to administer the skills test to CDL applicants to whom they have also provided skills training. Under this approach, States utilizing third party examiners would have the flexibility to determine whether examiners may test CDL applicants they also trained. The decision to permit those examiners to conduct skills testing would be entirely at the State's discretion.

FMCSA believes that the proposed change is appropriate because, as SAGE noted, there are other means of detecting and preventing fraud in CDL skills testing. Section 383.75, ''Third party testing,'' requires States that utilize third party testers, (defined in § 383.5 as a person/entity authorized by the State to employ skills test examiners to administer the CDL skills test) to undertake a number of actions designed to ensure the integrity of the skills testing process. For example, at least every two years, States must do one of the following: Have State employees covertly take the skills tests administered by the third party, as if the employee were a CDL applicant; have State employees co-score the applicant during the skills test to compare pass/fail results with the third party examiner; or re-test a sample of drivers tested by a third party to compare pass/fail results (§ 383.75(a)(5)). Additionally, States must: Take prompt remedial action against a third party tester that fails to comply with applicable CDL testing standards (§ 383.75(a)(6)); maintain an agreement with the third party tester that includes, among other things, provisions allowing FMCSA or the State to conduct random inspections, examinations, and audits of its operations (§ 383.75(a)(8)(i)); and require the third party tester to use only examiners who complete formal training approved by the State and are certified by the State to conduct CDL skills testing (§ 383.75(a)(8)(vi)).

Additionally, under § 384.229, States must establish and maintain a database to track the skills tests administered by each State and third party examiner; examiners must be identified by name and identification number. State-established databases must also track pass/fail rates of applicants tested by each State and third party skills test examiner (to detect examiners who have unusually high pass or failure rates), as well as dates and results of the States' monitoring of third party testers and skills examiners. The databases can be used by both FMCSA and SDLAs to identify and investigate potentially fraudulent testing. The Agency invites comment from the States addressing the extent to which they have detected fraud in third party testing, including quantitative data derived from the required monitoring of third party testers and skills examiners.

The Agency monitors each State's CDL program through Annual Performance Reviews (APRs) and Skills Testing Reviews (STRs) conducted in accordance with § 384.307. If FMCSA determines that a State does not meet one or more of the minimum standards for substantial compliance under part 384, the State must take action to correct the cited deficiencies, or explain why FMCSA's determination of non-compliance is incorrect. As part of this review process, the Agency evaluates the States' compliance with the CDL regulations in parts 383 and 384, and is therefore able to timely identify potential problem areas in third party testing. During the five-year period beginning in 2014, FMCSA identified 16 States that were out of compliance with at least one provision in 383.75.[6] Each of these States has either corrected the problem, or is in the process of implementing corrective actions.

The Agency notes that, in addition to these current regulatory requirements, another fraud-detection tool will be available when the Entry Level Driver Training (ELDT) regulations are implemented. Information collected through the Training Provider Registry (TPR) established by the ELDT final rule will allow FMCSA to determine whether applicants trained by specific providers have abnormally high (or low) CDL skills test passage rates. In such cases, investigation of the training provider may be warranted, which could reveal whether, if the provider is also a third party tester in the State(s) in which training is provided, the individual examiner who administered the skills test also trained the CDL applicants. In accordance with § 380.721(a)(5), CDL skills test passage rate anomolies may be a basis for the training provider's removal from the TPR.

Given these multiple means of detecting and preventing fraud in CDL skills testing, FMCSA believes that the proposed removal of the prohibition currently imposed by § 383.75(a)(7) would have no impact on safety; [7] the

[3] 78 FR 17875, 17877 (Mar. 25, 2013).

[4] *Id.*

[5] This comment is available at: *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2671.*

[6] This information is captured in FMCSA's States Compliance Records Enterprise (SCORE) program database, the Agency's primary tool for tracking States' compliance with parts 383 and 384.

[7] FMCSA is aware of a recent occurrence in a midwestern State, in which several CDL applicants passed the skills test administered by the same individual who trained them (in violation of § 383.75(a)(7)), but failed upon re-testing conducted pursuant to § 383.75. However, in that situation it is unclear whether the failed re-testing resulted from examiner fraud or bias, or from the fact that the individual may not have been properly qualified as a third party examiner. In any event, FMCSA discovered discrepancies in the course of an annual program review of the State's testing program, which subsequently resulted in re-testing

Agency invites comments on this issue. In its comments to the October 2017 Regulatory Review document, SAGE contends that the current prohibition contributes to CDL testing delays and, consequently, CMV driver shortages. Although FMCSA understands the reasoning underlying SAGE's conclusion that there is a link between the current prohibition and skills testing delays, the Agency cannot independently confirm this assertion. The Agency specifically requests comment, including qualitative or quantitative data, addressing the impact of the current prohibition on CDL skills testing delays and the availability of CDL-credentialed drivers.

VII. Section-by-Section Analysis

Section 383.75(a)(7)

FMCSA would revise the current text of § 383.75(a)(7) to provide that the State may allow a skills test examiner who is also a skills instructor, either as part of a school, training program or otherwise, to administer a skills test to an applicant who received skills training by that skills test examiner.

VIII. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

Under section 3(f) of E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, this proposed rule does not require an assessment of potential costs and benefits under section 6(a)(4) of that Order. This proposed rule is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 (May 22, 1980); 44 FR 11034 (Feb. 26, 1979)). Accordingly, the Office of Management and Budget has not reviewed it under these Orders.

This proposed rule would permit States that use third party testers to allow third party skills test examiners to administer the CDL skills test for students they instructed. This practice is currently prohibited by § 383.75(a)(7).

As discussed above, FMCSA believes the proposed change may increase the efficiency of CDL skills testing while maintaining an equivalent level of safety. The NPRM would affect States, third party testers and CDL applicants.

States

There are currently 33 SDLAs that administer the CDL skills test and also allow third party testers to do so. An additional ten SDLAs rely exclusively on third party testers. The remaining seven States and the District of Columbia do not permit third party testing.[8] Under the proposed rule, the decision by an SDLA to permit third party examiners to skills test CDL applicants they also trained would be discretionary, and FMCSA is therefore unable to predict how many of the 43 SDLAs that allow or rely solely upon third party testing would adopt that approach. Similarly, the Agency does not know if the proposed change would result in additional training providers being approved by SDLAs as third party testers. The Agency also has no basis on which to predict whether any of the seven States and the District of Columbia that currently do not permit third party testing would initiate third party testing that permits skills examiners to test students they have also trained. FMCSA invites comment on the extent to which SDLAs would utitlize the flexibility afforded by this NPRM.

Third Party Testers

In the regulatory impact analysis (RIA) for the ELDT final rule, ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators,'' [9] FMCSA estimated that 5,150 organizations (including CDL training schools, motor carriers, public transit agencies, school districts, et al.) provide CDL skills training across 6,350 locations.[10] At this time FMCSA is unable to estimate the number of CDL skills training providers that are also third party testers. However, as noted above, the Agency will have access to that information after the ELDT TPR becomes operational, and thus will be able to identify these entities for monitoring and enforcement purposes.

CDL Skills Test Applicants

A CDL applicant must hold a CLP in order to take the CDL skills test. FMCSA estimates that approximately 476,000 CLPs are issued annually nationwide. This estimate is based primarily on information from the Commercial Driver's License Information System (CDLIS), a nationwide computer system, administered by AAMVA, that enables SDLAs to ensure that each commercial driver has only one driver's license and one complete driver record. According to AAMVA, approximately 476,000 new Master Pointer Records (MPRs) were added annually to CDLIS during calendar years 2013 through 2015. An MPR is typically added to CDLIS within 10 days of issuing a CLP to a driver who is believed to have never held one previously, and is therefore a reasonable proxy for estimating the number of CDL skills test applicants.

FMCSA notes that because the Agency cannot estimate the number of States that would choose to permit third party examiners to train and test the same individual, the extent to which this population would be affected by the proposed rule is unknown.

Costs, Benefits and Transfer Payments

Costs

FMCSA did not identify any new costs to SDLAs, third party testers, or CDL applicants (*i.e.,* CLP holders) that would arise from the proposed rule. FMCSA invites comment, including qualitative or quantitative data, addressing whether the proposed rule may result in new costs.

The proposed change could conceivably result in cost savings by reducing wait times for CDL skills testing, thereby alleviating testing delays, and improving how quickly a driver may be hired. The monetized value of the reduced wait times would constitute cost savings to CDL applicants and to motor carriers that seek to employ them by avoiding opportunity costs. For example, CDL applicants could become wage-earning drivers more quickly, and carriers would be able to engage the new CDL holders in economically productive activities that much sooner. Again, due to the fact that the Agency has no basis to estimate the number of States which would allow skills testing currently

the affected drivers. This process illustrates one of the existing means of detecting fraud or bias in CDL skills testing. The Agency recently reviewed the State Compliance Records Enterprise (SCORE) database, containing records related to States' compliance with 49 CFR parts 383 and 384, and found no additional instances of non-compliance with § 383.75(a)(7).

[8] A General Accounting Office (GAO) report published in 2015 found that 29 States use both State testers and third party testers and that 10 States use third party testers only. Since publication of the GAO report, Massachusetts, Montana, New York and Texas adopted legislation permitting third party testing. The New Jersey Motor Vehicles Commission is currently operating a pilot program for third party testing pursuant to legislation enacted in 2016. The remaining seven States and Washington, DC use State testers only. See *https://www.gao.gov/products/GAO-15-607* (Accessed June 19, 2018).

[9] *See,* ''Regulatory Evaluation of Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators, Final Rule,'' *https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=SR%2BO&D=FMCSA-2007-27748*

[10] Other training providers that might also be third party testers include Public Transit Agencies (1,820), School Districts (9,410), Private School Bus Carriers (3,790), Other Passenger Carriers (30), and Other Carriers (300).

prohibited by § 383.75(a)(7), FMCSA is unable to quantify the amount of opportunity costs that would be avoided as result of the proposed change.

Cost savings may also accrue in the form of reduced travel costs to CDL applicants, who, as a result of the current prohibition, must travel to an alternative testing site (*e.g.,* another third party tester or an SDLA) rather than take the skills test at the site where they were trained. However, FMCSA has no basis to estimate how many CDL applicants currently confront that circumstance, the amount of time they spend travelling to an alternative testing site, or the extent to which such travel time would be eliminated as a result of the proposed change.The Agency requests comment addressing these factors, along with any additional cost savings of the proposed rule.

Benefits

As is discussed above, FMCSA believes that the proposed removal of the prohibition currently imposed by § 383.75(a)(7) would have no impact on safety, and would thus yield no positive or negative safety benefits. The Agency also has not identified any other positive or negative benefits to society that would result from this proposed rule.

Transfer Payments

There are also certain transfer payment effects that may occur if this proposed rule is finalized. Transfer payments are monetary payments from one group to another that do not affect total resources available to society, and therefore do not represent actual costs or benefits of the proposed rule.[11] Under the prohibition imposed on third party testers in 383.75(a)(7), CLP holders must presently arrange to a take skills test administrated by either an SDLA or another third party tester. These providers incur costs and receive fees to administer skills tests to these CLP holders. If a State chooses to allow third party examiners to administer the skills test to individuals they also trained, those CLP holders would no longer have to go elsewhere to take the skills test (unless the third party tester, as a training provider, does not employ a sufficient number of trainers who are also third party examiners). Provided that a third party skills tester who is also a training provider has adequate supply to meet demand for both training and testing, the cost of providing the skills test and the associated revenue for the provision of that service would be transferred to that skills tester (assuming the CLP holder chooses to receive skills testing from that provider, an assumption the Agency considers to be rational as it is expected to minimize costs to the CLP holder). These transfer payments would only occur in those States that choose to allow third party examiners to administer the skills test to applicants they have also trained, as proposed in the NPRM. The Agency is unable to predict how many of the 43 States that currently permit third party testing would also permit individual examiners to train and test the same CDL applicant, nor can the Agency predict whether additional training providers would become third party testers if this proposal is finalized. The Agency requests comments on the potential significance of transfer payments among third party testers,as a result of the proposed rule.

B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)

E.O. 13771 requires that for ''every one new [E.O. 13771 regulatory action] 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.'' 82 FR 9339 (Feb. 3, 2017). Implementation guida nce for E.O. 13771 issued by OMB (Memorandum M–17–21) on April 5, 2017, defines two different types of E.O. 13771 actions: an E.O. 13771 deregulatory action, and an E.O. 13771 regulatory action.

An E.O. 13771 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This proposed rulemaking has total costs less than zero and therefore is an E.O. 13771 deregulatory action. Although, as previously noted, FMCSA cannot quantify the estimated cost savings of the rule, the potential cost savings are discussed qualitatively above.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies to consider the impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term ''small entities'' means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these entities. FMCSA has not determined whether this proposed rule would have a significant economic impact on a substantial number of small entities. Therefore, FMCSA is publishing this initial regulatory flexibility analysis (IRFA) to aid the public in commenting on the potential small business impacts of the proposals in this NPRM. We invite all interested parties to submit data and information regarding the potential economic impact that would result from adoption of the proposals in this NPRM. We will consider all comments received in the public comment process when deciding in the Final Regulatory Flexibility Assessment.

An Initial Regulatory Flexibility Act (IRFA), which accompanies this NPRM, must include six components. See 5 U.S.C. 603(b) and (c). The Agency six components addressed in each section below require:

- A description of the reasons why the action by the agency is being considered;
- A succinct statement of the objective of, and legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed 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;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and
- A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

[11] OMB Circular A–4 requires Agencies to discuss the distributional effects of rulemakings. According to Circular A–4, ''distributional effects'' refer to ''. . . the impacts of a regulatory action across the population and economy, divided up in various ways (*e.g.,* income groups, race, sex, industrial sector, geography).'' This approach allows decision makers to properly consider the distributional effects of a regulatory action on economic efficiency. E.O. 12886 authorizes this approach. See *https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/ (Accessed June 26, 2018).*

Why the Action by the Agency Is Being Considered

FMCSA regulations define third party tester and third party skills test examiner (49 CFR 383.5). A third party tester is as a person (including but not limited to, another State, motor carrier private training facility or other private institution, or a department, agency or instrumentality of a local government) authorized by the State to employ skills test examiners to administer the CDL skills test. A ''third party skills test examiner'' is defined as a person employed by a third party tester who is authorized by the State to administer the CDL skills test. Section 383.75(a)(7) prohibits a third party skills test examiner who is also a skills instructor from administering the CDL skills test to an applicant who received skills training from that examiner skills test examiner. The Agency's proposal to remove the skills testing restriction on third party examiners responds to public comment received in response to the DOT's Notification of Regulatory Review (82 FR 45750 (Oct. 2, 2017)).

The Objectives of and Legal Basis for the Proposed Rule

The objective of the NPRM is to provide States with the option to permit a third party skills test examiners to administer the Commercial Driver's License (CDL) skills test to applicants to whom the examiner has also provided skills training. The Agency believes that permitting this practice could reduce wait times for CDL skills testing and reduce the inconvience and cost for CDL applicants and third party testers. Recent surveys conducted by the Commercial Vehicle Training Association and FMCSA, based on 2016 data show that wait times for initial CDL skills testing and retesting vary by State. Providing the States the discretion to lift the prohibition on third party skills testers from administering the skills tests to applicants they instruct may reduce testing delays and improve how quickly motor carriers can hire new CDL holders. FMCSA believes the proposed change would not undermine the integrity or effectiveness of CDL skills training.

The NPRM is based primarily on the broad authority of the Commercial Motor Vehicle Safety Act of 1986, as amended (the 1986 Act) (Pub. L. 99–570, Title XII, 100 Stat. 3207–170, codified at 49 U.S.C. chapter 313), which established the CDL program. The 1986 Act required the Secretary, after consultation with the States, to prescribe uniform minimum standards for the issuance of CDLs, including minimum standards for written and driving tests of an individual operating a commercial motor vehicle'' (49 U.S.C. 31305(a)(1)). The proposed rule would amend one of the current CDL testing requirements imposed on the States.

The NPRM is also consistent with the concurrent authorities of the Motor Carrier Safety Act of 1984, as amended (the 1984 Act) (Pub. L. 98–554, Title II, 98 Stat. 2832, codified at 49 U.S.C. 31136); and the Motor Carrier Act of 1935, as amended (the 1935 Act) (Chapter 498, codified at 49 U.S.C. 31502). A full explanation of the legal basis for this rulemaking is set forth in Section IV.

A Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

''Small entity'' is defined in 5 U.S.C. 601. Section 601(3) defines a ''small entity'' as having the same meaning as ''small business concern'' under section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4), likewise includes within the definition of ''small entities'' not-for-profit enterprises that are independently owned and operated, and are not dominant in their fields of operation. Additionally, section 601(5) defines ''small entities'' as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

The proposed rule could affect training providers, some of which are already authorized third party testers in 43 States. In the regulatory impact analysis (RIA) for the ELDT final rule, ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators,'' FMCSA estimated that 5,150 organizations (including community colleges, proprietary CDL training schools, freight and property motor carriers and motocoach carriers) provide CDL skills training across 6,350 locations [12]. The RIA also estimated that there may be an additional 15,350 training providers, which theoretically could become third party testers. These entities include public school districts, private school bus carriers, public transit agencies and other passenger carriers.

The Agency lacks annual revenue data to determine how many of the training entities identified in the ELDT RIA are within the SBA size standards to qualify as small entities. Large motor carriers that have training programs for potential new hires and students that may seek employment elsewhere are not likely small entities. Many of the private, for profit CDL training providers are multi-disciplinary post-secondary institutions with branch campuses in multiple States. These training providers may exceed the SBA size standard based the combined revenue from CDL training programs and other programs. Some of the training providers identified in the ELDT RIA are not small entities because they are instrumentalities of the States or local government with population greater than 50,000. For example, community colleges that are chartered by State agencies such as State Boards of Higher Education. As instrumentalities of the States their population would exceed 50,000.

In 33 States, SDLAs augment their own administration of skills tests with third party testers. In another 10 States, SDLAs rely exclusively on third party testers to perform skills tests. Ten States and the District of Columbia do not permit third party testing. Of the 43 States that either allow third party testing or rely exclusively on third party testing, the Agency is unable to predict how many States would permit instructors employed by third party testers to be the skills test examiners for students they have instructed. The Agency specifically requests comment from SDLAs in these States whether they would permit instructors to also serve as skills test examiners for their students as a result of the proposed rule, and if so, how many third party testers within their State would be impacted by the proposed rule and what the magnitude of that impact would be. FMCSA also requests comments from SDLAs if this change would result in their approval of additional third party testers, beyond those currently approved, or what other factors or limitations SDLAs consider in determining how many third party testers are approved.

The Agency is unable to predict whether any of the 10 States that do not permit third party testing would choose to permit third party testing as a result of the proposed rule. As nothing currently prohibits these States from allowing third party testers, the Agency does not believe that position would be changed solely on the basis of this

[12] Of the 5,150 CDL training schools, 700 consist of proprietary training providers and community colleges. The remaining 1,500 represent an estimate of small entities training few students, most likely representing individuals who training a few students a year (*e.g.,* CDL holders training family members or friends).

proposal. The Agency requests comment from these 10 SDLAs concerning whether they would likely adopt third party testing and if they also would permit instructors to serve as skills test examiners for their students.

A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed 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.

The proposed rule does not create or modify existing third party tester recordkeeping requirements.

An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

FMCSA is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

The proposed rule eliminates a mandatory prohibition required by a specific regulation. Because of this singular focus, there is no significant alternative to considered.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 businesses. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). The DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.[13]

E. Unfunded Mandates Reform Act of 1995

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 requires agencies to prepare a comprehensive written statement for any proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $161 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2017 levels) or more in any one year. Because this proposed rule would not result in such an expenditure, a written statement is not required. However, FMCSA does discuss the costs and benefits of this proposed rule elsewhere in this preamble.

F. Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under Section 1(a) of E.O. 13132 if it has ''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.'' FMCSA determined that this proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a federalism Impact Statement.

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

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. FMCSA determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, FMCSA does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it would not effect a taking of private property or otherwise have taking implications.

K. Privacy

The Consolidated Appropriations Act, 2005, (5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. Because this final rule does not require the collection of personally identifiable information (PII), the Agency is not required to conduct a PIA.

Section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note) requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

M. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect

[13] U.S. Department of Transportation (DOT). ''The Rights of Small Entities to Enforcement Fairness and Policy Against Retaliation.'' Available at: *https://www.transportation.gov/sites/dot.gov/files/docs/SBREFAnotice2.pdf (accessed December 1, 2017).*

on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

P. Environment (NEPA)

FMCSA analyzed this NPRM consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680 (Mar. 1, 2004)), appendix 2, paragraph (6)(z). The Categorical Exclusion (CE) in paragraph (6)(z) covers (1) the minimum qualifications for persons who drive commercial motor vehicles as, for, or on behalf of motor carriers; and (2) the minimum duties of motor carriers with respect to the qualifications of their drivers. The proposed requirements in this rule are covered by this CE, there are no extraordinary circumstances present, and the proposed action does not have the potential to significantly affect the quality of the environment. The CE determination is available for inspection or copying in the *regulations.gov* website listed under **ADDRESSES**.

List of Subjects in 49 CFR Part 383

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR part 383 to read as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 is revised to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.,* and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1766, 1767; sec. 1012(b) of Pub. L. 107– 56; 115 Stat. 397; sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1726; and 49 CFR 1.73.

■ 2. Revise § 383.75(a)(7) to read as follows:

§ 383.75 Third party testing.

(a) * * *

(7) The State may allow a skills test examiner who is also a skills instructor either as a part of a school, training program or otherwise, to administer a skills test to an applicant who received skills training by that skills test examiner; and

* * * * *

Issued under authority delegated in 49 CFR 1.87 on: June 26, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–14225 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 180627584–9388–01]

RIN 0648–BI00

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of the Liberty Drilling and Production Island, Beaufort Sea, Alaska; Reopening of Public Comment Period

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We, the National Marine Fisheries Service (NMFS), are reopening the public comment period on the proposed rule under the Marine Mammal Protection Act (MMPA) to authorize the taking of marine mammals, by mortality, serious injury, Level A harassment, and Level B harassment, incidental to the construction and operation of the Liberty Drilling and Production Island, Beaufort Sea, Alaska. The comment period for the proposed rule that published on May 29, 2019 closed on June 28, 2019. NMFS is reopening the public comment period until July 31, 2019, to provide the public with additional time to submit information and to comment on this proposed rule.

DATES: Written comments on the proposed rule must be received by July 31, 2019. Comments received between the close of the first comment period on June 28, 2019 (84 FR 24926), and the reopening of the comment period on July 9, 2019 will be considered timely received.

ADDRESSES: You may submit comments, information, or data on the proposed rule, identified by NOAA–2019–0053, by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-2019-0053,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Jolie Harrison, Division Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910, Attn: Hilcorp Liberty Proposed Rule.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2019, we published a proposed rule to authorize the taking of marine mammals incidental to the construction and operation of the Liberty Drilling and Production Island, Beaufort Sea, Alaska. The proposed rule allowed for a 30-day public comment period, which ended on June 28, 2019. On June 26, 2019, we received a request from the Alaska Eskimo Whaling Commission (AEWC) requesting a 30-day extension of the comment period. The request indicated that the AEWC and North Slope Borough required more time to conduct their review of the proposed rule and associated documents and provide comments. Due to the timing of the request, it was not feasible to publish a notice in the **Federal Register** announcing a comment period extension prior to the close of the initial public comment period. Therefore, we are reopening the public comment period until July 31, 2019, to receive additional information and comments that may be relevant to any aspect of the proposal. Comments and information submitted during the prior comment period will be fully considered in the preparation of the final rule and need not be resubmitted.

NMFS also takes this opportunity to note that, due to changes in Hilcorp's proposed schedule for this proposed project, the dates of the proposed regulations would be shifted one year later than the dates in the proposed rule. Under this revised schedule, the proposed regulations would be valid for a period of 5 years from December 1, 2021, through November 30, 2026. This change shifts all of the proposed dates for the project one year later, but it does not otherwise affect any of NMFS' analyses or conclusions.

Dated: July 3, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–14529 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 84, No. 131
Tuesday, July 9, 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

July 2, 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 and other forms of information technology.

Comments regarding this information collection received by August 8, 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 20503. 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) 720–8681.

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.

Forest Service

Title: Forest Service Ride-Along Program Application.

OMB Control Number: 0596–0170.

Summary of Collection: The Forest Service (FS) ride-along program allows the general public or other interested person to accompany agency law enforcement personnel as they conduct their normal field duties, including access to and discussions about agency law enforcement vehicles, procedures, and facilities. The program provides an opportunity for officers to enhance the public's understanding and support of the agency program and to increase agency understanding of public and community concerns. The program also aids the agency's recruitment program by allowing interested persons to observe a potential career choice or to participate in innovative intern-type programs, and by allowing the agency to showcase the quality of its program and services.

Need and Use of the Information: Information will be collected from any person who voluntarily approaches the FS and wishes to participate in the program. The FS 5300–33 program application form will be used to conduct a minimal background check and the FS 5300–34 is a liability waiver form that requires the applicant's signature and their written assurance that they have read and understood the form. The information collected from the forms will be used by FS and, in appropriate part, by any person or entity needed and authorized by the FS to provide the needed background information (primarily applicable local law enforcement agencies, state criminal justice agencies maintaining state justice records, and by the FBI). If the information is not collected, the program could not operate.

Description of Respondents: Individuals or households.

Number of Respondents: 182.

Frequency of Responses: Reporting: Other (per applicant).

Total Burden Hours: 30.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–14493 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 2, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC, 20503. 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.

Comments regarding these information collections are best assured of having their full effect if received by August 8, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Agricultural Marketing Service

Title: Local Food Directories and Survey.

OMB Control Number: 0581–0169.

Summary of Collection: The primary legislative basis for conducting farmer's market research is the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627). In addition, the Farmer-to-Consumer Direct Marketing Act of 1976 supports USDA's work to enhance the effectiveness of direct marketing, such as the development of modern farmers markets, the development of On-Farm Markets, Community Supported Agriculture (CSA) and Food Hubs. The Marketing Services Division (MSD), Agricultural Marketing Service (AMS) identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates solutions including improving farmers markets and other direct-to-consumer marketing activities. Markets are maintained by State Departments of Agriculture, local public authorities, grower organizations and non-profit organizations.

Need and Use of the Information: The information will be collected using the form TM–6 ''Farmers' Market Directory and Survey,'' the On-Farm Market Questionnaire, CSA Questionnaire, and the Food Hub Questionnaire. Each survey/questionnaire collects the data necessary to populate the USDA National Farmers Market Directory, and the other three direct to customer directories. Combining the collections will reduce the number of times that it seeks to make contact with market managers. Participating market managers are invited to participate in an optional National Farmers Market Managers Survey evaluating the farmer's market sector. These markets represent a varied range of sizes, geographical locations, types, ownership, structure, and will provide a valid overview of farmers markets in the United States. Information such as the size of market's, operating times and days, retail and wholesale sales, management structure, and rules and regulations governing the markets are all important questions that need to be answered in the design of a new market. The information developed by the Farmer's Market Survey will support better designs, development techniques, and operating methods for modern farmers markets and outline improvements that can be applied to revitalize existing markets. The three direct marketing channel directories along with the National Farmer's Market Directory website will provide synergies, give customers a one stop shopping website for a wide variety of locally produced directly marketed farm products, and provide a free advertising venue for agricultural enterprise managers seeking to diversify their farming operation by marketing directly to customers.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 8,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,069.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–14492 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0034]

Oral Rabies Vaccine Program; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment (EA) relative to an oral rabies vaccination (ORV) program in Maine, New Hampshire, New York, Ohio, Tennessee, Texas, Vermont, Virginia, and West Virginia. The EA analyzes the proposed expanded use of ONRAB vaccine-baits throughout the ORV distribution zone in those States in cooperation with the U.S. Forest Service. The proposed expanded ONRAB vaccine distribution is necessary as a higher level of population immunity in raccoons is desired in order to maximize the effectiveness of ORV programs. We are making the EA available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 8, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0034.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0034, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The supplemental environmental assessment and any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0034* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

This notice and the supplemental environmental assessment are also posted on the Animal and Plant Health Inspection Service website at *http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml.*

FOR FURTHER INFORMATION CONTACT: Mr. Richard Chipman, Rabies Program Coordinator, Wildlife Services, APHIS, 59 Chennell Drive, Suite 7, Concord, NH 03301; (603) 223–9623; email: *richard.b.chipman@usda.gov.* To obtain copies of the supplemental environmental assessment, contact Ms. Beth Kabert, Staff Wildlife Biologist, Wildlife Services, 59 Chennell Drive, Suite 7, Concord, NH 03301; (908) 442–6761; fax (603) 229–0502; email: *beth.e.kabert@usda.gov.*

SUPPLEMENTARY INFORMATION: The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

WS conducts an oral rabies vaccination (ORV) program to control the spread of rabies. The ORV program has utilized a vaccinia-rabies glycoprotein (V–RG) vaccine. WS' use of the V–RG vaccine has resulted in several notable accomplishments, including the elimination of canine rabies from sources in Mexico, the successful control of gray fox rabies virus variant in western Texas, and the

prevention of any appreciable spread of raccoon rabies in the eastern United States. While the prevention of any appreciable spread of raccoon rabies in the eastern United States represents a major accomplishment in rabies management, the V–RG vaccine has not been effective in eliminating raccoon rabies from high-risk spread corridors. This fact prompted WS to evaluate rabies vaccines capable of producing higher levels of population immunity against raccoon rabies to better control the spread of this disease.

Since 2011, WS has been conducting field trials to study the immunogenicity and safety of an experimental oral rabies vaccine, a human adenovirus type 5 rabies glycoprotein recombinant vaccine called ONRAB (produced by Artemis Technologies Inc., Guelph, Ontario, Canada). The field trials began in portions of West Virginia, including U.S. Department of Agriculture Forest Service National Forest System lands.

Beginning in 2012, WS expanded field trials into portions of New Hampshire, New York, Ohio, Vermont, and new areas of West Virginia, including National Forest System lands, in order to further assess the immunogenicity of ONRAB in raccoons and skunks for raccoon rabies virus variant.

WS is now proposing to further expand ONRAB vaccine distribution to enhance rabies management in the United States to protect human and animal health and reduce social costs. The proposed expanded use of ONRAB is necessary as a higher level of population immunity in raccoons is desired in order to maximize the effectiveness of ORV programs, and the RABORAL V–RG vaccine has not produced sufficient levels of population immunity in skunks (primarily striped skunks) in the wild at the current dose.

WS has prepared an environmental assessment (EA) in which we analyze the proposed expanded use of ONRAB vaccine-baits throughout the ORV distribution zone in Maine, New Hampshire, New York, Ohio, Tennessee, Texas, Vermont, Virginia, and West Virginia in cooperation with the U.S. Forest Service. This EA will supersede the 2012 EA ''Field Trial of an Experimental Rabies Vaccine, Human Adenovirus Type 5 Vector in New Hampshire, New York, Ohio, Vermont, and West Virginia'' and the subsequent supplemental EAs issued in 2013, 2015, 2017, and 2018.

We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice. The EA may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for instructions for accessing *Regulations.gov* and information on the location and hours of the reading room). In addition, paper copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 2nd day of July 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–14536 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0064]

Notice of Availability of an Environmental Assessment; Southwestern Willow Flycatcher Conservation Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the U.S. Department of Agriculture (USDA) and its sub-agency, the Animal and Plant Health Inspection Service (APHIS), are making available a draft environmental assessment for a conservation program pursuant to the Endangered Species Act to benefit the southwestern willow flycatcher, a small, neotropical migrant bird found in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah. The draft environmental assessment examines the environmental effects associated with the selection of the program alternatives and conservation measures that USDA and APHIS propose to implement. We are making the draft environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 8, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0064.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0064, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0064* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Kai Caraher, Biological Scientist, PHP, PPQ, APHIS, 4700 River Road, Unit 150, Riverdale, MD 20737–1231; (301) 851–2345; *Kai.Caraher@usda.gov.*

SUPPLEMENTARY INFORMATION: Saltcedar, also known as tamarisk (*Tamarix* species), is an invasive plant widely established in riparian areas in the western United States. This non-native weed, which can take the form of a shrub or small tree, was introduced into the United States in the latter 19th century. Although saltcedar is an invasive plant, native animals have adapted to its presence.

In 1986, the U.S. Department of Agriculture's (USDA's) Agricultural Research Service (ARS) began research into the potential for biological control of saltcedar. From 1998 to 2000, ARS conducted open field release trials of tamarisk leaf beetles (*Diorhabda* species) to determine the conditions under which releases could succeed. These field trials took place after ARS consulted with the U.S. Fish and Wildlife Service (USFWS) to ensure compliance with the Endangered Species Act (ESA). USDA's Animal and Plant Health Inspection Service (APHIS) permitted the releases after it completed additional environmental risk analyses and provided the public an opportunity to comment on the documents.

In 2005, APHIS initiated a biological control program for saltcedar defoliation in the northern United States using the tamarisk leaf beetle as the biological control agent in limited locations

outside of the habitat of the southwestern willow flycatcher (SWFL, *Empidonax traillii extimus*). Greater than anticipated natural dispersion and intentional human-assisted movement of the beetle into SWFL habitat caused defoliation of saltcedar trees, hampering the flycatcher's nesting success.

After tamarisk leaf beetles were discovered in SWFL habitat, APHIS terminated its saltcedar biological control program in 2010 and canceled release permits because of concern about the potential adverse effects to SWFL. APHIS reinitiated consultation with USFWS on these actions, in compliance with section 7(a)(2) of the ESA and 16 U.S.C. 1536(a)(2), and USFWS concurred with APHIS' determination that these actions were not likely to adversely affect the SWFL.

On September 30, 2013, the Center for Biological Diversity filed a lawsuit against USDA, APHIS, ARS, the Department of the Interior (DOI), and USFWS alleging that the APHIS saltcedar biological control program violated the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*) and the ESA. On May 3, 2016, the Court granted the plaintiff's second of five claims, finding that APHIS did not comply with the ESA section 7(a)(1), which requires Federal agencies to consult with DOI and ''utilize their authorities in furtherance of the purposes of [the ESA] by carrying out programs for the conservation of endangered species and threatened species listed pursuant to [16 U.S.C. 1533]'' 16 U.S.C. 1536(a)(1). On June 19, 2018, the Court ordered USDA and APHIS to publish proposed conservation program alternatives in compliance with ESA section 7(a)(1), solicit public comments on the proposed alternatives, then publish a draft environmental assessment for public comment, and complete review of all public comments, and issue final decision and final environmental assessment, or an environmental impact statement (EIS) should it be appropriate.

On October 26, 2018, APHIS published in the **Federal Register** (83 FR 54080–54082, Docket No. APHIS–2018–0064) a notice [1] informing the public of APHIS' intent to conduct a scoping process and prepare an environmental assessment (EA). We solicited comments for 30 days ending on November 26, 2018. We received 23 comments by that date. After reviewing the comments, APHIS prepared the draft EA to examine the environmental effects of possible program alternatives, including conservation measures available to USDA and APHIS as well as a ''no action'' alternative. The EA will be used for planning and decisionmaking and to inform the public about the environmental effects of the various conservation actions.

We are announcing the availability of the draft EA that considers the potential environmental effects of the proposed conservation measures. We are requesting public comments on the listed conservation program alternatives to ensure that additional potential alternatives and environmental issues overlooked by USDA and APHIS in the draft EA can be identified and examined before it is finalized. Based on the comments that we receive, we may determine that we should prepare an environmental impact statement (EIS) instead of an EA. In that case, we would notify the public of our intent to prepare an EIS in a notice published in the **Federal Register**.

Proposed Programmatic Alternatives

The Council on Environmental Quality's (CEQ's) regulations for implementing the procedural provisions of NEPA regulations (40 CFR 1508.25) require the scope of analysis to include a no action alternative in comparison to other reasonable courses of action. Under the no action alternative, APHIS would evaluate the current USDA programs benefitting the SWFL and would not develop any new conservation programs for the species.

Under the proposed conservation program alternative, APHIS would assist existing conservation programs, contribute funding, monitor beetle impacts, and evaluate participation in additional current or future projects with the potential to benefit the flycatcher. APHIS received conservation program suggestions during the notice of intent comment period. These measures include:

- Expanding the educational campaign to include discouraging human-aided distribution of the tamarisk leaf beetle near known flycatcher nesting sites;
- Funding the construction, installation, and maintenance of cowbird traps in flycatcher-occupied riparian habitat to reduce nest parasitism; and
- Funding additional development and testing of a tamarisk leaf beetle repellent by Montana State University.

The EA will be prepared in accordance with: (1) NEPA, (2) CEQ's regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA's regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' regulations implementing NEPA (7 CFR part 372). In addition to publishing this notice in the **Federal Register**, APHIS will send the draft EA to 15 Tribal governments, the USDA's Natural Resource Conservation Service and Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the USFWS–Ecological Services and the National Wildlife Refuge System, the U.S. Geological Survey, the National Park Service, 7 States, and dozens of individuals from non-governmental groups (conservation and academic researchers). APHIS requests that Federal, State, Tribal, or local government entities who manage areas, or have jurisdictional control over sites or actions under consideration as part of this conservation program, contribute to this environmental risk analysis and development of the final NEPA documents.

Done in Washington, DC, this 2nd day of July 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–14538 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice and the comments we received, go to *https://www.regulations.gov/docket?D=APHIS-2018-0064.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0031]

Environmental Impact Statement; Fruit Fly Cooperative Control Program: Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the final programmatic environmental impact statement titled ''Fruit Fly Cooperative Control Program.''

DATES: An official of the Animal and Plant Health Inspection Service-Plant Protection and Quarantine signed the record of decision on April 22, 2019.

ADDRESSES: You may read the final environmental impact statement and record of decision in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be

sure someone is there to help you, please call (202) 799–7039 before coming. The record of decision, final environmental impact statement, and supporting information may also be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0031.* To obtain copies of the documents, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: For questions related to the Fruit Fly Eradication Program, contact Dr. Richard Johnson, APHIS Fruit Fly Cooperative Control Program Manager, PPQ, APHIS, 4700 River Road, Unit 26, Riverdale, MD 20737; *Richard.N.Johnson@usda.gov;* (301) 851–2109. For questions related to the environmental impact statement, contact Dr. Jim Warren, Environmental Protection Specialist, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737; *Jim.E.Warren@usda.gov;* (202) 316–3216.

SUPPLEMENTARY INFORMATION: On August 12, 2016, we published in the **Federal Register** (81 FR 53398–53399) a notice [1] of intent to prepare a programmatic environmental impact statement (EIS) to analyze and examine the environmental effects of control alternatives available to the agency, including a no action alternative, for the Fruit Fly Cooperative Control Program. The notice solicited comments from the public for additional alternatives and environmental impacts that should be examined further in the EIS. We invited comments through September 26, 2016, and received seven comments during the 45-day comment period.

On April 27, 2018, the U.S. Environmental Protection Agency (EPA) published a notice of availability for the draft EIS in the **Federal Register** (83 FR 18554). APHIS made the draft EIS available and invited public comment through June 11, 2018. Our responses to the two comments received are in the final EIS. On November 16, 2018, the EPA published a notice of availability of the final EIS in the **Federal Register** (83 FR 57726). APHIS published the final EIS with a review period of 30 days ending December 17, 2018.

The National Environmental Policy Act (NEPA) implementing regulations in 40 CFR 1506.10 require a minimum 30-day waiting period between the time a final EIS is published and the time an agency makes a decision on an action covered by the EIS. APHIS has reviewed the final EIS and comments received during the 30-day waiting period and has concluded that the final EIS fully analyzes the issues covered by the draft EIS and addresses the comments and suggestions submitted by commenters. This notice advises the public that the waiting period has elapsed, and APHIS has issued a record of decision (ROD) to implement the preferred alternative described in the final EIS.

The ROD has been prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 3rd day of July 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–14539 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–34–P

[1] The notices, comments, draft and final EIS, record of decision, and supporting documents for this docket can be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0031.*

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Online Registration for FSA-Hosted Events and Conferences

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension of the information collection associated with online registration for FSA-hosted events and conferences. The information collection is needed for FSA to obtain information from the respondents who register on the internet to make payment and reservations to attend any FSA-hosted conferences and events.

DATES: We will consider comments that we receive by September 9, 2019.

ADDRESSES: We invite you to submit comments on the notice. In your comments, include date, OMB control number, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Farm Service Agency, USDA, Director of Outreach, J. Latrice Hill, 1400 Independence Avenue SW, Mail Stop 0511, Washington, DC 20250–0511.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be obtained from J. Latrice Hill at the above address.

FOR FURTHER INFORMATION CONTACT: J. Latrice Hill; (202) 690–1700; email: *latrice.hill@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Online Registration for FSA-hosted Events and Conferences.

OMB Number: 0560–0226.

Expiration Date of Approval: October 31, 2019.

Type of Request: .

Abstract: The collection of information is necessary for people to register online to make payment and reservations to attend conferences and events. They can register on FSA's Online Registration site on the internet. Respondents who do not have access to the internet can register by mail or fax. The information is collected by the FSA employees who host the conferences and events. FSA is collecting common elements from interested respondents such as name, organization, address, country, phone number, email address, State, city or town, payment options (credit card, check), special accommodations requests and how the respondent learned of the conference. The information collection element also includes race, ethnicity, gender and veteran status. The respondents are mainly individuals who will attend the FSA-hosted conferences or events. The information is used to collect payment, if applicable, from the respondents and make hotel reservations and other special arrangements as necessary.

There are no changes to the burden hours since the last OMB approval.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Annual Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response. (15 minutes)

Type of Respondents: Individuals, Business or other for-profit, non-for-

profit institutions, Farms, Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 900.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual of Responses: 900.

Estimated Average Time per Responses: 0.25 hours.

Estimated Total Annual Burden on Respondents: 225 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2019–14513 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2019–0018]

Notice of Request for Revision of an Approved Information Collection: Certificates of Medical Examination

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to revise the approved information collection regarding certificates of medical examination. FSIS is adding two new forms to the existing information collection. The Agency has increased the burden estimate by 59 hours due to the addition of these forms. The approval for this information collection will expire on January 31, 2022.

DATES: Submit comments on or before September 9, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2019–0018. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Certificates of Medical Examination.

OMB Control Number: 0583–0167.

Expiration Date: 1/31/2022.

Type of Request: Revision of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting revision of the approved information collection regarding certificates of medical examination, by adding two new medical examination forms to the collection. The Agency has increased the burden estimate by 59 hours due to the addition of these forms for completion by health care providers. FSIS employees will ask their health care providers to complete FSIS Form 4306–5, ''Medical Documentation for Employee's Reasonable Accommodation Request,'' if they apply for a reasonable accommodation, and FSIS Form 4630–8, ''Confidential Medical Information,'' if they apply for the FSIS Leave Bank Program. The approval for this information collection will expire on January 31, 2022.

The current information collection approval includes FSIS Form 4339–1, ''Certificate of Medical Examination (with Medical History).'' FSIS uses this form to determine whether an applicant for a Food Inspector, Consumer Safety Inspector, or Veterinary Medical Officer in-plant position meets the medical qualification standards for the position approved by the Office of Personnel Management (OPM). The certificates of medical examination ensure accurate collection of the required data. The OPM-approved medical qualification standards apply only to positions in FSIS, not positions in other Federal agencies.

When requesting that applicants for the positions listed above undergo the medical examination, a representative of FSIS notifies the applicants in writing of the reasons for the examination, the process, and the consequences of the failure to report for an examination or provide medical documentation. Any physical condition that would hinder an individual's full, efficient, and safe performance of his or her duties is considered disqualifying for employment, except when the individual presents convincing evidence that he or she can perform the essential functions of the job efficiently and without hazard.

In addition to the FSIS Form 4339–1, FSIS is adding two new medical examination forms for completion by health care providers to the information collection. First, FSIS will use the FSIS Form 4306–5, ''Medical Documentation for Employee's Reasonable

Accommodation Request,'' to help determine whether the Agency will provide reasonable accommodation to qualified individuals. In accordance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008, FSIS will make reasonable accommodations for the known physical or mental limitations of qualified individuals with disabilities, unless the accommodation would impose an undue hardship on the operation of FSIS. FSIS will require medical information from a health care provider to determine whether the person's condition rises to the level of disability under the law and to determine whether the limitations can be effectively accommodated.

Second, FSIS will use FSIS Form 4630–8 ''Confidential Medical Information,'' to assist employees who qualify as leave recipients under the FSIS Leave Bank Program (LBP), which FSIS intends to establish in accordance with 5 CFR 630, subpart J. To qualify, employees who have exhausted their paid leave (annual and sick) would need to meet the criteria for a financial hardship due to a personal or family medical emergency. Employees would also need to provide written certification from a physician describing the medical emergency and its severity, the anticipated duration of the medical emergency, and the approximate frequency of the medical emergency (if recurring). The documentation from the physician would include the name and address of the practice and requires the doctor's signature. For long-term and extended absences, medical documentation needs to be updated every 120 days until the medical emergency concludes.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take each respondent an average of 90 minutes to complete the FSIS Form 4339–1, 10 minutes to complete the FSIS Form 4306–5, and 15 minutes to complete the FSIS Form 4630–8.

Respondents: Health Care Providers.

Estimated Total Number of Annual Respondents: 800 respondents.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 809 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done in Washington, DC.

Paul Kiecker,

Deputy Administrator.

[FR Doc. 2019–14509 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0041]

Guideline on Kit Labeling

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and request for comment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of the Agency's guideline on kit products that contain a meat or poultry component. The guideline is designed to help establishments and other food handling facilities determine whether a kit product needs to be prepared under FSIS inspection and how a kit product needs to be labeled.

DATES: Submit comments on or before September 9, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this

notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0041. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202)720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Roberta Wagner, Assistant Administrator, Office of Policy and Program Development by telephone at (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

FSIS is announcing the availability of a guideline on the labeling and inspection of kit products that contain an inspected and fully labeled meat or poultry component.[1] A kit product consists of individually-packaged food components sold together as a single unit. For example: A ''Nugget Lunch Kit'' which includes fully-cooked nugget-shaped chicken patties, a container of coleslaw, a slice of corn bread, and a juice box.

There are many varieties of kit products, including but not limited to: Wraps, pizzas, stew, salads, fajitas, stroganoff, or stir-fry skillet meals, that include a meat or poultry component. Some of these items may also require cooking. Often, the meat or poultry component is separately wrapped and fully labeled, and then assembled together with various other food components in the same packaging.

The Agency has determined that the act of assembling a kit product that contains meat or poultry does not need to be done under FSIS inspection, if the following conditions are met:

1. The meat or poultry component is prepared and separately packaged under FSIS inspection and labeled with all required features;

2. The outer kit label identifies all of the individual components in the kit; and

3. The outer kit label clearly identifies the product as a single unit or ''kit,'' such as ''Chicken BBQ Dinner Kit'' and ''Beef Lasagna Meal.''

Kit products with a meat or poultry component are still under FSIS's jurisdiction. These products must meet all applicable FSIS requirements to ensure that they are not adulterated or misbranded. After FSIS assesses comments on the guideline and gains additional information on establishments producing kit products, instructions will be issued to the Office of Field Operations to clarify what products constitute kits that should no longer be under inspection.

FSIS encourages establishments to follow this guideline. This guideline represents FSIS's current thinking, and FSIS will update it as necessary to reflect comments received and any additional information that becomes available.

Congressional Review Act

Pursuant to the Congressional Review Act at 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs has determined that this notice is not a ''major rule,'' as defined by 5 U.S.C. 804(2).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done, at Washington, DC.

Paul Kiecker,

Deputy Administrator.

[FR Doc. 2019–14512 Filed 7–8–19; 8:45 am]

BILLING CODE 3410–DM–P

[1] The guideline does not apply to boxes of ingredients (including FSIS-inspected, fully labeled meat and poultry products) that may also include recipes that are shipped directly to consumers to help them prepare home-cooked meals. These boxes are typically prepared and packed without FSIS inspection under the retail exemption (see 9 CFR 303.1(d) and 381.10(d)).

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–20–2018]

Foreign-Trade Zone 158—Vicksburg, Mississippi; Application for Production Authority; MTD Consumer Group Inc.; Opening of Comment Period on Submission Containing New Evidence

The Foreign-Trade Zones (FTZ) Board is inviting public comment on a submission containing new evidence pertaining to the application on behalf of MTD Consumer Group Inc. (MTD) requesting production authority within FTZ 158 in Verona, Mississippi.

On June 28, 2019, MTD made a submission to the FTZ Board that included new evidence for the record. Public comment is invited on MTD's submission through August 8, 2019. Rebuttal comments may be submitted through the subsequent 15-day period, until August 23, 2019.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* A copy of MTD's submission will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth .Whiteman@trade.gov* or (202) 482–0473.

Dated: July 2, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–14550 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–090]

Certain Steel Wheels 12 to 16.5 Inches in Diameter From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV).

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane or Charles Doss, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449 or (202) 482–4474, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2019, Commerce published the *Preliminary Determination* of sales at LTFV of certain steel wheels from China in the **Federal Register**.[1] A complete summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by the parties for this final determination, may be found in the Issues and Decision Memorandum.[2]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and ACCESS is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] Accordingly, the deadline for the final determination of this investigation is July 1, 2019.

Period of Investigation

The period of investigation is January 1, 2018 through June 30, 2018.

Scope of the Investigation

The products covered by this investigation are certain steel wheels 12 to 16.5 inches in diameter from China. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of certain steel wheels from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.[4] Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein. For a summary of the scope comments and rebuttal responses submitted to the record for this final determination, along with the accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.[5] As a result, we have made changes to the scope of the investigations, including additional clarifying language.

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination,* Commerce preliminarily determined, pursuant to section 733(e) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of certain steel wheels from Changzhou Chungang Machinery Co., Ltd. (Chungang Machinery), a non-individually examined company receiving a separate rate, and the China-wide entity. For this final determination, we continue to find that critical circumstances exist for Chungang Machinery and the China-

[1] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances,* 84 FR 16643 (April 22, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for Final Affirmative Determination in the Antidumping Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated April 15, 2019.

[5] *See* Memorandum, ''Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Scope Comments Decision Memorandum,'' dated July 1, 2019 (Final Scope Decision Memorandum).

wide entity, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206. For a full description of the methodology and results of Commerce's analysis, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding, other than those issues related to scope, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce are in the Issues and Decision Memorandum, is attached at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have relied upon facts otherwise available, with adverse inferences (AFA), for the China-wide entity, which includes each of the three companies selected for individual examination: Xiamen Sunrise Wheel Group Co., Ltd. (Sunrise), Xingmin Intelligent Transportation System Co., Ltd. (Xingmin), and Zhejiang Jingu Co., Ltd. (Zhejiang Jingu). As AFA, we assigned the highest margin alleged in the Petition of 44.35 percent.[6] We find a single entity, Chungang Machinery, which was not selected for individual examination in this investigation, to have demonstrated eligibility for a separate rate. Because none of the mandatory respondents are receiving a separate rate and we are determining the China-wide rate based on AFA, we look to section 735(c)(5)(B) of the Act for guidance and are, consistent with that provision, using ''any reasonable method'' to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As ''any reasonable method,'' we continue to find it appropriate to assign the simple average of the Petition rates (*i.e.,* 38.27 percent) to Chungang Machinery, the separate rate applicant not individually examined. For a full description of the methodology underlying Commerce's final determination, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we did not make changes to the antidumping margin calculations set forth in the *Preliminary Determination.*[7] For a discussion of these comments, *see* the Issues and Decision Memorandum.

China-Wide Entity and Use of Adverse Facts Available

For the reasons explained in the *Preliminary Determination,* we continue to find that the use of AFA, pursuant to sections 776(a) and (b) of the Act, is appropriate and are applying a rate based entirely on AFA to the China-wide entity.[8] Commerce did not receive timely responses to its quantity and value (Q&V) questionnaire, separate rate applications, or separate rate supplemental questionnaires from certain exporters and/or producers of subject merchandise that were named in the petition and to which Commerce issued Q&V questionnaires.[9] Sunrise, Xingmin, and Zhejiang Jingu, which were selected as a mandatory respondents in this investigation, each indicated their intent to withdraw participation from this investigation, and were thus deemed non-responsive.[10] As these non-responsive companies in China did not demonstrate that they are eligible for separate rate status, Commerce continues to consider them to be a part of the China-wide entity. Consequently, we continue to find that the China-wide entity withheld requested information, significantly impeded the proceeding, and also failed to cooperate to the best of its ability, and thus we are continuing to base the China-wide entity's rate on AFA.

China-Wide Rate

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[11] Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) The highest dumping margin alleged in the petition; or, (b) the highest calculated dumping margin of any respondent in the investigation.[12] For the final determination, we are assigning the China-wide entity, as AFA, the highest petition margin of 44.35 percent. We have corroborated the dumping margin alleged in the Petition to the extent practicable.[13]

Combination Rates

In the *Initiation Notice,* Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.[14] For the final determination, we continue to find that Chungang Machinery is eligible for a separate rate. Pursuant to section 735(c)(5)(A) of the Act, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis,* or based entirely on facts available. Because we are determining the China-wide rate (of which the mandatory respondents are a part) based entirely on AFA, we look to section 735(c)(5)(B) of the Act for guidance and ''any reasonable method'' to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As ''any reasonable method,'' we find it appropriate to assign the simple average of the Petition rates (*i.e.,* 38.27 percent) to the separate rate applicant not individually examined.[15] Thus, consistent with our normal practice, we have assigned to the non-individually examined separate-rate company, Chungang Machinery, the simple

[6] *See* Commerce's letter, ''Less-Than-Fair-Value Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Respondent Selection,'' dated October 11, 2018.

[7] However, we note that the cash deposit rate listed in the ''Final Determination'' section, *infra,* changed from the *Preliminary Determination,* as a result of the changes in the concurrent CVD investigation.

[8] The China-wide entity includes mandatory respondents Xiamen Sunrise Wheel Group Co., Ltd. (Sunrise), Xingmin Intelligent Transportation System Co., Ltd. (Xingmin), and Zhejiang Jingu Co., Ltd. (Zhejiang Jingu).

[9] *See* Preliminary Decision Memorandum at 13.

[10] *Id.*

[11] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethyl Cellulose from Finland,* 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethyl Cellulose from Finland,* 70 FR 28279 (May 17, 2005).

[12] *See, e.g., Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China,* 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

[13] *See* Preliminary Decision Memorandum at 17.

[14] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 45095 (September 5, 2018) (*Initiation Notice*), and accompanying Initiation Checklist; *see also Preliminary Determination,* 84 FR at 16644.

[15] *See Initiation Notice* 83 FR at 45098 and accompanying Initiation Checklist. Commerce revised the petitioner's calculated petition margins so that the adjusted petition margins are 44.35, 37.24, 43.12, 42.28, 37.32, 30.48, 36.11, and 35.27 percent. The simple average of these margins is 38.27 percent.

average of the Petition rates, *i.e.,* 38.27 percent.

Final Determination

Commerce determines that the following weighted-average dumping margins exist for the period January 1, 2018 through June 30, 2018:

Exporter/producer	Weighted-average margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Changzhou Chungang Machinery Co., Ltd	38.27	16.57
China-Wide Entity	44.35	22.65

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with its final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, in this investigation, Commerce has applied total AFA to the mandatory respondents in this investigation in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, and the rate assigned to the separate rate company was a simple average of the Petition rates. Therefore, there are no calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of certain steel wheels from China, as described in Appendix I of this notice, from the separate rate company, Chungang Machinery, and the China-wide entity, including Sunrise, Xingmin, and Zhejiang Jingu, and, in accordance with section 735(c)(4) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of certain steel wheels from China which were entered, or withdrawn from warehouse, for consumption on or after January 22, 2019, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). We have made an affirmative final determination for export subsidies for certain respondents and all others in the companion CVD investigation. However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the adjustment for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which NV exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of certain steel wheels from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: July 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products subject to these investigations are certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment,

including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA's required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of these investigations. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in China.

Excluded from this scope are the following:

(1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;

(2) aluminum wheels;

(3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including, but not limited to, Physical Vapor Deposition (PVD);

(4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;

(5) steel wheels that meet the following specifications: Steel wheels with a nominal wheel diameter ranging from 15 inches to 16.5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3.75 inches to 5.5 inches; and

(6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to these investigations are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Attachment II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Affirmative Determination of Critical Circumstances
VI. Changes Since the Preliminary Determination
VII. Adjustments to Cash Deposit Rates for Export Subsidies
VIII. Use of Facts Otherwise Available and Adverse Inferences
IX. Discussion of the Issues
Comment 1: Selection of the AFA Rate
Comment 2: Whether Critical Circumstances Exist
X. Recommendation

[FR Doc. 2019–14559 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–853]

Citric Acid and Certain Citrate Salts From Canada: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Jungbunzlauer Canada, Inc. (JBL Canada), producer/exporter of citric acid and certain citrate salts (citric acid) from Canada, did not sell subject merchandise at prices below normal value (NV) during the period of review (POR) May 1, 2017 through April 30, 2018. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Joseph Dowling or George Ayache, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1646 or (202) 482–2623, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2018, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the antidumping duty order on citric acid from Canada.[1] On December 20, 2018, Commerce postponed the deadline for the preliminary results of this administrative review until March 18, 2019, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).[2] Subsequently, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] The revised deadline for the preliminary results in this administrative review is July 10, 2019.

Scope of the *Order*

The merchandise covered by the *Order*[4] is citric acid and certain citrate salts from Canada. The product is currently classified under subheadings 2918.14.0000, 2918.15.1000, 2918.15.5000, and 3824.90.9290 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.[5]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 32270 (July 12, 2018).

[2] *See* Memorandum to James Maeder, Associate Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations, ''Citric Acid and Certain Citrate Salts from Canada: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated December 20, 2018.

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009) (*Order*).

[5] A full description of the scope of the *Order* is contained in the Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from Canada; 2017–2018'' (Preliminary Decision Memorandum), dated

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that a weighted-average dumping margin of 0.00 percent exists for JBL Canada for the period May 1, 2017 through April 30, 2018.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[6] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[7] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.[8]

All submissions to Commerce must be filed electronically using ACCESS, and must also be served on interested parties.[9] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the date that the document is due.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice.[10] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.[11]

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[12]

If JBL Canada's calculated weighted-average dumping margin is above *de minimis* (*i.e.,* greater than or equal to 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer, and we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review. If JBL Canada's weighted-average dumping margin continues to be zero or *de minimis,* or the importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[13]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by JBL Canada for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate.[14]

We intend to issue instructions to CBP 41 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for JBL Canada will be the rate established in the final results of this review, except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1) (*i.e.,* less than 0.50 percent), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate established in the less-than-fair-value investigation.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of

concurrently with, and hereby adopted by, this notice.

[6] *See* 19 CFR 351.309(c)(1)(ii).

[7] *See* 19 CFR 351.309(d).

[8] *See* 19 CFR 351.303.

[9] *See* 19 CFR 351.303(f).

[10] *See* 19 CFR 351.310(c).

[11] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

[12] *See* 19 CFR 351.212(b)(1).

[13] *See* 19 CFR 351.106(c)(2).

[14] For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See Order.*

their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 2, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Recommendation

[FR Doc. 2019–14560 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–508–812]

Magnesium From Israel: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that magnesium from Israel is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2017 through September 30, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 20, 2018.[1] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[2] On April 23, 2019, at the request of the petitioner, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now July 1, 2019.[3] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is magnesium from Israel. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Therefore, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Dead Sea Magnesium, Ltd. (DSM), the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for DSM is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the

[1] *See Magnesium from Israel: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 58533 (November 20, 2018) (*Initiation Notice*).

[2] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[3] *See Magnesium from Israel: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation,* 84 FR 16845 (April 23, 2019).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Magnesium from Israel'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[6] *See Initiation Notice,* 83 FR at 58534.

period October 1, 2017 through September 30, 2018:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Dead Sea Magnesium, Ltd ...	193.24
All Others	193.24

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. In the concurrent countervailing duty investigation of magnesium from Israel, Commerce preliminarily did not find any export subsidies.[7] Accordingly, we did not make an adjustment to the cash deposit rate.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On May 20, 2019, pursuant to 19 CFR 351.210(e), DSM requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine 75 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.[10]

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

[7] *See Magnesium From Israel: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination,* 84 FR 20092 (May 8, 2019).

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* DSM's Letter, ''Re: Magnesium from Israel: Request for Postponement of Final Determination,'' dated May 20, 2019.

[10] *See* section 735(b)(3) of the Act.

Dated: July 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). Magnesium is a metal or alloy containing at least 50 percent by actual weight the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium: (1) Products that contain at least 99.95 percent magnesium, by actual weight (generally referred to as ''ultra-pure'' or ''high purity'' magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by actual weight (generally referred to as ''pure'' magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by actual weight, whether or not conforming to an ''ASTM Specification for Magnesium Alloy.''

The scope of this investigation excludes mixtures containing 90 percent or less magnesium in granular or powder form by actual weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Postponement of Final Determination and Extension of Provisional Measures
V. Scope of the Investigation
VI. Scope Comments
VII. Product Characteristics
VIII. Discussion of the Methodology
IX. Date of Sale
X. Product Comparisons
XI. Export Price and Constructed Export Price
XII. Normal Value
XIII. Currency Conversion
XIV. Verification
XV. Conclusion

[FR Doc. 2019–14557 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–820, C–357–821]

Biodiesel From Argentina: Preliminary Results of Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that changed circumstances do not exist warranting any changes under the antidumping duty (AD) order for biodiesel from Argentina. Commerce also determines, however, that changed circumstances exist warranting a change to the cash deposit rates under the countervailing duty (CVD) order.

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Charlotte Baskin-Gerwitz and Kathryn Wallace, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4880 and (202) 482–6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2018 and April 26, 2018, Commerce published the CVD and AD orders on biodiesel from Argentina.[1] On September 21, 2018, the Government of Argentina (GOA), joined by Vicentin S.A.I.C. (Vicentin) and LDC Argentina (LDC), requested that Commerce initiate a changed circumstance review (CCR) of the AD order, and the GOA (alone) requested that Commerce initiate a CCR of the CVD order, in order to have Commerce adjust the cash deposit rates established in the AD and CVD investigations as a result of changes to Argentina's export tax regime.[2] On October 1, 2018, the National Biodiesel Board Fair Trade Coalition (the petitioner) filed comments requesting that Commerce deny the GOA's request to initiate CCRs.[3] On October 11, 2018, the GOA, Vicentin, and LDC filed comments responding to the petitioner's October 1, 2018 comments.[4] On October 15, 2018, the petitioner submitted information and data illustrating the improvements in the domestic industry since the imposition of the orders, and on October 23, 2018, the petitioner submitted further comments opposing initiation of the CCRs.[5] Between September 26, 2018 and October 19, 2018, Commerce met with the GOA and the petitioner to discuss their submissions to the record.[6] On November 13, 2018, Commerce initiated CCRs of both the AD and CVD orders to assess the effects of the GOA's revisions to its export tax regime pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216.[7]

On November 19, 2018 and November 21, 2018, Commerce discussed the *Initiation of CCRs* with the petitioner

[1] *See Biodiesel from the Republic of Argentina and the Republic of Indonesia: Countervailing Duty Orders,* 83 FR 522 (January 4, 2018), corrected by *Biodiesel from the Republic of Argentina and the Republic of Indonesia: Countervailing Duty Orders,* 83 FR 3114 (January 23, 2018); *see also Biodiesel from Argentina and Indonesia: Antidumping Duty Orders,* 83 FR 18278 (April 26, 2018).

[2] *See* GOA's Letter, ''Biodiesel from Argentina: Request for Changed Circumstances Review,'' dated September 21, 2018 and filed on the record of A–357–820; *see also* GOA's Letter, ''Biodiesel from Argentina: Request for Changed Circumstances Review,'' dated September 21, 2018 and filed on the record of C–357–821 (collectively, Requests for CCRs).

[3] *See* Petitioner's Letter, ''Biodiesel from Argentina: Petitioner's Opposition to the Government of Argentina's Requests for Changed Circumstances Reviews,'' dated October 1, 2018.

[4] *See* GOA's Letter, ''Biodiesel from Argentina: Response to Petitioners' Opposition to the Government of Argentina's Request for Changed Circumstances Review,'' dated October 11, 2018.

[5] *See* Petitioner's Letter, ''Positive Impact of Orders from Argentina on Domestic Biodiesel Industry,'' dated October 15, 2018; *see also* Petitioner's Letter, ''Biodiesel from Argentina: Petitioner's Response to Respondents' October 11, 2018 Submission,'' dated October 23, 2018.

[6] *See* Memorandum, ''AD/CVD Orders on Biodiesel from Argentina—Requests for Changes {sic} Circumstance Reviews,'' dated September 26, 2018; *see also* Memorandum, ''Antidumping and Countervailing Duty Orders on Biodiesel from Argentina—Requests for Changed Circumstances Reviews: Ex Parte Meeting,'' dated October 4, 2018; and Memorandum, ''Antidumping and Countervailing Duty Orders on Biodiesel from Argentina—Requests for Changed Circumstances Reviews: Ex Parte Meeting,'' dated October 19, 2018.

[7] *See Biodiesel from Argentina: Initiation of Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders,* 83 FR 56300 (November 13, 2018) (*Initiation of CCRs*).

and the GOA, respectively.[8] On December 3, 2018, the petitioner submitted comments regarding the methodology it recommended Commerce apply in conducting the AD and CVD CCRs.[9] On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[10] On February 1, 2019, Commerce issued an initial questionnaire to the GOA.[11] The GOA submitted its responses to Commerce's initial questionnaire on February 21, 2019.[12] On March 11, 2019, the petitioner submitted comments on the GOA's initial questionnaire responses.[13] On March 20, 2019, the GOA responded to the petitioner's comments.[14] Between April 19, 2019 and June 6, 2019, Commerce held three additional *ex parte* meetings with the petitioner.[15] On May 16, 2019, and June 14, 2019, Commerce held additional *ex parte* meetings with the GOA.[16]

Scope of the Orders

The product covered by the *Orders* is biodiesel from Argentina. For a complete description of the scope of the *Orders,* see the appendix to this notice.

Alleged Changed Circumstances

During the period of investigation (POI) of the AD and CVD investigations (January 1, 2016 through December 31, 2016), an export tax of 30 percent on soybeans was in effect in Argentina.[17] In the AD investigation, we concluded that the 30 percent export tax had the effect of depressing the domestic price of soybeans.[18] We explained that a comparison of prices within Argentina with world prices indicated domestic prices were nearly 40 percent lower than world market prices.[19] We concluded that a ''particular market situation'' (PMS) existed with regard to the price of soybeans as an element of the cost of production (COP) of biodiesel in Argentina.[20] Accordingly, we adjusted the COP reported by the respondents under investigation by substituting a market determined price for the price that the respondents actually paid for soybeans in Argentina.[21]

In the CVD investigation, we concluded that domestic prices for soybeans were below world market prices by more than $100 per metric ton, depending on the month, as a result of the export tax on soybeans.[22] We also concluded that ''the effect on soybean prices paid by the respondents is not incidental to, but a direct result of, a system designed by the GOA to ensure the availability of relatively low-priced soybeans for domestic processing industries, notably the biodiesel industry.'' [23] We explained that the GOA had stated ''export duties are a valid development tool, since they enable many developing countries to cease being mere suppliers of raw materials,'' [24] and that the intention of its adjustment to the export tax on soybeans was to reduce domestic soybean prices in the context of rising world market prices.[25] We thus concluded that the GOA entrusts or directs private parties (*i.e.,* soybean growers) to provide soybeans to processing industries, including the biodiesel industry, at less than adequate remuneration (LTAR), within the meaning of section 771(5)(B)(iii) of the Act.[26] Because the record also indicated the subsidy was specific (section 771(5A)(D)(iii)(I) of the Act) and provided a benefit (section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a)(1)), we determined the subsidy was countervailable.[27]

In its CCR requests, the GOA asserts that significant changes to its export tax regime warrant reconsideration of the cash deposit rates established in the AD and CVD final determinations.[28] The GOA provided information indicating that, since the POIs, changes in the export tax regime have been effectuated, which was a key element in Commerce's analysis of: (1) The PMS finding concerning the cost of soybean input prices in the AD investigation; and (2) the soybeans for LTAR program in the CVD investigation.[29] In particular, the GOA attached four legislative decrees effecting changes across its export tax regime, including changes to the export

[8] *See* Memorandum, ''AD/CVD Orders on Biodiesel from Argentina—Requests for Changed Circumstance Reviews,'' dated November 19, 2018; *see also* Memorandum, ''AD/CVD Orders on Biodiesel from Argentina: Request for Changed Circumstance Reviews,'' dated November 27, 2018.

[9] *See* Petitioner's Letter, ''Biodiesel from Argentina: Petitioners' Comments on the Conduct of the Changed Circumstances Reviews,'' dated December 3, 2018.

[10] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[11] *See* Commerce Letter re: Initial CCR Questionnaire, dated February 1, 2019.

[12] *See* GOA's February 21, 2019 Initial Questionnaire Response (GOA IQR).

[13] *See* Petitioner's Letter, ''Biodiesel from Argentina: Petitioner's Comments on the GOA's Questionnaire Response,'' dated March 11, 2019.

[14] *See* GOA's Letter, ''Biodiesel from Argentina: Changed Circumstance Reviews—The GOA's Response to the Petitioners' Comments on the GOA's Questionnaire Response,'' dated March 20, 2019.

[15] *See* Memorandum, ''Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Ex Parte Meeting with the Petitioners,'' dated April 19, 2019; *see also* Memorandum, ''Changed Circumstances Review of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Ex Parte Meeting with the Petitioners,'' dated May 24, 2019; and Memorandum, ''Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Ex Parte Meeting with the National Biodiesel Board,'' dated June 10, 2019.

[16] *See* Memorandum, ''AD/CVD Orders on Biodiesel from Argentina—Changed Circumstance Reviews,'' dated May 24, 2019; *see also* Memorandum, ''Changed Circumstances Review of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Ex Parte Meeting with the Government of Argentina,'' dated June 14, 2019.

[17] *See Biodiesel from Argentina: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part,* 82 FR 50391 (October 31, 2017) (*AD Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) (*AD Preliminary Determination* PDM) at 23–24, unchanged in *Biodiesel from Argentina: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part,* 83 FR 8837 (March 1, 2018) (*AD Final Determination*) and accompanying Issues and Decision Memorandum (IDM) (*AD Final Determination* IDM); *see also Biodiesel from Argentina: Preliminary Affirmative Countervailing Duty Determination and Preliminary Affirmative Critical Circumstances Determination, in Part,* 82 FR 40748 (August 28, 2017) (*CVD Preliminary Determination*), and accompanying PDM (*CVD Preliminary Determination* PDM) at 26–27, unchanged in *Biodiesel From the Republic of Argentina: Final Affirmative Countervailing Duty Determination,* 82 FR 53477 (November 16, 2017) (*CVD Final Determination*) and accompanying IDM (*CVD Final Determination* IDM).

[18] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[19] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[20] A so-called ''cost PMS'' is addressed by section 773(e) of the Act. *See AD Preliminary Determination* and accompanying PDM at 20 (unchanged in *AD Final Determination*); *see also* AD Final Determination IDM at Comment 3.

[21] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[22] *See CVD Preliminary Determination* PDM at 30.

[23] *Id.* at 29.

[24] *Id.; see also* the Petition, dated March 23, 2017, at Volume I (CVD Petition) at CVD–ARG–08 (the GOA's statements to the World Trade Organization (WTO) in ''Trade Policy Review Report by the Secretariat: Argentina (Revision)'' WT/TPR/S/277/Rev.1 (June 14, 2013)) (placed on the record of these segments by Memorandum, ''Additional Information Concerning the Preliminary Changed Circumstances Reviews of Biodiesel,'' July 1, 2019 (Additional Information Memo)).

[25] *See CVD Preliminary Determination* PDM at 29.

[26] *Id.* at 29.

[27] *Id.* at 29–30.

[28] *See* Requests for CCRs at 1–2.

[29] *Id.* at 2 and 4; *see also AD Final Determination* IDM at Comment 3 and *CVD Final Determination* IDM at Comment 1, which discussed these aspects of the final determinations.

taxes applied to soybeans and their derivative products, including biodiesel:

(1) Decree 1343/2016 (December 30, 2016), introducing monthly reductions of 0.5 percent to the export taxes on soybeans, soybean oil, soymeal, and soybean pellets, beginning in January 2018; [30]

(2) Decree 1025/2017 (December 12, 2017), raising the export tax on biodiesel from zero to 8 percent, effective January 1, 2018; [31]

(3) Decree 468/2018 (May 24, 2018), further raising the export tax on biodiesel from 8 to 15 percent, effective July 1, 2018; [32] and,

(4) Decree 793/2018 (September 3, 2018), further reducing the export tax on soybeans, soybean oil, and soymeal to 18 percent, effective September 4, 2018.[33]

Decree 793/2018, in addition to decreasing the export tax on soybeans, imposed new, temporary taxes on all products exported from Argentina, equating to an additional 10.3 percent tax for exports of both soybeans and biodiesel.[34] Thus, as a result of the four decrees, as of September 2018, the export tax on soybeans stood at 28.3 percent (nearly identical to where it was during the POIs) and the export tax on biodiesel stood at 25.3 percent (versus 3.96 percent through May 2016 and 5.04 percent from June 2016 until June 2017, at which point it was lowered to zero).[35]

According to the decrees, the changes to the tax rates were ''necessary to continue fostering the convergence between the export tax applicable to {soybeans, soybean oil, soymeal} and that applicable to biodiesel,'' [36] and ''in order to, among other objectives, implement the monetary, exchange or foreign trade policy, to stabilize internal prices and to address public financial needs.'' [37] The preamble of Decree 793/2018 references an underlying statutory regime, as well as the GOA's 2018 national budget, noting concerns with ensuring ''fiscal convergence, an efficient tax policy and the gradual reduction of the tax burden.'' [38] Additionally, in response to a request from Commerce, the GOA provided its economic reform proposal, as submitted to the International Monetary Fund (IMF),[39] as support for its claims that the export tax revisions are ''aimed at reaching a gradual convergence between the export tax applicable to soybeans, soybean oil and soymeal that are applicable to biodiesel. In addition, they served revenue-collection purposes and also pursued the stabilization of internal prices, in light of a dire financial situation during 2018 and the steep devaluation of the national currency.'' [40]

Legal Framework

Pursuant to section 751(b)(1) of the Act, and 19 CFR 351.216(d), Commerce will conduct a CCR of an AD or CVD order upon receipt of a request from an interested party which demonstrates changed circumstances sufficient to warrant such a review. Section 751(b)(4) of the Act also provides that Commerce may not conduct a CCR of an investigation determination within 24 months of the date of the investigation determination in the absence of ''good cause.'' Section 351.216 of Commerce's regulations, as well as 19 CFR 351.221, provide rules governing the conduct of CCRs.

Neither the statute nor the regulation provide a definition of ''changed circumstances'' nor explain what aspects of a determination may be reconsidered in light of such changed circumstances. In practice, Commerce has conducted CCRs to address a wide variety of issues, which have resulted in various determinations, including changes to cash deposit rates.[41] Where Commerce determines to conduct a CCR within 24 months of an investigation final determination, the purpose is not to reconsider the validity of the determinations made in the AD or CVD investigations, which were based on the circumstances in existence during the POIs. Rather, the purpose of the CCRs is to consider whether circumstances have changed since the end of the POIs such that the cash deposit rates established by the final determinations (and put into effect by the *Orders*) are no longer the best estimates of prospective dumping and subsidization and therefore are no longer appropriate for purposes of collecting deposits.

AD Analysis

Commerce preliminarily finds that there are insufficient changed circumstances warranting a reconsideration related to the *AD Final Determination.* As described above, Commerce determined that a PMS existed in Argentina with regard to the price of soybeans as a constituent element of the COP of biodiesel in Argentina.[42] The Trade Preferences Extension Act of 2015 [43] added language to section 773(e) of the Act, which states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.''

In this context, we determined that the GOA's intervention in soybean pricing through the export tax of 30 percent on soybeans rendered the domestic price of soybeans paid by respondent biodiesel producers outside the ordinary course of trade.[44] This PMS finding involved: (1) Numerous studies indicating that the export tax on soybeans was designed to generate a low-cost surplus of soybeans for domestic use, thereby artificially depressing soybean prices for domestic consumption; (2) the fact that the export tax on soybeans was not intended as an ordinary revenue measure, but rather was unique to soybeans, as soybeans were the only commodity subject to an export tax during the POI; and (3) record evidence that Argentine prices for soybeans were nearly 40 percent lower than world market prices for soybeans during the POI.[45] Accordingly, based on the totality of the circumstances, Commerce rejected the prices paid by the respondents in the AD investigation as part of the COP calculation, as they did ''not accurately reflect the cost of

[30] *See* Requests for CCRs at Attachment 1.

[31] *See* GOA IQR at Appendix V.

[32] *See* Requests for CCRs at Attachment 3.

[33] *Id.* at Attachment 2.

[34] *See* GOA IQR at 3–4.

[35] *See* the Petition at Exhibit CVD–ARG–05 (placed on the record of these segments by Additional Information Memo).

[36] *See* Decree 486/2018; *see also* Requests for CCRs at Attachment 3.

[37] *See* Decree 793/2018; *see also* Requests for CCRs at Attachment 2.

[38] *See* Decree 793/2018.

[39] *See* GOA IQR at Appendix III (Letter to Christine Lagarde, Managing Director, IMF, ''Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding,'' dated October 17, 2018 (IMF Proposal)).

[40] *Id.* at 1.

[41] *See, e.g., Aluminum Extrusions from the People's Republic of China: Final Results of Expedited Changed Circumstances Review,* 83 FR 45609 (September 10, 2018) (finding sufficient information of changed circumstances to recalculate certain cash deposit rates); *Certain Steel Nails From Malaysia: Final Results of Antidumping Duty Changed Circumstances Review,* 82 FR 34476 (July 25, 2017) (finding sufficient information of changed circumstances to collapse certain entities and to utilize the correct cash deposit rate); and *Final Results of Changed Circumstances Administrative Reviews; Pure Magnesium and Alloy Magnesium From Canada,* 57 FR 54047 (November 16, 1992) (finding sufficient information to determine changed circumstances to the major subsidy program at issue in the underlying investigation).

[42] *See AD Preliminary Determination* PDM at 24.

[43] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[44] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[45] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

production in the ordinary course of trade,'' and replaced these prices with a market-determined price.[46]

For purposes of this CCR, record evidence shows soybean prices in Argentina still remain well below world market prices. Specifically, according to the GOA's data, since September 2018 (when the export tax on biodiesel was raised to 25.3 percent), the gap between domestic and world prices has ranged between $50 per ton to nearly $100 per ton, or, in terms of a percentage, domestic prices have been 30 percent lower than world prices since last September.[47] This is almost the same gap that existed during the POI.[48]

While the GOA speculates that the relationship between domestic and world prices is the result of several factors, such as currency fluctuations, trade measures imposed by China on U.S. soybean shipments, and the weather, it provided no studies, publications, or detailed analyses demonstrating whether such factors might explain the current gap between prices.[49] Instead, the GOA argues that it is impossible to isolate the effects of any one cause. However, evidence on the record demonstrates that there is a discernible correlation between the size of the so-called price gap and the amount of the export tax. For instance, from 1994 through 2001 (when the export tax rate was 3.5 percent), domestic soybean prices in Argentina were slightly less than the world soybean price.[50] In 2001, the difference in prices was $26 per metric ton.[51] By the end of 2002, after the export tax increased to 23.5 percent, the difference between Argentine domestic soybean prices and world market prices had grown to nearly $50 a metric ton.[52] Between 2003 and 2006, the average price differential increased to over $100 per metric ton.[53] In 2007, when the GOA increased the export tax from 23.5 percent to 35 percent, the price differential increased to $165 per metric ton.[54] The price differential increased to $200 per metric ton in 2015.[55] In 2016, after the GOA reduced the export tax to 30 percent, the price differential decreased to $146 per metric ton. More recently, as the GOA began reducing the export tax by 0.50 percent per month in January 2018, the gap began closing.[56] After the GOA increased the export tax to 28.3 percent in September 2018, the gap began expanding once again, approaching $100 per metric ton in January 2019. In any event, as we indicated in the *AD Final Determination* in response to a similar argument by the Vicentin Group, the PMS provisions of the Act do not require a strict causal finding between the distortive government action and the observed distorted price.[57]

In addition, as noted, multiple publications on the record of the AD investigation concluded that the export tax leads to lower soybean prices (and was intended to do so).[58] The GOA has provided no evidence in the form of studies, publications, or detailed analyses to undermine these publications, or to demonstrate that the export tax on soybeans no longer impedes external trade and competitive domestic pricing for soybeans.

We recognize that the record indicates that the design and structure of the export tax regime has changed, which affects the ''ordinary revenue measure'' prong of our PMS analysis in the AD investigation. Specifically, in the *AD Final Determination,* we found that the export tax regime was not part of an ordinary revenue measure, as it was unique to soybeans—the only commodity product subject to an export tax during the POI.[59] The record of this CCR demonstrates that is no longer the case. As discussed above, Decree 1025/2017 and Decree 468/2018 increased the export tax on biodiesel from zero to 15 percent, while Decree 793/2018, in addition to decreasing the export tax on soybeans, imposed new, temporary taxes on all products exported from Argentina.[60] Thus, we find that the export tax is no longer designed for downstream development purposes, but is part of an overall revenue improvement measure and a tax scheme applied to exports of both agricultural and industrial commodities.

Nevertheless, after reviewing the record evidence in this CCR under the totality of circumstances analysis of the AD investigation, we find that there remains a price gap that still exists between domestic and world prices, as a result of the export tax on soybeans, which continues to impede external trade and competitive domestic pricing for soybeans. Thus, we find that there are insufficient changed circumstances to warrant a reconsideration of our finding that the GOA's intervention in soybean pricing through the export tax on soybeans renders prices paid by biodiesel producers outside the ordinary course of trade. The internal soybean market is still clearly distorted by GOA intervention and therefore a PMS still exists.

We also find that our PMS analysis is unaffected by the imposition of a specific export tax on biodiesel. As noted above, during the POI there was an export tax on biodiesel of 3.96 percent through May 2016 and 5.04 percent from June 2016 until the end of the POI in December 2016.[61] After dropping down to zero, the export tax is now 25.3 percent, as compared to the soybean export tax of 28.3 percent. We find that an export tax on soybeans continues to artificially depress soybean prices for domestic consumption, regardless of the presence or magnitude of an export tax on biodiesel. Simply put, Argentine soybean growers continue to accept depressed domestic prices rather than exporting and paying a significant export tax.

CVD Analysis

In the CVD investigation, Commerce examined an allegation that soybeans were provided for LTAR through soybean export restraints, which the CVD Petition described as ''high export taxes and other regulations relating to soybeans,'' [62] which entrust and direct soybean growers to provide a subsidy ''benefiting the industry under investigation.'' [63] In the CVD *Preliminary Determination,* Commerce determined that the export tax on soybeans amounted to a countervailable

[46] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[47] *See* GOA IQR at 14.

[48] *See AD Final Determination* IDM at Comment 3; *see also* Petitioner's Letter, ''Petitioner's Particular Market Situation Allegation Regarding Respondent's Home and Third Country Market Sales and Cost of Production,'' dated August 2, 2017 (placed on the record of these segments by Additional Information Memo) at 45 and Exhibit 37–B.

[49] *See* GOA IQR at 11–12. The GOA states that it ''doubts'' the export tax has had a significant effect on prices.

[50] *See* CVD Petition at 26 (placed on the record of these segments by Additional Information Memo).

[51] *Id.* at CVD–ARG–21 (placed on the record of these segments by Additional Information Memo).

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.*

[56] *See* GOA IQR at 13 (comparison of Argentine prices with Chicago commodities exchange prices) and 4 (Table 1: Export Tax Rates).

[57] *See AD Final Determination* IDM at Comment 3.

[58] *See AD Preliminary Determination* PDM at 23–24; *see also AD Final Determination* IDM at Comment 3.

[59] *See AD Final Determination* IDM at Comment 3.

[60] *See* GOA IQR at 3–4, Appendix V; *see also* Requests for CCRs at Attachments 2 and 3.

[61] *See* CVD Petition at Exhibit CVD–ARG–05 (placed on the record of these segments by Additional Information Memo).

[62] *Id.* at 16 (placed on the record of these segments by Additional Information Memo).

[63] *Id.* at 17 (placed on the record of these segments by Additional Information Memo).

subsidy because, among other reasons,[64] the GOA ''entrusted or directed'' a private entity (*i.e.,* soybean growers) to make a financial contribution, pursuant to section 771(5)(B)(iii) of the Act, in the form of the provision of goods or services to biodiesel producers for LTAR, pursuant to sections 771(5)(D)(iii) and 771(5)(E)(iv) of the Act.[65] We explained that where, as was the case in the underlying investigation and is still the case here, there is no ''direct legislation to entrust or direct private parties to provide a financial contribution,'' Commerce may ''rely on circumstantial information to determine that there was entrustment or direction.'' [66] We further explained that, in such a situation, Commerce employs a two-part test examining the relevant policy and practices of the foreign government.[67] Specifically, Commerce looks to: (1) Whether the government has in place during the relevant period a governmental policy *to support the respondent(s);* and (2) whether evidence on the record establishes a pattern of practices on the part of the government to act upon that policy to entrust or direct the associated private entity decisions.[68] We then evaluated the record and determined that the export tax on soybeans constituted ''a policy to support production of biodiesel and other domestic processing industries,'' [69] and that ''{t}he effect on soybean prices paid by the respondent is not incidental to, but a direct result of, a system designed by the GOA to ensure the availability of relatively low-priced soybeans for domestic processing industries, notably the biodiesel industry.'' [70] In other words, Commerce concluded the program existed to ''provide{ } an incentive for the development of domestic manufacturing or processing industries with higher value-added exports,'' [71] such as biodiesel production. This conclusion was derived from an examination of the ''pertinent GOA laws and regulations'' as well as other, third-party evidence indicating the program was a ''development tool'' designed ''to help'' downstream producers.[72] Thus, the focus is not on whether the program has led to lower input prices, but whether the program is designed and structured to entrust and direct soybean producers to provide Argentine biodiesel producers with soybeans for LTAR.[73]

We preliminarily determine that the evidence that supported a finding of entrustment and direction in the original investigation no longer exists. Based on the record before us, we no longer find that Argentina's export tax regime is designed and structured to encourage the development of the downstream biodiesel industry or to benefit the respondents. This is based on the changes cited by the GOA to the export tax on soybeans as well as to the export taxes on downstream products (including biodiesel) for which soybeans are a major input.[74] Contrary to the petitioner's contention that the export tax on biodiesel is irrelevant to both the AD and CVD CCRs, Commerce preliminarily concludes that the analytical framework for finding ''entrustment and direction'' of private parties (as described above), which is concerned with more than the existence of distorted prices, and the record of the CVD investigation itself, indicate that we should consider the export tax on biodiesel in relation to the export tax on soybeans.[75] As discussed above, the CVD Petition describes the allegation as being based on the export tax on soybeans and other regulations relating to soybeans, and also repeatedly refers to the importance of the difference between the level of export taxation on soybeans compared to downstream products such as biodiesel.[76] This same approach, examining the totality of record information and the unique circumstances of the case, was taken in the CVD Initiation Checklist, where Commerce concluded:

> The overall configuration of the GOA's export taxes, *including the differences between export taxes on soybeans and soybean derivatives,* in addition to the intent of the biofuels law to promote the production of and use of biofuels, and to benefit ''all projects for the establishment of biofuel industries,'' indicates that the GOA has implemented the export taxes with the intent of entrusting and directing soybean suppliers to provide a financial contribution to biodiesel producers.[77]

The significance of the relationship between the two taxes is apparent elsewhere on the record of the investigation, including the third-party assessments submitted by the petitioner to support the allegation and examined by Commerce during the investigation.[78] For example, at the outset of our analysis of the program in the *CVD Preliminary Determination,* Commerce highlights three third-party sources. Each source references the differential as being important if the design of the scheme is to benefit downstream producers:

- International Renewable Energy Agency, ''Renewable Energy Policy Brief—Argentina,'' dated June 2015: ''*Differential export taxes* for biofuels versus other products derived from the same feedstock promoted the export of biofuels, especially biodiesel. For example, in 2008 export taxes were 35% for soy bean, 32% for soy oil, but only 5% for biodiesel.'' [79]
- USDA Foreign Agricultural Service, ''Argentina Biofuels Annual,'' dated July 7, 2016: ''A factor which contributed to the expansion of the local biodiesel industry since its beginnings has been the *differential export tax on biodiesel vis-a-vis soybean oil.* Soybean oil exports are currently taxed 27 percent while biodiesel exports are taxes 5.04 percent.'' [80]
- OECD Trade Policy Studies, ''The Economic Impact of Export Restrictions on Raw Materials,'' dated 2010: ''Export restrictions provide downstream processing industries with an advantage. *Differential export duty rates* play an important role in this regard: higher rates for raw materials or input products while lower rates apply for finished products. For example, in Argentina the export duty rates for soybean, soybean oil and biodiesel were 27.5%, 24.5%, and 5% respectively as of 2007. The price advantage provided to domestic downstream industries can distort and reduce competition in both domestic and foreign markets.'' [81]

[64] Commerce also found that the provision of soybeans was specific and provided a benefit.

[65] *See CVD Preliminary Determination* PDM at 30.

[66] *Id.* at 28 (citing *Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination,* 80 FR 63535 (October 20, 2015) and accompanying IDM at 125).

[67] *See CVD Preliminary Determination* PDM at 28. The CIT affirmed Commerce's approach in *Hynix Semiconductor, Inc.* v. *United States,* 391 F. Supp. 2d 1337 (CIT 2005), *aff'd after remand* 425 F. Supp. 2d 1287 (CIT 2006).

[68] *See CVD Preliminary Determination* PDM at 28.

[69] *Id.* at 29.

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] In the CVD Initiation Checklist, we noted that the ''Biofuels Law'' is intended to ''*promote* and control sustainable biofuel production and use.'' *See* CVD Initiation Checklist at 8–9 (emphasis in the original) (placed on the record of these segments by Additional Information Memo); *see also* Petition at CVD–ARG–27 (''Regime to Regulate and Promote Sustainable Biofuel Product and Use,'' Law 26,093 (April 19, 2006) (placed on the record of these segments by Additional Information Memo).

[74] *See* CVD Initiation Checklist at 7.

[75] By comparison, in the PMS analysis undertaken in the AD investigation, as discussed above, we are concerned simply with whether the GOA's intervention has led to distorted prices that are outside the ordinary course of trade.

[76] *See* CVD Petition at 19–23 (placed on the record of these segments by Additional Information Memo).

[77] *See* CVD Initiation Checklist at 9 (emphasis added).

[78] *See CVD Preliminary Determination* PDM at 25–26.

[79] *See* CVD Petition at Exhibit CVD–ARG–03.

[80] *Id.* at Exhibit CVD–ARG–05.

[81] *Id.* at Exhibit CVD–ARG–07 (emphasis added).

Thus, we preliminarily determine that the convergence of the export tax rates on soybeans and biodiesel demonstrates that the tax regime as it pertains to soybeans and its derivatives is no longer about benefitting or encouraging the development of the domestic biodiesel industry. The shift in the design is also evident from the economic reform proposal Argentina has submitted to the IMF, corroborating the GOA's claims that it has shifted the focus of its export tax program from selective economic development to general revenue collection and economic stability. In relevant part, the proposal, dated October 17, 2018, states:

- New and increased export taxes are one of two fiscal measures adopted by Argentina as a means of fairly achieving revenue gains and the macroeconomic and financial objectives promised to the IMF (the other being a wealth tax).[82]
- The GOA has ''unraveled a myriad of economic distortions put in place by the previous administration,'' [83] and pledges to continue ''revisions to the current distortive systems of taxes and subsidies.'' [84]
- The commitments are part of a request to the IMF for access to an additional $7.1 billion in reserve financing, and a recognition that Argentina must ''no longer live beyond its means'' and must ''spend only what it can raise in taxes.'' [85]

The OECD report referenced above also states that in Argentina export taxes have historically been an important source of revenue, unlike in other countries where they have been used primarily as a development tool, thus supporting Argentina's characterization of the revised tax regime.

Given this change, Commerce preliminarily determines that the current program provides no third-party financial contribution through an entrustment and direction mechanism and is therefore, as currently designed, not countervailable. Therefore, Commerce preliminarily determines to lower the CVD cash deposit rates by the amount determined for the program in the CVD final determination.

Preliminary Results of Changed Circumstances Reviews

Pursuant to section 751(b) of the Act and 19 CFR 351.216, Commerce preliminarily determines that changed circumstances do not exist warranting any changes under the AD order, but that changed circumstances do exist warranting recalculation of the total CVD cash deposit rates as follows:

	Total subsidy rate under the CVD order (percent)	Subsidy rate determined for the provision of soybeans (percent)	Revised total subsidy rate pursuant to the CCR (percent)
LDC Argentina S.A	72.28	72.09	0.19
Vicentin S.A.I.C	71.45	61.15	10.30
All Others *	71.87	n/a	10.30

* Because the revised cash deposit rate determined for LDC Argentina S.A. is *de minimis,* we have based the all others rate exclusively on the rate for Vicentin S.A.I.C.

Cash Deposits

If the revised cash deposit rates indicated above are maintained for the final results of the CVD CCR, Commerce will issue instructions to U.S. Customs and Border Protection (CBP) revising the cash deposits applied to all entries of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the final results in the **Federal Register**. Commerce will instruct CBP not to collect cash deposits for producers or exporters determined to have a total subsidy rate below *de minimis.* Commerce will instruct CBP to continue to suspend all entries of subject merchandise regardless of whether any rate determined pursuant to the final results of these CCRs is zero or *de minimis,* and such entries will be subject to administrative review if one is requested.

If the above preliminary results are maintained for the final results of the AD CCR, Commerce will not issue instructions to CBP under the AD order as no changes to the cash deposit rates need to be effectuated.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[86] Rebuttal briefs, limited to issues raised in the case briefs, may be filed by no later than five days after the deadline for filing case briefs.[87] Parties that submit case or rebuttal briefs are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[88] All briefs are to be filed electronically using ACCESS.[89] An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day on which it is due.[90]

Any interested party may submit a request for a hearing to the Assistant Secretary of Enforcement and Compliance using ACCESS within 30 days of publication of this notice in the **Federal Register**.[91] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.[92] If a request for a hearing is made, parties will be notified of the time and date of the hearing, which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[93]

Final Results of the Review

Unless extended, in accordance with 19 CFR 351.216, Commerce intends to issue the final results of this CCR not later than 270 days after the date on which the review was initiated.

Notification to Interested Parties

Commerce is issuing these results in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221(c)(3)(i).

[82] IMF Proposal at 2.

[83] *Id.* at 4.

[84] *Id.* at 6.

[85] *Id.* at 4.

[86] *See* 19 CFR 351.309(c)(1)(ii).

[87] *See* 19 CFR 351.309(d)(1).

[88] *See* 19 CFR 351.309(c)(2) and (d)(2).

[89] *See* 19 CFR 351.309(b) and (f).

[90] *See* 19 CFR 351.303(b).

[91] *See* 19 CFR 351.310(c).

[92] *Id.*

[93] *See* 19 CFR 351.310(d).

Dated: July 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–14556 Filed 7–8–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–883]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea) were sold in the United States at less than normal value (NV) during the period of review (POR) March 22, 2016 through September 30, 2017.

DATES: Effective July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros or Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425 or (202) 482–0486, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2018, Commerce published the *Preliminary Results* of this review in the **Federal Register**.[1] Commerce conducted verification of mandatory respondents, Hyundai Steel Company (Hyundai Steel) and POSCO, and certain U.S. affiliates in March and April 2019. In accordance with 19 CFR 351.309, we invited interested parties to comment on the *Preliminary Results.* Between May 21, 2019 and June 10, 2019, Commerce received timely filed case and rebuttal briefs from various interested parties.

On December 21, 2018, Commerce extended the deadline for the final results of this review.[2] Commerce also exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.[3] On June 3, 2019, Commerce again extended the deadline for the final results.[4] Thus, the deadline for the final results of this administrative review is June 21, 2019.

Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by this review is hot-rolled steel from Korea. For a full description of the Scope, *see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted by this notice. The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our review and analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for both Hyundai Steel and POSCO. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Rate for Non-Examined Companies

The statue and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we calculated a weighted-average dumping margin that is not zero, *de minimis,* or determined entirely on the basis of facts available for Hyundai Steel and POSCO. Accordingly, Commerce has assigned to the companies not individually examined a margin of 7.78 percent, which is the simple average of Hyundai Steel's and POSCO's calculated weighted-average dumping margins for these final results.[6]

Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period March 22, 2016 through September 30, 2017:

[1] *See Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 56821 (November 14, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated December 21, 2018.

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated June 3, 2019.

[5] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Issues and Decision Memorandum for the Final Results of the 2016–2017 Antidumping Duty Administrative Review,'' dated concurrently with this notice (Issues and Decision Memorandum).

[6] For more information regarding the calculation of this margin, *see* Memorandum, ''Calculation of the Margin for Non-Examined Companies,'' dated June 21, 2019. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the individually-examined respondents.

Producer or exporter	Final dumping margins (percent)
Hyundai Steel Company	5.44
POSCO/POSCO Daewoo Co., Ltd[7]	10.11
Non-examined companies[8]	7.78

Disclosure

We intend to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the **Federal Register**.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[9] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[10] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[11] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[12]

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section, above.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Hyundai Steel and POSCO, or the non-examined companies for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[13]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed in these final results will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.55 percent,[14] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of Commerce's regulations.

Dated: June 21, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of the Issues
Comment 1: Usability of Hyundai Steel's Cost Database
Comment 2: Whether Hyundai Steel is Affiliated With Certain Home Market Customers
Comment 3: Application of Adverse Facts Available (AFA) for Hyundai Steel
Comment 4: Hyundai Steel's Sales Under Temporary Import Bond (TIB)
Comment 5: Hyundai Steel's Overrun Sales
Comment 6: Hyundai Steel Gross Unit Price Variables
Comment 7: Hyundai Steel Late Payment Fees
Comment 8: Whether POSAM's Indirect Selling Expense Ratio Should be Revised
Comment 9: Whether Commerce Should Correct Errors Made in the Preliminary Results
Comment 10: Whether POSCO Incorrectly Included Freight Revenues in the Gross Unit Price for UPI's Sales

[7] In the *Preliminary Results,* Commerce collapsed POSCO and POSCO Daewoo Corporation (PDW). *See Preliminary Results,* and accompanying PDM. As no interested parties commented on the preliminary affiliation finding, Commerce will continue to treat these two companies as a single entity for the final results.

[8] The non-examined companies subject to this review are: Daewoo International Corp.; Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Marubeni-Itochu Steel Korea; Soon Hong Trading Co.; and Sungjin Co.

[9] *See* 19 CFR 351.212(b)(1).

[10] *Id.*

[11] *Id.*

[12] *See* 19 CFR 351.106(c)(2).

[13] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[14] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016).

Comment 11: Whether Commerce Should Apply Partial AFA to POSCO's U.S. Inventory Carrying Costs
Comment 12: Whether Commerce Should Revise UPI's Further Manufacturing G&A Expense Ratio
Comment 13: Whether Commerce Should Revise UPI's G&A and INTEX Ratio Denominators
Comment 14: Whether Commerce Should Revise the Further Manufacturing Cost of UPI's Non-Prime Products
Comment 15: Whether Commerce Should Revise UPI's U.S. Brokerage and Handling Expenses
Comment 16: Whether POSCO/UPI Should Receive a CEP Offset
Comment 17: POSCO's CONNUM-Specific Costs Reporting and Whether to Smooth Cost
Comment 18: Whether Commerce Should Apply the Quarterly Cost Methodology to POSCO
VI. Recommendation

[FR Doc. 2019–14482 Filed 7–8–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) order on non-malleable cast iron pipe fittings (NMPF) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD order.

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3609.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2003, Commerce published the notice of the AD order on NMPF from China.[1] On January 2, 2019, the ITC instituted its review of the *Order*.[2] On February 5, 2019, Commerce published the initiation of the third sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[3] Commerce received a timely notice of intent to participate in this review from Anvil International, LLC and Ward Manufacturing LLC (collectively, the petitioners), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).[4] On March 7, 2019, Commerce received a complete and adequate substantive response from the petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] Commerce received no substantive responses from respondent interested parties. Pursuant to section 751(c)(3)(B) of the Act, Commerce conducted an expedited (120-day) sunset review of the *Order*.[6] On May 10, 2019, the ITC published its notice to conduct an expedited five-year review of the *Order*.[7]

As a result of its review, Commerce determined, pursuant to section 751(c)(1) of the Act, that revocation of the *Order* on NMPF from China would likely lead to continuation or recurrence of dumping. Commerce, therefore, notified the ITC of the magnitude of the margin of dumping rates likely to prevail should this *Order* be revoked.[8]

On July 1, 2019, the ITC published its determination that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to section 751(c) of the Act.[9]

Scope of the Order

The products covered by the *Order* are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as ''cast iron pipe fittings'' or ''gray iron pipe fittings.'' These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of the *Order.* These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the *Order* is dispositive.[10]

Continuation of the Order

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of this *Order* on NMPF from China. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the

[1] *See Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China,* 68 FR 16765 (April 7, 2003) (*Order*).

[2] *See Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China; Institution of Five-Year Review,* 84 FR 14 (January 2, 2019).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 1705 (February 5, 2019).

[4] *See* Petitioners' Letter, ''Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China,'' dated February 5, 2019.

[5] *See* Petitioners' Letter, ''Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, Third Review: Substantive Response to Notice of Initiation,'' dated March 7, 2019.

[6] *See Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order,* 84 FR 27088 (June 11, 2019) and accompanying Issues and Decision Memorandum (Issues and Decision Memorandum).

[7] *See Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China; Scheduling of an Expedited Five-Year Review,* 84 FR 20659 (May 10, 2019).

[8] *See* Issues and Decision Memorandum.

[9] *See Non-Malleable Cast Iron Pipe Fittings from China; Determination,* 84 FR 31349 (July 1, 2019); *see also Non-Malleable Cast Iron Pipe Fittings from China:* Investigation No. 731–TA–990 (Third Review), USITC Publication 4915 (June 2019).

[10] *See Order.*

time of entry for all imports of subject merchandise.

The effective date of the continuation of this *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year review of this *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Notification to Interested Parties

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: July 2, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–14561 Filed 7–8–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–091]

Certain Steel Wheels 12 to 16.5 Inches in Diameter From the People's Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China).

DATES: Applicable July 9, 2019.

FOR FURTHER INFORMATION CONTACT: Emily Halle or Keith Haynes, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0176 or (202) 482–5139, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 2019, Commerce published the *Preliminary Determination* of this investigation in the **Federal Register**.[1] In the *Preliminary Determination,* Commerce aligned the final determination in this countervailing duty (CVD) investigation with the final determination in the companion less-than-fair-value (LTFV) investigation, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4). A complete summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial Federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] Accordingly, the deadline for the final determination of this investigation is July 1, 2019.

Period of Investigation

The period of investigation (POI) is January 1, 2017 through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are certain steel wheels 12 to 16.5 inches in diameter from China. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

Scope Comments

During the course of this investigation and the concurrent LTFV investigation of certain steel wheels from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.[4] Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein, and has made changes to the scope of the investigation, including additional exclusions, and clarifying language. For a summary of the scope comments and rebuttal responses submitted to the record for this final determination, along with the accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.[5]

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination,* Commerce preliminarily determined, pursuant to section 703(e)(1) of the Act, that critical circumstances exist with respect to Xingmin Intelligent Transportation Systems (Group) (Xingmin), Zhejiang Jingu Company Limited (Zhejiang Jingu), and all other exporters or producers not individually examined. For this final determination, we continue to find that critical circumstances exist for Xingmin, Zhejiang Jingu, and all other exporters or producers not individually examined, pursuant to section 705(a)(2) of the Act. For a full description of the methodology and results of Commerce's analysis, *see* the Issues and Decision Memorandum.

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this proceeding, other than

[1] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 84 FR 5989 (February 25, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated April 15, 2019, at 11.

[5] *See* Memorandum, ''Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Scope Comments Decision Memorandum,'' dated concurrently with this notice (Final Scope Decision Memorandum).

those issues related to scope, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum, is attached at Appendix II.

Use of Adverse Facts Available

Commerce relied on ''facts otherwise available,'' including adverse facts available (AFA), for several findings in the *Preliminary Determination.* For this final determination, we are basing the CVD rates for Xingmin and Zhejiang Jingu on facts otherwise available, with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of AFA, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination.* For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on AFA under section 776 of the Act. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates established for the mandatory respondents are zero, *de minimis,* or based entirely on facts available, Commerce may use ''any reasonable method'' for assigning an all-others rate, including ''averaging the estimated average countervailable subsidy rates determined for the exporters and producers individually investigated.'' In this investigation, all rates for the individually-investigated respondents are based entirely on facts available, pursuant to section 776 of the Act. We are relying on a simple average of the total AFA rates assigned to Xingmin and Zhejiang Jingu as the ''all-others'' rate in this final determination, consistent with the statutory provision to rely on ''any reasonable method.'' Specifically, there is no other information on the record from which to determine the all-others rate. For further information on the all-others rate, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] In making these findings, Commerce relied, in part, on facts otherwise available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates, as follows:

Company	Subsidy rate (percent)
Xingmin Intelligent Transportation Systems (Group)[8]	386.45
Zhejiang Jingu Company Limited[9]	388.31
All-Others	387.38

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of certain steel wheels from China, as described in Appendix I of this notice, that were entered or withdrawn from warehouse, for consumption, on or after November 27, 2018, 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**, for Xingmin, Zhejiang and all other producers and exporters of merchandise under consideration. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after June 25, 2019, but to continue the suspension of liquidation of all entries from November 27, 2018 through June 24, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC issues a final affirmative injury determination but a final negative determination of critical circumstances, we will instruct CBP to liquidate entries prior to the date of publication of the *Preliminary Determination* without regard to duties, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of certain steel wheels from China. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a), (b), and 782(d) of the Act.

[8] Commerce assigned Xingmin's rate to each of the entities for which Xingmin provided an initial questionnaire response: Sino-Tex (Longkou) Wheel Manufacturers Inc.; Tangshan Xingmin Wheel Co., Ltd.; and Xianning Xingmin Wheel Co., Ltd.

[9] Commerce assigned Zhejiang Jingu Company Limited's rate to each of the entities named as cross-owned in its affiliation questionnaire response: Shanghai Yata Industry Company Limited; Shangdong Jingu Auto Parts Co., Ltd.; An'Gang Jingu (Hangzhou) Metal Materials Co., Ltd.; Zhejiang Wheel World Co., Ltd.; and Hangzhou Jingu New Energy Development Co. Ltd. Zhejiang Jingu's rate has also been assigned to Zhejiang Jingu Automobile Components, which was the prior name of Zhejiang Jingu.

will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of certain steel wheels from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: July 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA's required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of this investigation. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the People's Republic of China.

Excluded from this scope are the following:

(1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;

(2) aluminum wheels;

(3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including but not limited to Physical Vapor Deposition (PVD); and

(4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;

(5) steel wheels that meet the following specifications: Steel wheels with a nominal wheel diameter ranging from 15 inches to 16. 5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3. 75 inches to 5.5 inches; and

(6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to this investigation are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Affirmative Final Determination of Critical Circumstances
VI. Use of Facts Otherwise Available and Adverse Inferences
VII. Discussion of the Issues
Comment 1: Calculation of the Total AFA Rate
Comment 2: Calculation of the All Others Rate
Comment 3: Whether Critical Circumstances Exist
VIII. Recommendation

[FR Doc. 2019–14558 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH077

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, July 24, 2019 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Boston Marriott Quincy, 1000 Marriott Drive, Quincy, MA 02169; telephone: (617) 472–1000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will receive and discuss a Plan Development Team report on incentive-based measures, how they can be used in a Fishery Ecosystem Framework with harvest control rules for stock complexes. These options will be incorporated into an example Fishery Ecosystem Plan (eFEP) which is scheduled to be presented to the Council at its September meeting. Related issues for drafting an eFEP and other ecosystem management activities, including further evaluation of jurisdiction and co-management for Georges Bank stock complexes, may be discussed. Other business may be discussed as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: July 3, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–14520 Filed 7–8–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH083

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will hold a public webinar meeting.

DATES: The meeting will be held on Wednesday, July 31, 2019 from 10:00 a.m. to 12:00 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar, which can be accessed at: *http://mafmc.adobeconnect.com/fsb-mc-july2019/.* Meeting audio can also be accessed via telephone by dialing 1–800–832–0736 and entering room number 4472108.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will meet via webinar to review and provide feedback on the results of a Management Strategy Evaluation (MSE) for recreational summer flounder management, which models alternative management options for the recreational summer flounder fishery to compare the expected performance of different management strategies and measures. Meeting materials will be posted to *http://www.mafmc.org/council-events/2019/sfsbsb-mc-webinar-july31.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: July 3, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–14518 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG994

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Ice Road and Ice Trail Construction and Maintenance on Alaska's North Slope

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from Hilcorp Alaska, LLC (Hilcorp) and Eni US Operating Co. Inc. (Eni) for authorization to take small numbers of marine mammals incidental to ice road and ice trail construction, maintenance, and operation in Alaska's North Slope over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Hilcorp and Eni's joint request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Hilcorp and Eni's application and request.

DATES: Comments and information must be received no later than August 8, 2019.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.guan@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/node/23111* without change. All personal identifying information (*e.g.,* name,

address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of Hilcorp and Eni's application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On December 2, 2018, NMFS received a joint application from Hilcorp and Eni requesting authorization for take of marine mammals incidental to construction activities related to ice roads and ice trails in North Slope, Alaska. The requested regulations would be valid for five years, from approximately December 1, 2019 through November 30, 2024. Hilcorp and Eni plan to conduct necessary work, including use of heavy machinery on ice, to facilitate access to North Slope offshore oil and gas facilities. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of sound, human presence on ice habitat, and interactions with heavy machinery, thereby resulting in incidental take, by Level B harassment and serious injury or mortality. NMFS provided questions and comments to Hilcorp and Eni after receiving the initial application regarding the scope of the project and impact analysis. Hilcorp and Eni submitted a modified request on May 21, 2019 and NMFS deemed the application adequate and complete on May 31, 2019.

Specified Activities

Hilcorp and Eni conduct oil and gas operations at Northstar Production Facility (Northstar) and Spy Island Drillsite (SID), respectively, in coastal Beaufort Sea waters, Alaska. Ice roads and ice trails are constructed yearly to connect and allow access to offshore facilities. The process of constructing ice roads includes clearing of snow, drilling holes in the ice, pumping seawater to the surface, and the operation of tracked and wheeled vehicles. Construction of ice trails and maintenance of ice roads generally requires the presence of vehicles and personnel with snow blowing equipment.

Each year, Hilcorp will construct and maintain an estimated 11.7 kilometer (km) ice road and approximately 21.9 kms of ice trails to their Northstar Island and West Dock facilities. Each year, Eni will construct and maintain an estimated 6.8 km of ice roads and 6.8 km of ice trails related to their SID facility, and an additional 8.9 to 11.2 km of ice roads related to their Oooguruk activities.

Construction of ice roads and ice trails generally begins in late December and the process takes approximately six weeks. These roads and trails and used and maintained until Mid-May when the ice becomes too unstable to access. Ringed seals (*Phoca hispida hispida*) are the only marine mammal species expected to occur in the action area during construction, use, and maintenance activity.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Hilcorp and Eni's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Hilcorp and Eni, if appropriate.

Dated: July 3, 2019.

Donna Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–14530 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH082

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 64 Post-Data Workshop Webinar for Southeast (SE) yellowtail snapper.

SUMMARY: The SEDAR 64 stock assessment process for SE yellowtail snapper will consist of a Data Workshop, a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 64 Post-Data Workshop Webinar will be held July 23, 2019, from 11 a.m. to 1 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Data Webinar are as follows:

Panelists will review and discuss outstanding issues from the Data Workshop for data sets being considered for the assessment and may discuss initial modeling efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 3, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–14519 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH084

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a two day in-person meeting of its Standing, Reef Fish, Mackerel and Socioeconomic Scientific and Statistical Committees (SSC).

DATES: The meeting will begin at 8:30 a.m. on Tuesday, July 30, 2019 and adjourn by 5 p.m., EDT on Wednesday, July 31, 2019.

ADDRESSES: The meeting will be held at the Gulf Council's office; see address below.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, July 30, 2019; 8:30 a.m.–5 p.m.

The meeting will begin with Introductions, Adoption of Agenda, Scope of Work, Approval of Scientific and Statistical Committees (SSC) Minutes from the May 9, 2019 Standing, Reef Fish, Mackerel, and Socioeconomic SSC Webinar; and, Selection of SSC representative to attend the August 12–15, 2019 Council meeting in New Orleans, Louisiana.

The committees will receive presentations on the following: Best Scientific Information Available—NOAA Policy Directive for Stock Status Determinations and Catch Specifications, National Standard 2 (background information); National Standard 1 Guidance on Estimation of Fishing Mortality and Biomass Proxies; Coping with Information Gaps in Stock Productivity for Rebuilding and Achieving Maximum Sustainable Yield for Grouper-Snapper Fisheries; Establishing Stock Status Determination Criteria for Fisheries with High Discards and Uncertain Recruitment; and, a Perspective on Steepness, Reference Points, and Stock Assessment. The committees will then review the revised actions for Status Determination Criteria Amendment.

Wednesday, July 31, 2019; 8:30 a.m.–5 p.m.

The committees will hold a discussion on Alternative Acceptable Biological Catch (ABC) Control Rule; review Marine Recreational Information Program (MRIP) and State Survey Data Collection and Calibration Efforts; discuss SEDAR 62: *Gray Triggerfish* Progress and Council Research and Monitoring Priorities for 2020–24. The committees will review the scope of work for *Gray Snapper* and West Florida *Hogfish* Assessments; review the Gulf SEDAR Assessment Schedule; receive a presentation on Explosive Removal of Structures: Fisheries Impact Assessment; discuss Almaco Jack Life History and Landings; and, any other business items.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register for listen-in access by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after

publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

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

Dated: July 3, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–14517 Filed 7–8–19; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2006–0057]

Notice of Availability: Plan To Evaluate CO Mitigation Requirements for Portable Generators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: The Consumer Product Safety Commission (CPSC) is announcing the availability of, and seeking comment on, a document related to CPSC's efforts to address carbon monoxide poisoning hazards from portable generators, NIST Technical Note 2048, ''*Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators.*''

DATES: Submit comments by September 9, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2006–0057, by any of the following methods:

Electronic Submissions: Submit electronic comments in the following way: Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. To ensure timely processing of comments, please submit all electronic (email) comments through *www.regulations.gov* rather than to CPSC. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written comments in the following way: Mail/Hand delivery/Courier (for paper, disk or CD–ROM submissions), preferably in five copies, to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov,* including any personal identifiers, contact information, or other personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted by mail/hand delivery/courier.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* insert docket number CPSC–2006–0057 into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Janet Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2293; email: *jbuyer@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The CPSC is engaged in an ongoing effort to address carbon monoxide (CO) poisonings of consumers from portable generators.[1] The National Institute of Standards and Technology (NIST) and CPSC staff have developed a plan that will enable CPSC staff to estimate the effectiveness of CO mitigation requirements that were adopted in two voluntary standards in 2018: *ANSI/PGMA G300–2018, Safety and Performance of Portable Generators* (PGMA G300) and *ANSI/UL 2201–2018, Carbon Monoxide (CO) Emission Rate of Portable Generators* (UL 2201). PGMA G300 has requirements for a system that will shut off the generator when specific CO concentrations are present near the generator, as well as notification requirements to alert the user of the presence of CO after the generator has shut off. UL 2201 has requirements for a system that will shut off the generator when specific CO concentrations are present near the generator and a requirement for a reduced CO emission rate.

The plan to evaluate the CO mitigation requirements in PGMA G300 and UL 2201 is presented in NIST Technical Note 2048, ''*Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators*'' (NIST TN 2048). NIST TN 2048 documents the plan for conducting a computer simulation study and for analyzing the output. The methodology in NIST TN 2048 is similar to the methodology CPSC staff used to evaluate the benefits of the proposed portable generator rule the Commission issued in 2016. The simulation study will use the same 40 buildings, weather conditions, and generator characteristics that were used to evaluate the benefits in the Commission's 2016 portable generator proposed rule to study the rate at which the CO emitted from the generator accumulates in, transports through, and leaves the homes and detached garages for generators with and without CO safety shutoff systems. The plan includes more than 900 scenarios in all the buildings that will require more than a million simulations, the output of which will be analyzed to estimate the effectiveness of the voluntary standards.

The Commission seeks public comment on this NIST Technical Note. NIST TN 2048 is available on NIST's website at: *http://dx.doi.org/10.6028/NIST.TN.2048,* and from the Commission's Division of the Secretariat, at the location listed in the **ADDRESSES** section of this notice.

NIST TN 2048 references another NIST report, NIST Technical Note 2049, ''*Carbon Monoxide Concentrations and Carboxyhemoglobin Profiles from Portable Generators with a CO Safety Shutoff in a Test House*'' (NIST TN 2049). NIST TN 2049 documents the results from a series of tests and model validation work that NIST performed to develop methods that CPSC staff will use in the Simulation Plan. NIST TN 2049 is available on NIST's website at: *http://dx.doi.org/10.6028/NIST.TN.2049,* and can also be obtained from the Commission's Division of the Secretariat.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2019–14510 Filed 7–8–19; 8:45 am]

BILLING CODE 6355–01–P

[1] On November 21, 2016, the Commission published a notice of proposed rulemaking (NPRM) to address the CO hazard associated with portable generators. (*Safety Standard for Portable Generators,* 81 FR 83,556).

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0085]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 9, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense for Personnel and Readiness, Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301–4000, ATTN: Monica Trucco, or call (703) 697–3387.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for the Review of Discharge or Dismissal from the Armed Forces of the United States; DD Form 293; OMB Control Number 0704–0004.

Needs and Uses: This information collection is needed to provide Service members a method to present to their respective Military Department Discharge Review Boards their reason/justification for a discharge upgrade, as well as, providing the Military Departments with the basic data need to process the appeal.

Affected Public: Individuals or households.

Annual Burden Hours: 5,000.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 30 minutes.

Frequency: As required.

Dated: July 3, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–14619 Filed 7–8–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Codes, Standards, Specifications, and Other Guidance for Enhancing the Resilience of Electric Infrastructure Systems Against Severe Weather Events

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of request for information (RFI).

SUMMARY: Many investor- and consumer-owned electric utilities, as well as the state and local government agencies or boards that oversee or regulate them, are seeking cost-effective ways to make electric infrastructure systems more resilient against severe weather events, *e.g.,* windstorms, floods, wildfires, etc. The purpose of this RFI is to gather ''relevant consensus-based codes, specifications, and standards,'' [1] state and industry best practices, and other pertinent materials to provide guidance for enhancing the physical and operational resilience of electric grid systems and their components, *e.g.,* generation, transmission, control centers, and distribution facilities, against these events. Gathering this information will enable existing requirements and expert knowledge on this subject to be synthesized and made broadly available to interested policy officials and other decision-makers. In addition, this information may aid the Federal Emergency Management Agency in its implementation of the Disaster Recovery Reform Act of 2018, as well as other federal efforts to enhance resilience. Organizing existing knowledge in this way will also help identify important information gaps that can then be addressed through targeted research and development activities and through emergency preparedness actions by government agencies and the private sector.

The U.S. Department of Energy also supports actions to enhance the weather-related resilience of other domestic forms of energy infrastructure, particularly oil and natural gas systems. A parallel RFI will be issued to gather analogous resilience information pertinent to those sectors.

DATES: Comments must be received on or before August 23, 2019.

ADDRESSES:

Email: Interested persons are encouraged to submit comments electronically, to *grid.resilience@hq.doe.gov,* with ''Grid Resilience'' in the subject line. Comments, data, and other information submitted to DOE electronically should be provided in PDF, Microsoft Word, Microsoft Excel, WordPerfect, or text (ASCII) file format. The information received in response to this RFI may be used to structure future DOE programs and will be available to the public. Respondents are strongly advised not to include any document or information that might be considered commercially- or business-sensitive, proprietary, confidential, critical electric infrastructure information, or classified for reasons of national security. Submissions should be written in English, be free of any defects or viruses, and without special characters or any form of encryption.

U.S. Mail to: U.S. Department of Energy, 1000 Independence Ave. SW, Mailstop OE–20, Washington, DC 20585, Attn: Office of Electricity, Guidance for Enhancing Grid Resilience.

FOR FURTHER INFORMATION CONTACT: David Meyer, U.S. Department of Energy, Office of Electricity, 1000

[1] The Disaster Recovery Reform Act, which was signed into law on October 5, 2018 as part of the FAA Reauthorization Act of 2018 (Pub. L. 115–254), includes several references ''to relevant consensus-based codes, specifications, and standards,'' including in sections 1234 and 1235.

Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–3876. Email: *David.Meyer@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Concern among government agencies, utilities, and the public about the risks presented by more frequent and more severe weather events has led to widespread discussion about how to make electric infrastructure systems more resilient against such hazards, and how to do so effectively and at reasonable cost. This is challenging to do, however, given the many uncertainties and variables associated with weather-related events.

The specific purpose of this RFI is to gather available information on current consensus-based codes, specifications, standards, and other forms of guidance for improving the resilience of electric infrastructure systems against severe weather events, with respect to both the design and operation of these systems. The information of interest ranges from (1) specific technical design standards or requirements for physical system components, *e.g.,* ''transmission towers sited in areas subject to winds between 125 mph and 150 mph should be built to withstand wind stress of XYZ mph, using xxx-grade steel or yyy-grade concrete or both''; (2) relevant corporate business practices, *e.g.,* ''companies should designate a senior corporate officer responsible for the development, implementation, and ongoing maintenance of a company-wide resilience strategy''; and (3) analytic methods and tools for estimating the possible economic benefits from strategies, investments, or initiatives to enhance power system resilience.

DOE anticipates using this information to catalogue and synthesize a body of existing expert knowledge about how best to enhance the weather-related resilience of the grid, cost-effectively. Accordingly, it is important for respondents to supplement specific standards, requirements, or practices with the rationale(s) relied upon in developing them and justifying their use.

DOE also notes that some of the existing electric reliability standards developed by the North American Electric Reliability Corporation and adopted by the Federal Energy Regulatory Commission, and those developed by the Institute of Electrical and Electronics Engineers, have weather-related resilience implications and benefits. These standards are generally well-documented, and DOE suggests that respondents cite them where appropriate by reference only; submission of more detailed information is not needed.

Regarding state- or locally-adopted codes and standards that have resilience implications, or for less well-documented requirements or practices, DOE has the following questions:

(a) Scope and applicability—for any given requirement or practice, what hazard (or hazards) is the measure intended to mitigate or make the system less vulnerable against, and for which sector(s) or component(s) of the system is the practice relevant? Does the requirement establish a design threshold, *e.g.,* ''design to withstand 150 mph wind stress'', or identify appropriate hazard maps, *e.g.,* flood plain maps, or maps of wind zones?

(b) Origins—how or by whom was the requirement or practice developed, and did the process provide for consensus, openness, transparency, balanced decision-making, due process, or an appeal process? Could the chosen development method be applied to unmet needs in other grid resilience contexts?

(c) Validation—has the requirement or practice been widely tested? *Note:* DOE recognizes that worthwhile practices for improving resilience may exist that are not presently consensus-based, and therefore asks respondents to include information about such practices, and whether further testing or refinements would make them more broadly applicable.

(d) Are there other important caveats, not mentioned earlier, about the requirement or practice that should be considered?

Interested parties are encouraged to submit comments and information on matters discussed in this **SUPPLEMENTARY INFORMATION** section, in writing and by the date specified in the **DATES** section of this notice. All comments received will be posted without change to *http://www.regulations.gov.*

Please do not submit to the RFI information for which disclosure is restricted by statute, such as trade secrets and confidential commercial or financial information (Confidential Business Information (CBI)). Comments submitted to the RFI email address cannot be claimed as CBI, and submission waives any such claims. DOE plans to make all information received in response to this RFI available to the public.

Signed in Washington, DC, on June 28, 2019.

Bruce J. Walker,

Assistant Secretary, Office of Electricity, U.S. Department of Energy.

[FR Doc. 2019–14547 Filed 7–8–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Codes, Standards, Specifications, and Other Guidance for Enhancing the Resilience of Oil and Natural Gas Infrastructure Systems Against Severe Weather Events

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of request for information (RFI).

SUMMARY: Many oil and natural gas companies, pipeline operators, fuel distribution and delivery firms, and other owners and operators of oil and natural gas infrastructure, as well as the government agencies that regulate them in some respect, are seeking cost-effective ways to make these infrastructure systems more resilient against cyber and physical threats as well as severe weather events. The purpose of this RFI is to gather ''relevant consensus-based codes, specifications, and standards'' [1] and other pertinent materials to provide guidance for enhancing the physical and operational resilience of these systems and their components against such events. Gathering this information will enable existing expert knowledge on this subject to be synthesized and made broadly available to interested policy officials and other decision-makers. In addition, this information may aid the Federal Emergency Management Agency in its implementation of the Disaster Recovery Reform Act of 2018, as well as other federal efforts to enhance resilience. Organizing existing knowledge in this way will also help identify important information gaps that can then be addressed through targeted research and development activities and through emergency preparedness actions by government agencies and the private sector.

The U.S. Department of Energy also supports actions to enhance the weather-related resilience of other domestic energy infrastructure, particularly electric grids. A parallel RFI will be issued to gather analogous resilience information pertinent to the electric sector.

DATES: Comments must be received on or before August 23, 2019.

ADDRESSES:

Email: Interested persons are encouraged to submit comments electronically, to

[1] The Disaster Recovery Reform Act, which was signed into law on October 5, 2018 as part of the FAA Reauthorization Act of 2018 (Pub. L. 115–254), includes several references ''to relevant consensus-based codes, specifications, and standards,'' including in sections 1234 and 1235.

oilandgas.resilience@hq.doe.gov, with ''Guidance for Enhancing Oil and Natural Gas Resilience'' in the subject line. Comments, data, and other information submitted to DOE electronically should be provided in PDF, Microsoft Word, Microsoft Excel, WordPerfect, or text (ASCII) file format. The information received in response to this RFI may be used to structure future DOE programs and will be available to the public. Respondents are strongly advised not to include any document or information that might be considered commercially- or business-sensitive, proprietary, confidential, critical electric infrastructure information, or classified for reasons of national security. Submissions are to be written in English, be free of any defects or viruses, and without special characters or any form of encryption.

U.S. Mail to: U.S. Department of Energy, 1000 Independence Ave. SW, Mailstop OE–20, Washington, DC 20585, Attn: Office of Electricity, Guidance for Enhancing Oil and Natural Gas Resilience.

FOR FURTHER INFORMATION CONTACT: David Meyer, U.S. Department of Energy, Office of Electricity, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–3876. Email: *David.Meyer@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Concern among government agencies, utilities, and the public about the risks presented by more frequent and more severe weather events has led to widespread discussion about how to make oil and natural gas infrastructure systems more resilient against such hazards, and how to do so effectively and at reasonable cost. This is challenging to do. Although these industries and agencies have been working for several years to develop a culture of resilience, at present there is no settled body of expert knowledge about requirements and practices for enhancing the resilience of these systems.

The specific purpose of this RFI is to gather available information on current consensus-based codes, specifications, standards, and less formal forms of guidance for improving the resilience of all forms of oil and natural gas infrastructure against severe weather events, with respect to both the design and operation of these systems. The information of interest ranges from (1) specific technical design standards or requirements for physical system components; (2) relevant corporate business practices, *e.g.,* ''oil and natural gas companies should designate a senior corporate officer responsible for the development, implementation, and ongoing maintenance of a company-wide resilience strategy''; and (3) analytic methods and tools for estimating the possible economic benefits from strategies, investments, or initiatives to enhance the resilience of relevant facilities.

DOE anticipates using this information to catalogue and synthesize a body of existing expert knowledge about how best to enhance the resilience of these systems cost-effectively. Accordingly, it is important for respondents to supplement specific standards, requirements, or practices with the rationale(s) relied on in developing them and justifying their use.

DOE also notes safety and reliability standards pertinent to these systems have been developed by the oil and natural gas industries and promulgated by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, and some of these standards have implications and benefits for system resilience. These standards are generally well-documented, and DOE suggests respondents cite them where appropriate by reference only; submission of more detailed information is not needed.

Regarding state- or locally-adopted codes and standards that have resilience implications, or for less well-documented requirements or practices, DOE has the following questions:

(a) Scope and applicability—for any given requirement or practice, what hazard (or hazards) is the measure intended to mitigate or make the system less vulnerable against, and for which sector(s) or component(s) of the system is the practice relevant? Does the requirement establish a design threshold, *e.g.,* ''design to withstand 150 mph wind stress,'' or identify appropriate hazard maps, *e.g.,* flood plain maps, or maps of wind zones?

(b) Origins—how or by whom was the requirement or practice developed, and did the process provide for consensus, openness, transparency, balanced decision-making, due process, or an appeal process? Could the chosen development used be applied to unmet needs in other oil or natural gas resilience contexts?

(c) Validation—has the requirement or practice been widely tested? *Note:* DOE recognizes that worthwhile practices for improving resilience may exist that are not presently consensus-based, and therefore asks respondents to include information about such practices, and whether further testing or refinements would make them more broadly applicable.

(d) Are there other important caveats, not mentioned earlier, about the requirement or practice that should be considered?

Interested parties are encouraged to submit comments and information on matters discussed in this **SUPPLEMENTARY INFORMATION** section, in writing and by the date specified in the **DATES** section of this notice. All comments received will be posted without change to *http://www.regulations.gov.*

Please do not submit to the RFI information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (Confidential Business Information (CBI)). Comments submitted to the RFI email address cannot be claimed as CBI, and submission waives any such claims. DOE plans to make all information received in response to this RFI available to the public.

Signed in Washington, DC, on June 28, 2019.

Bruce J. Walker,

Assistant Secretary, Office of Electricity, U.S. Department of Energy.

[FR Doc. 2019–14548 Filed 7–8–19; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0075; FRL–9992–79]

Certain New Chemicals; Receipt and Status Information for May 2019

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new

chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 05/01/2019 to 05/31/2019.

DATES: Comments identified by the specific case number provided in this document must be received on or before August 8, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0075, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 05/01/2019 to 05/31/2019. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995, (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments

to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 05/01/2019 TO 05/31/2019

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–16–0439A ...	6	5/21/2019	CBI	(G) Coloring agent	(G) Carbon black, (organic acidic carbocyclic)-modified, inorganic salt.
P–16–0440A ...	6	5/21/2019	CBI	(G) Coloring agent	(G) Carbon black, (organic acidic carbocyclic)-modified, metal salt.
P–17–0024A ...	3	4/25/2019	CBI	(G) Urethane component	(G) aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:1), and alkyloxirane polymer with oxirane ether with alkyltrioll (3:1).
P–17–0025A ...	3	4/25/2019	CBI	(G) Urethane component	(G) aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane.
P–17–0109A ...	4	5/2/2019	Air Products and Chemicals.	(S) Intermediate for Polyurethane Catalyst; Polyurethane catalyst.	(G) Alkyldiamine, aminoalkyl dimethylaminoalkyl dimethyl-.
P–17–0172A ...	5	5/28/2019	CBI	(G) Lubricating oil additive	(G) Sulfurized alkylphenol, calcium salts.
P–17–0278A ...	4	5/7/2019	CBI	(G) Component in asphalt emulsions	(G) Fatty acid derived imidazoline salts.
P–17–0279A ...	4	5/7/2019	CBI	(G) Component in asphalt emulsions	(G) Fatty acid derived imidazoline salt.
P–17–0280A ...	4	5/7/2019	CBI	(G) Component in asphalt emulsions	(G) Fatty acid derived imidazoline salt.
P–17–0284A ...	5	5/3/2019	Monument Chemical Houston, Ltd.	(G) In-process intermediate	(S) 2-Heptanone, 4-hydroxy-.
P–17–0285A ...	5	5/3/2019	Monument Chemical Houston, Ltd.	(G) In-process intermediate	(S) 4-Hepten-2-one.
P–17–0322A ...	7	5/22/2019	CBI	(G) Auxiliary drier, has little drying action in itself but is very useful in combination with active driers. In vehicles that show poor tolerance for lead, calcium can replace part of the lead with a larger amount of calcium to prevent the precipitation of the lead & maintain drying efficiency. Calcium is also useful as pigment wetting & dispersing agents & help to improve hardness & gloss & reduce ''Silkins''. When ground with drier adsorbing pigments, Calcium minimizes loss of dry by being preferentially absorbed.	(G) Zinc naphthenate complexes.
P–17–0325A ...	8	5/9/2019	Cekal Specialties, Inc ..	(S) Used in textile industry in bleaching and dyeing operations as a dispersing agent, for professional use according to the instructions in the Technical Bulletin.	(S) 2-Propenoic acid, polymer with 2-methyl-2-((1-oxo-2-propenyl)amino)-1-propanesulfonic acid.
P–17–0333A ...	5	5/2/2019	Miwon North America, Inc.	(S) Reactive diluent for optical film coating	(G) 2-Propenoic acid, mixed esters with heterocyclic dimethanol and heterocyclic methanol.
P–17–0376A ...	6	5/17/2019	Innovative Chemical Technologies, Inc.	(S) Textile additive	(G) 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester polymer with hexadecyl 2-propenoate, octadecyl 2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecasubstitutedoctyl 2-propenoate.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 05/01/2019 TO 05/31/2019—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–17–0377A ...	6	5/17/2019	Innovative Chemical Technologies, Inc.	(S) Textile Additive	(G) 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with hexadecyl 2-propenoate, octadecyl 2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecasubstitutedoctyl 2-methyl-2-propenoate.
P–17–0378A ...	6	5/17/2019	Innovative Chemical Technologies, Inc.	(S) Textile additive	(G) 2-Propenoic acid, 2-methyl-, hexadecyl ester, polymer with 2-hydroxyethyl 2-methyl-2-propenoate, octadecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecasubstitutedoctyl 2-propenoate.
P–17–0379A ...	6	5/17/2019	Innovative Chemical Technologies, Inc.	(S) Textile Additive	(G) 2-Propenoic acid, 2-methyl-, hexadecyl ester, polymer with 2-hydroxyethyl 2-methyl-2-propenoate, octadecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecasubstitutedoctyl 2-methyl-2-propenoate.
P–18–0018A ...	4	5/10/2019	Kyodo Yushi USA, Inc	(G) Lubricant	(G) Fluorinated acrylate, polymer with alkyloxirane homopolymer monoether with alkanediol mono(2-methyl-2-propenoate), tert-Bu 2-ethylhexaneperoxoate-initiated.
P–18–0128A ...	3	5/13/2019	CBI	(G) Surface modifier	(S) Inulin, 2-hydroxy-3-(trimethylammonio)propyl ether, chloride.
P–18–0151A ...	5	5/9/2019	Struers, Inc	(S) A curing agent for curing epoxy systems	(S) Formaldehyde, reaction products with 1,3-benzenedimethanamine and p-tert-butylphenol.
P–18–0177A ...	2	5/21/2019	Clariant Plastics & Coatings USA, Inc.	(S) Lubricant and surface protection agent	(S) Waxes and Waxy substances, rice bran, oxidized.
P–18–0192A ...	2	5/28/2019	Archroma U.S., Inc	(S) Optical brightener for use in paper applications.	(G) Benzenesulfonic acid, (alkenediyl)bis[[[(hydroxyalkyl)amino]-(phenylamino)-triazin-2-yl]amino]-, N-(hydroxyalkyl) derivs., salts, compds. with polyalkyl-substituted(alkanol).
P–18–0213A ...	2	5/17/2019	CBI	(S) Polyester or polyamide modifier incorporated into backbone of polymer.	(S) 1,3-Benzenedicarboxylic acid, 5-sulfo-, calcium salt (2:1).
P–18–0214A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Polycyclic substituted alkane, polymer with cyclicalkylamine, epoxide, and polycyclic epoxide ether, reaction products with dialkylamine substituted alkyl amine.
P–18–0215A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Polycyclic alkane, polymer with monocyclic amine, polycyclic epoxide ether, reaction products with dialkylamine alkyl amine.
P–18–0216A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Polycyclic substituted alkane, polymer with epoxide, reaction products with cyclicalkylamine and dialkylamine substituted alkyl amine.
P–18–0220A ...	2	5/9/2019	Allnex USA, Inc	(S) UV Curable Coating Resin	(G) Heteromonocycle [(alkylalkylidene)bis(substituted carbomoncycle)]bis-, polymer with alkyl isocyanate, alkenoate (ester).
P–18–0239A ...	2	5/21/2019	CBI	(G) Reactant in coating	(G) N-alkyl propanamide.
P–18–0240A ...	2	5/21/2019	CBI	(G) Reactant in coating	(G) N-alkyl acetamide.
P–18–0267A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Branched alkanoic acid, epoxy ester, reaction products with monocyclic dialkylamine and polycyclic alcohol epoxy polymer.
P–18–0268A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Branched alkanoic acid, epoxy ester, reaction products with monocyclicdialkanamine and polycyclic dialkanol ether polymer.
P–18–0269A ...	2	5/28/2019	CBI	(G) Curing agent	(G) Branched alkanoic acid, epoxy ester, reaction products with monocyclicalkanamine, polycyclic alcohol ether homopolymer, and polycyclic alcohol epoxy polymer.
P–18–0288A ...	2	5/15/2019	Ungerer and Company	(S) Degreasing solvent	(G) Alkyl carbobicycle, manuf. of, byproducts from, isomerized.
P–18–0326A ...	5	5/20/2019	CBI	(G) Chemical Intermediate	(G) Alkanoic acid, alkyl ester, manuf. of, byproducts from, distn. residues.
P–18–0349A ...	2	5/8/2019	Lanxess Solutions US, Inc.	(S) Two component adhesives and protective coatings for marine, infrastructure, etc.	(S) Oxirane, 2-methyl-, polymer with oxirane, ether with 1,2,3-propanetriol (3:1), polymer with 2,4-diisocyanato-1-methylbenzene, branched 4-nonylphenol-blocked.
P–18–0349A ...	3	5/23/2019	Lanxess Solutions US, Inc.	(S) Two component adhesives and protective coatings for marine, infrastructure, etc. The urethane prepolymer is designed to react with epoxy materials to create a flexible coating or adhesive.	(S) Oxirane, 2-methyl-, polymer with oxirane, ether with 1,2,3-propanetriol (3:1), polymer with 2,4-diisocyanato-1-methylbenzene, branched 4-nonylphenol-blocked.
P–18–0399A ...	5	5/24/2019	CBI	(G) Open, non-dispersive use additive for industrial use only.	(G) Rosin adduct ester, polymer with polyols, compd. with ethanolamine.
P–18–0400A ...	5	5/24/2019	CBI	(G) Open, non-dispersive use, additive for textile industry.	(G) Rosin adduct ester, polymer with polyols, potassium salt.
P–19–0019A ...	3	4/26/2019	CBI	(G) Intermediate	(G) Haloalkane.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 05/01/2019 TO 05/31/2019—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–19–0028A ...	7	4/29/2019	CBI	(G) Lubricating oil additive	(G) Alkyl salicylate, metal salts.
P–19–0031A ...	7	5/2/2019	CBI	(S) Curing agent for epoxy coating systems	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with formaldehyde, 2-(chloromethyl)oxirane, alpha-hydro-omega-hydroxypoly(oxy-1,2-ethanediyl), and polyamines.
P–19–0046A ...	3	5/2/2019	Kluber Lubrication North America, L.P.	(G) Lubricating agent, (G) Degreasing agent	(S) 1,2,4-Benzenetricarboxylic acid, mixed decyl and octyl triesters.
P–19–0052A ...	4	5/3/2019	Evonik Corporation	(S) Hard Surface Cleaner, (S) Component of Laundry Detergent.	(S) Poly(oxy-1,2-ethanediyl), alpha-nonyl-omega-hydroxy-, branched and linear.
P–19–0053A ...	4	5/5/2019	Wacker Chemical Corporation.	(S) Used as a surface treatment, sealant, caulk, and coating for mineral building materials such as concrete, brick, limestone, and plaster, as well as on wood, metal and other substrates. Formulations containing the cross-linker provide release and anti-graffiti properties, water repellency, weather proofing, and improved bonding in adhesive/sealant applications. The new substance is a moisture curing cross-linking agent which binds/joins polymers when cured. Ethanol is released during curing, and once the cure reaction is complete, the product will remain bound in the cured polymer matrix.	(S) 1-Butanamine, N-butyl-N-[(triethoxysilyl)methyl]-.
P–19–0067A ...	5	5/10/2019	CBI	(G) Production of oil soluble corrosion inhibitors, (G) On site consumption as a raw material in the production of downstream chemicals, (G) Production of water soluble corrosion inhibitors..	(G) Triglyceride, reactions products with diethylenetriamine
P–19–0074A ...	3	5/24/2019	CBI	(G) Swelling agent for the dyeing of polyester and blend fibers.	(G) Poly(oxyalkylenediyl), carbomonocyclic acid, 2-(aminocarbonyl)-alkyl.
P–19–0081	2	5/14/2019	CBI	(G) Automotive lubricant additive	(G) 2-Propenoic acid, alkyl ester, reaction products with mixed substituted alkyl esters of phosphorodithioic acid and propylene oxide.
P–19–0082	1	5/3/2019	Bedoukian Research, Inc.	(S) Fragrance uses per FFDCA: Fine fragrance, creams, lotions, etc., (S) Fragrance uses per TSCA: Scented papers, candles, detergents, cleaners, etc.	(S) Heptanal, 6-hydroxy-2,6-dimethyl-.
P–19–0083	1	5/9/2019	KX Technologies, LLC	(G) Activated carbon for water purification	(G) Charcoal, coconut shell, reaction products with cyclic amine.
P–19–0084	2	5/15/2019	CBI	(S) Flame retardant	(S) Dlphosphoric acid, compd. with 1,3,5-triazine-2,4,6-triamine (1:2).
P–19–0085	1	5/10/2019	Neste Oil US, Inc	(G) The PMN substance will be used as a functional fluid in electrical equipment.	(G) Aliphatic hydrocarbons, C16-18-branched and linear.
P–19–0086	1	5/10/2019	CBI	(G) Monitor oil and gas well performance	(G) Halogenated sodium alkylbenzoate.
P–19–0086A ...	2	5/17/2019	CBI	(G) Monitor oil and gas well performance	(G) Halogenated sodium alkylbenzoate.
P–19–0087	1	5/10/2019	CBI	(G) Monitor oil-and-gas well performance	(G) Halogenated sodium alkylbenzoate.
P–19–0087A ...	2	5/17/2019	CBI	(G) Monitor oil-and-gas well performance	(G) Halogenated sodium alkylbenzoate.
P–19–0088	1	5/13/2019	CBI	(G) Feedstock for amine recovery	(S) Ethanamine, N-ethyl-, 2-hydroxy-1,2,3-propanetricarboxylate (1:?).
P–19–0089	2	5/15/2019	CBI	(G) Well performance tracer	(G) Halogenated sodium alkylbenzoate.
P–19–0089A ...	3	5/24/2019	CBI	(G) Well performance tracer	(G) Halogenated sodium alkylbenzoate.
P–19–0090	1	5/13/2019	CBI	(G) Well performance tracer	(G) Halogenated sodium benzoate.
P–19–0090A ...	2	5/14/2019	CBI	(G) Well performance tracer	(G) Halogenated sodium benzoate.
P–19–0091	1	5/14/2019	CBI	(G) Well performance tracer	(G) Halogenated alkylbenzoic acid.
P–19–0092	1	5/14/2019	CBI	(G) Tracer of well performance	(G) Halogenated alkylbenzoic acid.
P–19–0093	2	5/14/2019	CBI	(G) Tracer for well performance	(G) Halogenated benzoic acid.
P–19–0094	1	5/16/2019	CBI	(S) Acrylate for use in UV coatings, inks, adhesives and photoresists.	(G) 2-Propenoic acid, (carbopolycyclic)methyl ester.
SN–19–0005 ...	1	5/20/2019	Molecular Rebar Design.	(G) Conductive ink	(S) Functionalized multiwall carbon nanotubes.

*The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90-day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 05/01/2019 TO 05/31/2019

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–19–0006	5/6/2019	4/11/2019	.....	(G) Genetically modified microorganism.
P–11–0139	5/15/2019	5/3/2019	.....	(G) Alkylene oxide adducts with glycerin.
P–14–0841	5/21/2019	4/6/2015	.....	(G) Alkylcarboxy, N,N′-[1,2-ethenediylbis[(3-sulfo-4,1-phenylene)imino[6-[(2,5-disulfophenyl)amino]-1,3,5-triazine-4,2-diyl]]]bis-, sodium salt, compd. with polyalkylammonium derivative.
P–15–0322A ...	5/8/2019	9/26/2016	Addition of substantiation for CBI claims.	(G)Poly[oxy(alkanediyl)],.alpha.,.alpha.′,.alpha.″-1,2,3-propanetriyltris[.omega.-(2-hydroxy-3-mercaptopropoxy)-.
P–16–0446	5/21/2019	5/20/2019	.....	(G) Fatty acids, polymers with substituted carbomonocycle, substituted alkylamines, heteromonocycle, fatty acid and alkylamine, lactates (salts).
P–16–0532	5/14/2019	4/17/2019	.....	(G) Substituted heteromonocycle,.
P–17–0220	5/7/2019	4/27/2019	.....	(G) 2-oxepanone, reaction products with alkylenediamine-alkyleneimine polymer, 2-[[(2-alkyl)oxy]alkyl]oxirane and tetrahydro-2h-pyran-2-one.
P–17–0354A ...	4/29/2019	2/4/2019	Specific and generic chemical names updated.	(G) (substituted-dialkyl(halo)silyl)alkanenitrile.
P–18–0129	5/28/2019	5/28/2019	.....	(S) Benzenepropanal, .alpha.,.alpha.,3-trimethyl-.
P–18–0169	5/3/2019	4/30/2019	.....	(G) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with dimethyl carbonate, 1,6-hexanediol, diamine and 1,1′-methylenebis[4-isocyanatocyclohexane], pentaerythritol triacrylate-blocked, compds. with triethylamine.
P–18–0188	5/28/2019	5/24/2019	.....	(G) Alkyl substituted alkenoic acid, alkyl ester, polymer with alkanediol alkyl-alkenoate, reaction products with alkenoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle and substituted alkanediol.
P–18–0220	5/28/2019	5/28/2019	.....	(G) Heteromonocycle [(alkylalkylidene)bis(substituted carbomoncycle)]bis-, polymer with alkyl isocyanate, alkenoate (ester).
P–18–0277	5/16/2019	5/15/2019	.....	(G) Polyacrylatepolymer, sodium salt.
P–18–0305	5/24/2019	5/11/2019	.....	(G) Alkenoic acid, alkyl-,alkyl ester, polymer with alkyl alkenoate, substituted heteromonocycle, substituted carbomonocycle, substituted alkanediol and alkenoic acid, alkali metal salt,.
P–19–0032	5/10/2019	4/25/2019	.....	(G) Carbonic dichloride, polymer with 4,4′-(1-methylethylidene)bis[phenol] ester, polymer with tetrol and polyether tetrol.
P–19–0035	5/22/2019	5/21/2019	.....	(S) Acetamide, 2-(4-methylphenoxy)-n-1h-pyrazol-3-yl-n-(2-thienylmethyl)-.
P–19–0037	5/3/2019	4/15/2019	.....	(G) D-glucaric acid, mixed alkali metal salt.
P–19–0045	5/22/2019	4/29/2019	.....	(G) Non-metal tetrakis (hydroxyalkyl)-, halide, polymer with amide oxidized,.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 05/01/2019 TO 05/31/2019

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	5/13/2019	Quarterly submittal Testing of Substance (EPA Method 8290A), Analytical report.	(G) waste plastics, pyrolyzed, C5–55 fraction.
P–16–0289	5/3/2019	Particle Size Analysis	(G) benzene dicarboxylic acid, polymer with alkane dioic acid and aliphatic diamine.
P–16–0404	5/7/2019	Acute Toxicity to the Zebrafish, Danio rerio, Determined Under Static-Renewal Test Conditions (OECD 203).	(G) alkyl ester, 2-({4-[2-(trisubstituted phenyl)azo]-5-acetamido-2-substitutedphenyl}(substituted alkoxy)amino).
P–16–0418	5/6/2019	Acute Toxicity to the Zebrafish, Danio rerio, Determined Under Static-Renewal Test Conditions (OECD 203).	(G) 6-(disubstituted-phenyl azo)-4,7-disubstituted-Quinolinepropanoic acid, alkyl ester.
P–16–0543	5/20/2019	Exposure Monitoring Report	(G) halogenophosphoric acid metal salt.

TABLE III—TEST INFORMATION RECEIVED FROM 05/01/2019 TO 05/31/2019—Continued

Case No.	Received date	Type of test information	Chemical substance
P–18–0127	5/2/2019	Skin sensitization (OECD 406) Literature: Implementation of the dermal sensitization Quantitative Risk Assessment (QRA) for fragrance ingredients (Api and Vey) Dermal sensitization quantitative risk assessment (QRA) for fragrance ingredients (Api, et al.).	(S) heptane, 2-methoxy-2-methyl-.
P–18–0141	5/14/2019	Acute Inhalation Toxicity Test, Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test (OECD 422), In vitro Skin Irritation: Reconstructed Human Epidermis Test Method (OECD 439).	(G) methyl modified lactam.
P–19–0071	5/20/2019	Mammalian Chromosome Aberration Test (OECD 473), Bacterial Reverse Mutation Test/AMES Assay (OECD 471), Mouse Lymphoma Assay.	(G) trimethylolpropane, alkenoic acid, triester.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 27, 2019.

Megan Carroll,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2019–14523 Filed 7–8–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2019–N–5]

Designation of Replacement for Federal Housing Finance Agency's ARM Index

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA or Agency) recently discontinued publication of its monthly index for adjustable rate mortgage loans, known as the National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders, due to dwindling participation by mortgage originators in the Agency's Monthly Survey of Rates and Terms on Conventional One-Family Non-farm Mortgage Loans, on which the index had been based. By this notice, FHFA is designating a replacement index, to be called ''PMMS+.'' The replacement index will be an adjusted version of Freddie Mac's Primary Mortgage Market Survey 30-Yr FRM, and will take effect immediately. FHFA intends to publish the PMMS+ Index value monthly and on approximately the same schedule as it has been publishing the existing index. FHFA is soliciting public comments on its designation of the replacement index and will consider any comments received before finalizing its decision about the successor index.

DATES: Interested persons may submit comments on or before September 9, 2019.

ADDRESSES: Submit comments to FHFA, identified by ''Designation of Replacement for Federal Housing Finance Agency's ARM Index (No. 2019–N–5)'' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Designation of Replacement for Federal Housing Finance Agency's ARM Index (No. 2019–N–5)''.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public through the electronic comment docket for the Notice also located on the FHFA website.

FOR FURTHER INFORMATION CONTACT: David L. Roderer, Senior Financial Analyst, *David.L.Roderer@fhfa.gov,* (202) 649–3206; or Eric Raudenbush, Associate General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Background of MIRS and the ARM Index

FHFA's Monthly Survey of Rates and Terms on Conventional One-Family Non-farm Mortgage Loans, commonly referred to as the ''Monthly Interest Rate Survey'' or ''MIRS,'' was a monthly survey of mortgage lenders that solicited information on the terms and conditions on all conventional, single-family, fully amortized, purchase-money mortgage loans closed during the last five working days of the preceding month. The MIRS collected monthly information on interest rates, loan terms, and house prices by property type (*i.e.,* new or previously occupied), by loan type (*i.e.,* fixed- or adjustable-rate), and by lender type (*i.e.,* mortgage companies, savings associations, commercial banks, and savings banks), as well as information on 15-year and 30-year fixed-rate loans. In addition, the survey collected quarterly information on conventional loans by major metropolitan area and by Federal Home Loan Bank district. The MIRS did not collect information on loans insured by the Federal Housing

Administration or guaranteed by the Veterans Administration, loans secured by multifamily property or manufactured housing, or loans created by refinancing an existing mortgage loan.

The MIRS originated with one of FHFA's predecessor agencies, the former Federal Home Loan Bank Board (FHLBB), in the 1960s and was continued by the former Federal Housing Finance Board (Finance Board) from 1989 through 2008. Data collected through the MIRS was used to derive the FHLBB's National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders (ARM Index), which was used by lenders to set mortgage rates on adjustable rate mortgages. From 2008 through May 2019,[1] FHFA continued to conduct the MIRS and to produce the ARM Index. For various market reasons, the number of loans reported through the MIRS fell substantially over that period, which resulted in the data sample sizes becoming deficient.[2] When submitting its data for the May 2019 survey, one respondent whose loans have constituted a substantial majority of the monthly MIRS data in recent years informed FHFA that it would no longer submit any mortgage loan data for the survey. Without that loan data, the survey would no longer generate a reliable and statistically robust benchmark, including the ARM Index. Accordingly, FHFA decided that it had no other option than to discontinue the MIRS and announced in its May 29, 2019 MIRS news release that it had discontinued the survey and the ARM Index, effective immediately.

Section 402(e) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) addresses the continuation, subsequent to FIRREA, and the possible replacement of indices that previously had been used to calculate the interest rates on adjustable rate mortgage instruments.[3] As applied to the ARM Index, section 402(e)(4) of FIRREA requires that if FHFA can no longer make the ARM Index available it may substitute a substantially similar index, provided that the FHFA Director determines, after notice and opportunity for comment, that: (A) The new index is based upon data substantially similar to that of the ARM Index; and (B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the ARM Index became unavailable. As discussed in further detail below, FHFA has determined that the weekly average interest rate on 30-year fixed rate mortgage loans, as published in the Freddie Mac Primary Mortgage Market Survey (PMMS), with a time adjustment and small spread adjustment, would satisfy those requirements and thus can be designated as a replacement for the ARM Index. To avoid confusion with the Freddie Mac index, FHFA is naming the replacement index ''PMMS+'' and will refer to the replacement index by that name when publishing the monthly index values going forward. FHFA is designating a replacement index so that holders of adjustable rate mortgage notes that currently use the ARM Index as the basis for adjusting the interest rates on their mortgage loans will be able to substitute the PMMS+ Index value for future adjustments.

B. Designation of PMMS+ as Replacement Index

Since FHFA announced the termination of the ARM Index, it has received requests from lenders with outstanding mortgage loans that are linked to the ARM Index to name a replacement index as soon as possible. Section 402(e) of FIRREA does not specify a timeframe within which FHFA must designate a replacement index. In the past, the Finance Board has solicited public comment prior to the effective date of any replacements.[4] Because of the abruptness of the recent withdrawal of the largest source of data for the MIRS, however, FHFA did not have an opportunity to solicit public comments before it needed to terminate the MIRS and ARM Index. In order to give effect to the apparent intent of Congress that FHFA should continue to make available a replacement index for any lenders that have been using the ARM Index to calculate the interest rates on their adjustable rate mortgage instruments, FHFA has determined that its designation of PMMS+ as the replacement index shall take effect immediately. So as to fulfill the other elements of the statutory process contemplated by FIRREA, FHFA also is soliciting comments on its determination that PMMS+ meets the requirements for a substitute index provided in Section 402(e)(4) of FIRREA. After reviewing any comments received, FHFA will determine whether to retain PMMS+ as the replacement index or to designate some other index, and will issue a subsequent notice informing the public of its decision.

C. Selection of PMMS+

As described above, FHFA is no longer able to produce the ARM Index because of the recent loss of a substantial amount of mortgage loan data from which the ARM Index had been compiled. FHFA has determined that an adjusted version of Freddie Mac's PMMS can serve as the replacement index because it would satisfy the statutory requirements, *i.e.,* it would be based on substantially similar data and would result in substantially similar interest rates, and would align more closely to the ARM Index than the other index considered.

1. Substantially Similar Data

No other survey replicates the loan data that is collected by the MIRS, and no other mortgage index precisely matches the ARM Index. Moreover, the options available to FHFA as potential successor indices are rather limited, as most other mortgage indices have ceased being produced. FHFA has considered two mortgage rate indices as possible replacements for the ARM Index, both of which are still in production as of June 2019. In considering possible replacements for the ARM Index, FHFA has construed the statutory language regarding ''substantially similar'' data as requiring that FHFA look first to indices that are based on data pertaining to mortgage loans. Because of that statutory provision, FHFA has not considered other types of indices or references rates, such as LIBOR or U.S. Treasury security rates, as possible replacements for the ARM Index.

The MIRS Index was based on the interest rates of closed loans made by various kinds of mortgage originators, all of whom provided the information voluntarily. This type of data is no longer available to FHFA due to a variety of market factors. FHFA's analysis determined a good proxy for rates of mortgage loans that are closed are rates for mortgage loans that have been quoted or committed to in the origination process. We determined that two indices were substantially similar to

[1] The last MIRS release was dated May 29, 2019, and was based on April data.

[2] In recent years, all publications of MIRS data have included a disclaimer stating, ''The indices are based on a small monthly survey of mortgage lenders, which may not be representative. The sample is not a statistical sample but is rather a convenience sample.''

[3] *See* Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title IV, section 402(e), 103 Stat. 359–60 (Aug. 9, 1989), *as amended by* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, title III, section 367(5)(D), 124 Stat. 1557 (July 21, 2010), *codified at* 12 U.S.C. 1437 *note.*

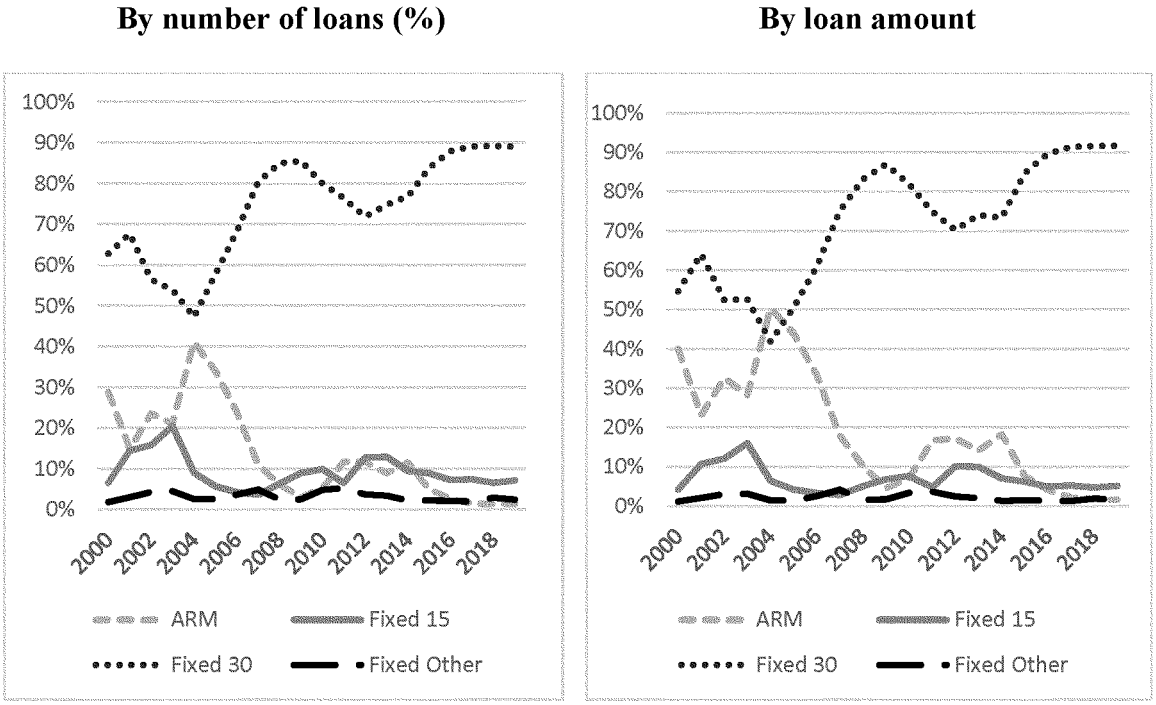
[4] *See* 67 FR 79099, 79100 (Dec. 27, 2002) (Finance Board substitution of index rates subsequent to prior notice); 62 FR 9767, 9769 (March 4, 1997) (Finance Board request for comments on proposed revisions to MIRS).

MIRS when an appropriate time lag is applied.

Those indices are the PMMS and the Mortgage Bankers Association's Weekly Applications Survey (WAS) Index. Both indices are more timely, more reliable, and provide better representation of the mortgage market than the MIRS-based ARM Index. Both indices have been produced for long periods of time, with WAS having a history of over 25 years and PMMS has a history of over 47 years, commencing in 1971. Having considered these options, FHFA has concluded that the PMMS 30-Yr FRM meets the statutory requirements and is the better choice as a replacement because it has substantially similar raw data.

Neither PMMS nor WAS is drawn from data that are identical to the MIRS data, but the underlying data are similar in both cases. However, this data is substantially similar due to MIRS, PMMS and WAS being based on single family residential mortgage loans that are in or have just completed the origination process. The MIRS ARM Index is a composite national index covering closed fully amortized conventional jumbo and non-jumbo 30- and 15-year fixed-rate and 5/1 adjustable-rate purchase mortgages on single family homes. In contrast, the WAS Index covers those types of loans included in MIRS, as well as fully amortized refinance loans at the time of commitment. The PMMS 30-Yr FRM Index covers only conventional 30-year non-jumbo fixed-rate purchase mortgages (Freddie Mac does not produce a composite index). As shown in Figure 1 below, however, since 2008 the vast majority of loans reported through the MIRS have been 30-year conventional non-jumbo fixed-rate purchase mortgages, and the number of such loans has approached 90 percent for the past several years.

Figure 1: MIRS Composition



This analysis has led FHFA to conclude that the PMMS 30-Yr FRM Index is based on data that is ''substantially similar'' to that of the ARM Index as required by FIRREA Section 402(e)(4)(A). The WAS Index fails to satisfy this requirement because the loan mix is substantially different. Additionally, it does not correlate as closely to the ARM Index as would the PMMS+ Index.

2. Substantially Similar Rates

As a result of the similar composition of the data pools, the PMMS 30-Yr FRM Index rate has been in close alignment with the ARM Index rate over an extended period of time, when appropriate adjustments are made to account for timing differences. The ARM Index is published monthly and reflects rates on closed loans, while both the WAS and PMMS Index are published weekly and reflect rates that reporting institutions would be likely to offer borrowers if they were to request a loan on the day the survey is to be published.[5]

PMMS tracks the interest rates that would be obtained from the ARM Index more closely than does the WAS, based on a correlation analysis. Correlations improve for PMMS when applied with an eleven week lag time, *i.e.,* when a lender uses a PMMS Index value as of a date that is eleven weeks earlier than would ordinarily be the case if using the ARM Index.

As previously discussed, the majority of the discrepancy can be adjusted for by utilizing a lagging PMMS 30-Yr FRM Index. FHFA compared the historical ARM Index Rate with the PMMS 30-Yr FRM Index Rate using different lag times and found that the two indices are significantly different if determined as of the same date or as of dates that are up to ten weeks apart, as shown on Table 1. Table 1 also illustrates that

[5] Both PMMS and WAS are weekly indices. PMMS is based on data that is reported one day prior to the publication of the index. WAS is based on data that is reported three days prior to its publication.

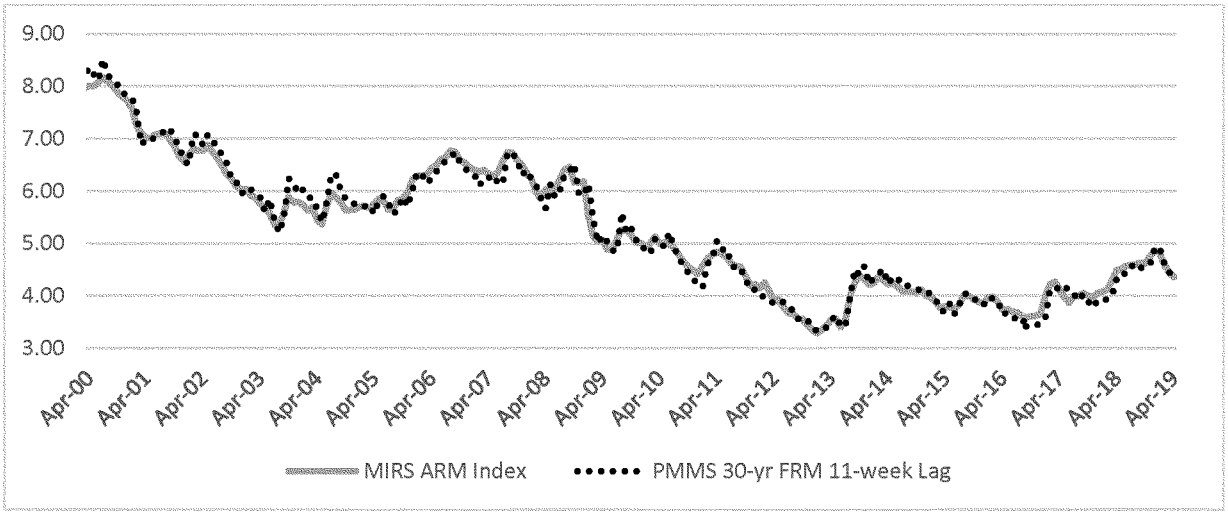
PMMS has a higher correlation than WAS.[6]

TABLE 1—PAIRWISE CORRELATION BETWEEN MIRS AND PMMS, AND MIRS AND WAS

	0	9	10	11	12	13	14
PMMS	0.9846	0.9930	0.9930	0.9931	0.9932	0.9931	0.9927
WAS	0.9757	0.9882	0.9877	0.9870	0.9868	0.9857	0.9852

The differences between the ARM Index and PMMS become statistically insignificant, however, with an 11-week lag time between the dates (with a difference between the mean rates of less than 1.0 basis point and a high correlation). This concept is intuitively logical given that the interest rate on a closed loan often reflects a rate commitment made two or three months earlier. Figure 2 below shows that the 11-week lagging PMMS 30-Yr FRM Index rate has closely tracked the ARM Index rate over time, particularly over the last 19 years.[7]

Figure 2: Comparison of ARM Index Rate with 11-week Lagging PMMS 30-Yr FRM Index Rate 2000-2018



Based on those comparisons, FHFA has concluded that the replacement of the ARM Index with an index based on the 11-week lagging PMMS 30-Yr FRM Index will result in an interest rate that is substantially similar to the interest rate that would be obtained from the MIRS ARM Index, as required by FIRREA section 402(e)(4)(B). As shown in Table 2 below, the 11-week lagging PMMS 30-Yr FRM Index rate has been substantially similar to the ARM Index rate for each of the first five months of 2019. FHFA conducted a similar comparison using different lag times for the WAS Index, which is also based on loan commitments, but found that the differences in the composition of the data pools for the two indices resulted in dissimilar reported interest rates, irrespective of any adjustment for lag time. That dissimilarity in interest rates led FHFA to conclude that the WAS Index would not satisfy the statutory requirements to replace the ARM Index.

TABLE 2—COMPARISON OF ARM INDEX RATES WITH 11-WEEK LAGGING PMMS 30-YR FRM INDEX RATES DURING 2019

MIRS release date	ARM Index	11-Week lag from the final Thursday	PMMS 30-yr FRM Index
1/29/2019	4.83	11/15/2018	4.94
2/28/2019	4.60	12/13/2018	4.63
3/28/2019	4.46	1/10/2019	4.45
4/30/2019	4.36	2/07/2019	4.41

[6] The closer to a value of 1,00 the more perfect positive correlation. A value of 0 means there is no correlation.

[7] FHFA calculates the ARM Index from MIRS as a simple average, while the PMMS Index is a weighted average based on lender size. FHFA has recalculated the ARM Index as a weighted average based on the lender size starting in 2007 and found that the differences between the weighted and unweighted figures are insignificant. Thus, the difference in calculation methodology does compromise the PMMS 30-Yr FRM Index's suitability as a potential replacement for the ARM Index.

TABLE 2—COMPARISON OF ARM INDEX RATES WITH 11-WEEK LAGGING PMMS 30-YR FRM INDEX RATES DURING 2019—Continued

MIRS release date	ARM Index	11-Week lag from the final Thursday	PMMS 30-yr FRM Index
5/29/2019	4.15	3/14/2019	4.31

There are several additional reasons that FHFA believes the PMMS 30-Yr FRM Index to be an appropriate basis for a replacement index: (1) It includes data from more lenders than does the ARM Index—around 80 per week versus 20 per month for the ARM Index in 2018; (2) Freddie Mac intends to continue the PMMS for the foreseeable future and lenders have been willing to provide sufficient loan data on a voluntary basis; and (3) similar to the ARM Index, but unlike the WAS Index, the PMMS indices are available to the public at no cost.

FHFA further determined that the transition from the ARM Index to the PMMS+ Index should not adversely affect the borrowers or the lenders, *i.e.,* the coupon rate on the mortgage loan should be the same whether the lender were to use the ARM Index or PMMS+ for the next interest rate reset. Notwithstanding the close correlation between the ARM Index rates and the lagged PMMS rates over time, they do diverge from month to month, as was the case for the May 2019 ARM Index value, which was 16 basis points (bps) less than the value for the 11-week lagged PMMS Index.[8] To ensure that the transition is neutral with respect to loan coupons, FHFA has adjusted the 11-week lagged PMMS rate by a spread of −16 bps, using the last available MIRS data from May 2019. This adjustment creates exactly the same reference rate at the May 2019 transition. Therefore the adjusted interest rate of a mortgage loan would be the same whether using MIRS or PMMS+. Over time, however, the 10 year average spread differential has been much lower, approximately −1 basis point. To accommodate this average spread, FHFA will gradually reduce (on an absolute basis) the embedded spread by 3 bps a month until the spread has been reduced to −1 basis point. Thereafter, the value of the PMMS+ Index for a given month will equal the 11-week lagged PMMS Index reduced by one basis point.

Table 3 indicates the appropriate PMMS dates to use for the ARM Index for the rest of the year.[9] FHFA intends to publish updated information about the PMMS+ values each month, on approximately the same schedule that it currently publishes the ARM Index values. FHFA expects servicers to use the appropriate PMMS+ reference rate based on the released monthly calculated PMMS+ after adjusting for the look back period of the mortgage. For illustrative purposes, if a mortgage loan interest rate adjusting on October 1, 2019 has a 60-day look back period for determining the index value, the servicer would use the August 2019 PMMS+ Index as its reference rate value.

TABLE 3—PMMS 30-YR FRM DATES TO USE AS A REPLACEMENT FOR THE ARM INDEX FOR 2019

Release month (2019)	PMMS	Adjustment	MIRS replacement (PMMS+)
May	4.31	−0.16	4.15.
June	4.12	−0.13	3.99.
July	4.10	−0.10	4.00.
August	3.82	−0.07	3.75.
September	unknown	−0.04	unknown.
October	unknown	−0.01	unknown.
November	unknown	−0.01	unknown.
December	unknown	−0.01	unknown.

D. Designation of Replacement Index Is for Benefit of Current Note Holders

For the reasons discussed above, FHFA is exercising its authority under section 402(e)(4) of FIRREA to designate PMMS+ as the replacement for the ARM Index so that holders of currently outstanding adjustable rate mortgage instruments may use it in lieu of the discontinued index to calculate future adjustments to the interest rates on those loans. This designation is not intended to apply to newly-originated loans and FHFA does not endorse the use of PMMS+ or any other PMMS Index as a reference rate on newly-originated adjustable rate mortgage loans.

Dated: July 1, 2019.

Mark A. Calabria,

Director, Federal Housing Finance Agency.

[FR Doc. 2019–14475 Filed 7–8–19; 8:45 am]

BILLING CODE 8070–01–P

[8] Bps are basis points or 0.01%. Therefore −16 bps means 0.16%.

[9] Due to the 11-week lag, FHFA can calculate the PMMS+ values into August.

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201263–001.

Agreement Name: Maersk/MSC/Zim Cooperative Working Agreement.

Parties: Maersk Line A/S; Mediterranean Shipping Company S.A.; and Zim Integrated Shipping Services Ltd.

Filing Party: Wayne Rohde, Cozen O'Connor.

Synopsis: The Amendment adds the U.S. Gulf to the scope of the Agreement, authorizes the operation of a new

service, and provides space chartering and exchange involving the USEC4 service. The Amendment also adds details with respect to the parties' cooperation, and restates the Agreement.

Proposed Effective Date: 8/16/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/14256.

Agreement No.: 201312.

Agreement Name: PFL/CNCO Slot Charter Agreement.

Parties: Pacific Forum Line (Group) Limited and The China Navigation Co. Ptd. Ltd.

Filing Party: David Monroe; GKG Law.

Synopsis: The Agreement authorizes PFL to charter space to CNCO in the trade between American Samoa on the one hand, and Australia, New Caledonia, Vanuatu, Fiji, Samoa, and Tonga on the other hand.

Proposed Effective Date: 7/1/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/22417.

Agreement No.: 201313.

Agreement Name: NPL/CNCO Slot Charter Agreement.

Parties: Neptune Pacific Line Inc. and The China Navigation Co. Ptd. Ltd.

Filing Party: David Monroe; GKG Law.

Synopsis: The Agreement authorizes NPL to charter space to CNCO in the trade between American Samoa on the one hand, and Australia, New Caledonia, Vanuatu, Fiji, Samoa, and Tonga on the other hand.

Proposed Effective Date: 7/1/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/22418.

Dated: July 3, 2019.

JoAnne D. O'Bryant,

Program Analyst.

[FR Doc. 2019–14526 Filed 7–8–19; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 19, 2019.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Melinda Mercer Revocable Trust and Kelly Brothers, A Business Trust, Melinda Mercer, Tulsa, Oklahoma, individually and as trustee;* the Mel Mercer Revocable Trust, the Kelly Mercer Revocable Trust, and the Logan Mercer Revocable Trust, Mel Mercer, Tulsa, Oklahoma, individually and as trustee, Logan Mercer, Broken Arrow, Oklahoma, Kelly Mercer, Tulsa, Oklahoma, Brad Kelly, Dallas, Texas, the Raymond Lynn Fesperman and Susan K. Fesperman Trust, Raymond Lynn Fesperman, Tulsa, Oklahoma, as trustee, and Payton Fesperman, Tulsa, Oklahoma; to be approved as members of the Mercer-Kelly-Fesperman Family Group, Bristow, Oklahoma, and thereby acquire shares of Spirit Bankcorp, Inc., and indirectly acquire shares of SpiritBank, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, July 3, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–14615 Filed 7–8–19; 8:45 am]

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FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Disclosure and Reporting Requirements of the Community Reinvestment Act (CRA)-Related Agreements (Regulation G) (FR G; OMB No. 7100–0299).

DATES: Comments must be submitted on or before September 9, 2019.

ADDRESSES: You may submit comments, identified by *FR G,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is

directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal: The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Disclosure and Reporting Requirements of the CRA-Related Agreements (Regulation G).

Agency form number: FR G.

OMB control number: 7100–0299.

Frequency: Quarterly, annually, and on occasion.

Respondents: State member banks and their subsidiaries, bank holding companies, and savings and loan holding companies (Insured Depository Institutions (IDIs)); affiliates of bank holding companies and savings and loan holding companies, other than banks, savings associations, and subsidiaries of banks and savings associations; and nongovernmental entities or persons (NGEP) that enter into covered agreements with any of the aforementioned companies.

Estimated number of respondents: Reporting: IDIs and affiliates—Copy of agreements to agency, 2 respondents; List of agreements to agency, 2 respondents; Annual report, 2 respondents; and Filing NGEP annual report, 2 respondents; Reporting: NGEP—Copy of agreements to agency, 6 respondents; and Annual Report, 6 respondents; Disclosure: IDIs and affiliates—Covered agreements to public, 2 respondents; and Agreements relating to activities of CRA affiliates, 2 respondents; and Disclosure: NGEP—Covered agreements to public, 6 respondents.

Estimated average hours per response: Reporting: IDIs and affiliates—Copy of agreements to agency, 1 hour; List of agreements to agency, 1 hour; Annual report, 4 hours; and Filing NGEP annual report, 1 hour; Reporting: NGEP—Copy of agreements to agency, 1 hour; and Annual Report, 4 hours; Disclosure: IDIs and affiliates—Covered agreements to public, 1 hour; and Agreements relating to activities of CRA affiliates, 1 hour; and Disclosure: NGEP—Covered agreements to public, 1 hour.

Estimated annual burden hours: Reporting: IDIs and affiliates—Copy of agreements to agency, 8 hours; List of agreements to agency, 8 hours; Annual report, 8 hours; and Filing NGEP annual report, 6 hours; Reporting: NGEP—Copy of agreements to agency, 6 hours; and Annual Report, 24 hours; Disclosure: IDIs and affiliates—Covered agreements to public, 6 hours; and Agreements relating to activities of CRA affiliates, 6 hours; and Disclosure: NGEP—Covered agreements to public, 6 hours.

General description of report: The Gramm-Leach-Bliley Act (GLBA) amended the Federal Deposit Insurance Act (FDI Act) by adding a new section 48, entitled ''CRA Sunshine Requirements.'' Section 48 imposes disclosure and reporting requirements on IDIs, their affiliates, and NGEPs that enter into written agreements that (1) are made in fulfillment of the CRA and (2) involve funds or other resources of an IDI or affiliate with an aggregate value of more than $10,000 in a year, or loans with an aggregate principal value of more than $50,000 in a year. Section 48 excludes from the disclosure and reporting requirements any CRA-related agreement between an IDI or its affiliate, on the one hand, and an NGEP, on the other hand, if the NGEP has not contacted the IDI, its affiliate, or a federal banking agency concerning the CRA performance of the IDI.

The GLBA directed the Board, as well as the other federal banking agencies, to issue consistent and comparable regulations to implement the requirements of section 48 of the FDI Act. In 2001, the agencies promulgated substantially identical regulations, which interpret the scope of written agreements that are subject to the statute and implement the disclosure and reporting requirements of section 48.[1] The Board's Regulation G implements the provisions of the GLBA requiring both IDIs and NGEP to make a copy of any covered agreement available to the public and the appropriate federal banking agency, and to file an annual report with each appropriate federal banking agency regarding the use of funds under such agreement for that fiscal year. In addition, each calendar quarter, an IDI and its affiliates must provide to the appropriate federal banking agency a list of all covered agreements entered into during that quarter or a copy of the covered agreements.

Legal authorization and confidentiality: The disclosure and reporting requirements of Regulation G are authorized pursuant to the authority of the Board to prescribe regulations to carry out the purposes of section 711 of GLBA.[2] The obligation to comply with the disclosure and reporting requirements of Regulation G is mandatory. Because the disclosure and reporting requirements of section 711 and Regulation G require relevant parties to disclose covered agreements to the public, an entity subject to Regulation G would likely be unable to prevent the Board from releasing a covered agreement to the public.[3] However, in the preamble to Regulation G, the Board stated that an entity subject to Regulation G may submit a public version of its covered agreements to the Board with a request for confidential treatment. The Board further stated that it would release this version to the public unless it received a request under the Freedom of Information Act (FOIA) for the entirety of the CRA-related agreement. In such case, information in the agreement may be protected from disclosure by FOIA exemptions (b)(4) (which protects ''trade secrets and commercial or financial information obtained from a person [that is] privileged and confidential'')[4] and (b)(8) (which protects information contained in ''examination, operating,

[1] 12 CFR part 35 (Office of the Comptroller of the Currency); 12 CFR part 207 (Board); 12 CFR part 346 (Federal Deposit Insurance Corporation).

[2] 12 U.S.C. 1831y(h)(1).

[3] The Board noted in the preamble to Regulation G that section 711 would require disclosure of some types of information that an agency might normally withhold from disclosure under the FOIA and that the Board would not keep information confidential under the FOIA that a party would be required to disclose under section 711. Disclosure and Reporting of CRA-Related Agreements, 66 *FR* 2052, 2066–2067 (Jan. 10, 2001).

[4] 5 U.S.C. 552(b)(4).

or condition reports'' obtained in the bank supervisory process).[5]

Board of Governors of the Federal Reserve System, July 2, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–14499 Filed 7–8–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 2, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *FSB Holdings, Inc., Fairview, Illinois;* to become a bank holding company by acquiring 100 percent of the voting shares of Fairview State Banking Company, also of Fairview, Illinois.

B. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *New Hazard Bancorp, Lexington, Kentucky;* to acquire 100 percent of the voting shares of Hazard Bancorp, and thereby indirectly acquire Peoples Bank & Trust Company, both of Hazard, Kentucky.

C. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *The Bridger Company, Bridger, Montana;* to acquire 100 percent of the voting shares of First Security Bank of Malta, Malta, Montana and Valley Bank of Glasgow, Glasgow, Montana.

D. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *First Citizens BancShares, Inc., Raleigh, North Carolina;* to acquire 100 percent of the voting shares of Entegra Financial Corp. and Entegra Bank, both of Franklin, North Carolina.

Board of Governors of the Federal Reserve System, July 3, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–14617 Filed 7–8–19; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0463]

Submission for OMB Review; Comprehensive Child Welfare Information System (CCWIS)

AGENCY: Children's Bureau; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a revision of the CCWIS information collection authorized by the CCWIS Final Rule (81 FR 35450–35482). The Automated Function List and the Data Quality Plan are revised to be annual submissions of updates with no change to the burden hours per year. Initial submission of the Automated Function List, the Data Quality Plan, and the Notice of Intent have been removed, as we do not expect to receive more than the Paperwork Reduction Act (PRA) threshold in a single year. There are no required instruments associated with this data collection.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: *Written comments and recommendations for the proposed information collection should be sent directly to the following:* Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The CCWIS information collection includes two components:

- The Automated Function List update required pursuant to § 1355.52(i)(2);
- The Data Quality Plan update required pursuant to § 1355.52(d)(5).

The CCWIS regulations require updates of this information to confirm that the project meets CCWIS requirements and that project costs are appropriately allocated to benefiting programs.

Respondents: Title IV–E agencies under the Social Security Act.

[5] 5 U.S.C. 552(b)(8).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Automated Function List § 1355.52(i)(2)	55	1	10	550
Data Quality Plan § 1355.52(d)(5)	55	1	40	2,200

Estimated Total Annual Burden Hours: 2,750.

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.,* 42 U.S.C. 1301 and 1302.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–14596 Filed 7–8–19; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Chronic Disease Self-Management Education Program; OMB #0985–0036

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 notice solicits comments on the Proposed Revision and solicits comments on the information collection requirements related to ACL's Chronic Disease Self-Management Education grant program.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by September 9, 2019.

ADDRESSES: Submit electronic comments on the collection of information to: Kristie Kulinski (*kristie.kulinski@acl.hhs.gov*). Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Kristie Kulinski.

FOR FURTHER INFORMATION CONTACT: Kristie Kulinski, Administration for Community Living, Washington, DC 20201, *kristie.kulinski@acl.hhs.gov* or (202) 795–7379.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, 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 ''Empowering Older Adults and Adults with Disabilities through Chronic Disease Self-Management Education (CDSME) Programs'' cooperative agreement program has been financed through the Prevention and Public Health Fund (PPHF). The statutory authority for cooperative agreements under the most recent program announcement (FY 2019) is contained in the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Public Law 115–245; Public Health Service Act, 42 U.S.C. 300u–2 (Community Programs) and 300u–3 (Information Programs); and the Patient Protection and Affordable Care Act, 42 U.S.C. 300u–11 (Prevention and Public Health Fund). The Empowering Older Adults and Adults with Disabilities through CDSME Programs initiative supports a national resource center and awards competitive grants to deliver and sustain evidence-based CDSME interventions.

OMB approval of the existing set of data collection tools expires on October 31, 2019 (OMB Control Number 0985–0036). This data collection continues to be necessary for monitoring program operations and outcomes. ACL proposes to use the following tools: (1) Semi-annual program reports to monitor grantee progress; and (2) a set of tools used to collect information at each program completed by the program facilitators (Program Information Cover Sheet and Attendance Log) and a Participant Information Survey completed by each participant to document their demographic and health characteristics. ACL is not requesting renewal of Host/Implementation Organization Information Form. ACL intends to continue using an online data entry system for the program and participant survey data. In addition to non-substantive formatting edits, minor changes are being proposed to two of the four currently approved tools, as indicated below. All changes proposed are based on feedback from a focus group that included a sub-set of current grantees, as well as consultation with subject matter experts.

- Program Information Cover Sheet:

1. Question #2: Added consent on behalf of the program facilitators to receive program updates/information from the National CDSME Resource Center.

2. Question #5: Additional evidence-based CDSME programs added to the list (reflective of approved programs included in the FY2019 Funding Opportunity Announcement).

3. Question #7: Information regarding funding source(s) requested to assess progress toward developing a sustainable program delivery infrastructure that is not solely reliant on ACL discretionary dollars.

• Participant Information Survey:

1. Participant I.D. modified to reduce risk of personally identifiable information exposure.

2. Question #10: Added question regarding veteran status to further describe program participants, as well as to assist with partnerships with veteran-serving organizations.

3. Question #12: In tandem with Question #11, this item will allow for further assessment of caregiver status.

4. Question #14: Anxiety Disorder and Depression are listed separately (vs. being combined). Also included Yes/No response options for each chronic condition listed to improve data analyses and reporting.

5. Question #15: Response options have been delineated as sub-bullets (vs. being grouped into a single item) to align with the American Community Survey.

6. Question #16: Added question regarding social isolation, a construct which has been demonstrated to have an association with health-related risks for older adults. This question will also be asked upon completion of the last program session.

7. Question #17: This question will be asked at baseline and upon completion of the last program session to measure change.

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:

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Program facilitators (Program Information Cover Sheet, Attendance Log).	1,350	Once per program	.33	445.5
Program participants (Participant Information Survey)	13,500	1	.20	2,700
Data entry staff (Program Information Cover Sheet, Attendance Log, Participant Information Survey).	65	Once per program times 1,350 programs.	.17	229.5
Total				3,375

Dated: June 27, 2019.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2019–14564 Filed 7–8–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0595]

Advice About Eating Fish: For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children, From the Environmental Protection Agency and Food and Drug Administration; Revised Fish Advice; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of revised fish advice entitled ''Advice About Eating Fish: For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children.'' The revised advice updates advice that FDA and the U.S. Environmental Protection Agency (EPA) jointly issued in January 2017. The advice is intended to help women who are or might become pregnant, breastfeeding mothers, and parents of children over 2 years make informed choices about fish that are nutritious and safe to eat. We are revising the advice in accordance with a recent directive from Congress. FDA is seeking public comment on the development of educational materials on the updated fish advice for women who are or might become pregnant, breastfeeding mothers, and parents of young children.

DATES: Although you can comment on the fish advice at any time, to ensure that FDA considers your comments on the development of educational materials before it begins work on such materials, submit either electronic or written comments on the requested information by September 9, 2019.

ADDRESSES: You may submit comments 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–2014–N–0595 for ''Advice About Eating Fish: For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children.'' 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.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: William R. Jones, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1422, *William.Jones@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 19, 2017 (82 FR 6571), FDA, in coordination with EPA, announced the availability of revised advice entitled ''Advice About Eating Fish'' (the ''2017 advice''). The 2017 advice encourages women who are pregnant and breastfeeding to consume 8 to 12 ounces of a variety of fish per week, from choices that are lower in mercury. The 2017 advice presents recommendations for how often the target audience should consume different fish, using a color-coded chart of more than 60 different fish. The chart presents fish in categories of ''Best Choices,'' from which we recommend the target audience eat a variety of 2 to 3 servings a week; ''Good Choices,'' from which we recommend the target audience eat 1 serving a week; and ''Choices to Avoid.''

On February 15, 2019, the Consolidated Appropriations Act, 2019 (Pub. L. 116–6) became law. Section 773 of Public Law 116–6 directs the Commissioner of Food and Drugs to, by July 1, 2019, and ''following the review required under Executive Order 12866 (5 U.S.C. 601 note; relating to regulatory planning and review),'' issue ''advice revising the advice'' provided in the notice of availability entitled ''Advice About Eating Fish, From the Environmental Protection Agency and Food and Drug Administration, Revised Fish Advice, Availability'' (82 FR 6571) in a manner that is ''consistent with nutrition science recognized by FDA on the net effects of seafood consumption.'' This notice announcing the availability of revised fish advice entitled ''Advice About Eating Fish: For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children'' responds to that directive.

II. The Revised Fish Advice

The revised fish advice, like the 2017 advice, is intended to encourage fish consumption by emphasizing the benefits of eating fish and to help women who are or might become pregnant, breastfeeding mothers, and parents of children over 2 years make informed choices among types of fish. Specifically, the revised advice, now renamed as ''Advice About Eating Fish: For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children,'' includes a statement that eating fish when pregnant or breastfeeding can provide health benefits and states that fish and other protein-rich foods have nutrients that can help children's growth and development. The revisions also include a statement that, as part of a healthy eating pattern, eating fish may offer heart health benefits and lower the risk of obesity. The revised advice also makes clear that many types of fish are both nutritious and lower in mercury.

The revised advice also discusses nutritional value of fish, as outlined in the 2015–2020 Dietary Guidelines for Americans. Based on information in the Dietary Guidelines, the revised advice states that fish are part of a healthy eating pattern and provide protein, healthy omega-3 fats (called docosahexaenoic acid and eicosapentaenoic acid), more vitamin B12 and vitamin D than any other type of food, iron, and other minerals like selenium, zinc, and iodine.

Finally, the revised advice continues to provide information to help women who are or might become pregnant, breastfeeding mothers, and parents of children over 2 years choose varieties of fish that are lower in mercury.

You may submit comments on the advice at any time.

III. Consolidated Appropriations Act, 2019

The fish advice provides information for use by consumers. It is not intended to have the force and effect of law, does not implement, interpret, or prescribe law or policy, and does not describe procedural or practice requirements. As required by section 773 of Public Law 116–6, the revised advice was reviewed by the Office of Management and Budget under Executive Order 12866.

The advice was revised in accordance with the directive in section 773 of Public Law 116–6 that the advice be updated ''in a manner that is consistent with nutrition science recognized by FDA on the net effects of seafood consumption.'' FDA considered the totality of the evidence, including nutrition science on the net effects of seafood consumption, when updating the fish advice. The overall changes we made include clarifying the target audience to make clear it applies to women who could become or are pregnant, women who are breastfeeding, and parents who are feeding children 2 years and older and adding highlights of key consumer messages, including that eating fish can provide health benefits when pregnant or breastfeeding, that many types of fish are both nutritious and lower in mercury, and that the consumption advice is based on mercury levels. Specifically, with respect to health benefits, the advice now highlights benefits related to risk of heart disease and obesity, benefits supporting children's growth and development, and the substantive nutritional contributions to a healthy diet from protein, omega-3 fats, vitamin B12, vitamin D, iron, selenium, zinc, and iodine.

The primary focus of the revisions is to further align the advice with the 2015–2020 Dietary Guidelines for Americans, which establishes Federal, evidence-based policy on diet and health. The revised advice supports the

recommendations of the 2015–2020 Dietary Guidelines for Americans, developed for people 2 years and older, which reflects current science on nutrition to improve public health. The Dietary Guidelines for Americans focuses on dietary patterns and the effects of food and nutrient characteristics on health. FDA recognizes the nutrition science that is reflected in the guidelines, including nutrition science that was based on scientific analysis that considered evidence regarding the net effects of seafood consumption. In addition, the guidelines recommend eating fish as part of a healthy eating pattern because there are benefits in doing so.

The process to develop the 2020–2025 Dietary Guidelines is under way, and per the Agricultural Act of 2014, will include a comprehensive review of scientific evidence and development of guidance for infants and toddlers from birth to 24 months, as well as for women who are pregnant. Additionally, EPA is in the process of updating its Integrated Risk Information System (IRIS) Assessment for Methylmercury. FDA will consider the final products from these efforts, as appropriate, in any future updates to the fish advice.

IV. Request for Comments

FDA intends to develop educational materials such as simple factsheets, posters, infographics, and social media tool-kits on the updated fish advice for women who are or might become pregnant, breastfeeding mothers, and parents of young children. Specific materials will also be developed for health care professionals, health educators, nutritionists, and dietitians. These resources will be printable and could be used in physician's offices, public health clinics, and stores.

FDA is seeking public comment on:

(1) Additional target populations that should be considered who may benefit from this advice;

(2) Additional information that should be included in these educational resources; and

(3) Additional effective means of disseminating and broadening the reach of this information.

While FDA welcomes comment at any time, we would appreciate comments on these questions by September 9, 2019.

V. Electronic Access

Persons with access to the internet may obtain the advice at either *https://www.fda.gov/food/resources-you-food,* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the advice.

Dated: July 2, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14524 Filed 7–8–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–2281]

Incorporating Alternative Approaches in Clinical Investigations for New Animal Drugs; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comment.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public meeting entitled ''Incorporating Alternative Approaches in Clinical Investigations for New Animal Drugs.'' This public meeting and request for comments is intended to support FDA guidance development as required by the Animal Drug and Animal Generic Drug User Fee Amendments of 2018. The topics to be discussed will inform the development of guidance to assist sponsors in incorporating complex adaptive and other novel investigation designs, data from foreign countries, real world evidence (including ongoing surveillance activities, observational studies, and registry data), biomarkers, and surrogate endpoints into proposed clinical investigation protocols and applications for new animal drugs under the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is seeking comments from stakeholders, including representatives of regulated industry, consumer groups, academia, veterinarians, and food producers.

DATES: The public meeting will be held on July 16, 2019, from 8:30 a.m. to 5 p.m. Submit either electronic or written comments on this public meeting by August 17, 2019.

ADDRESSES: The public meeting will be held at Johns Hopkins University—Montgomery County, Gilchrist Hall, 9601 Medical Center Dr., Rockville, MD 20850. Free parking is available on site.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 17, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 17, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–2281 for ''Incorporating Alternative Approaches in Clinical Investigations for New Animal Drugs.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9

a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Susan Storey, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., HFV–131, Rockville, MD 20855, 240–402–0578, *susan.storey@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public meeting entitled ''Incorporating Alternative Approaches in Clinical Investigations for New Animal Drugs.'' This public meeting and request for comment is intended to support FDA guidance development as required under section 305 of the Animal Drug and Animal Generic Drug User Fee Amendments of 2018 (Pub. L. 115–234). Section 305 directs FDA to develop guidance to address several alternative approaches in clinical investigations for new animal drugs, including incorporating complex adaptive and other novel investigation designs, data from foreign countries, real world evidence (including ongoing surveillance activities, observational studies, and registry data), biomarkers, and surrogate endpoints into proposed clinical investigation protocols and applications for new animal drugs under sections 512 and 571 of the FD&C Act (21 U.S.C. 360b, 360ccc). Section 305 also directs FDA to conduct a public meeting to allow the Agency to gather input from stakeholders, including representatives of regulated industry, consumer groups, academia, veterinarians, and food producers before developing the guidance.

II. Topics for Discussion at the Public Meeting

The purpose of this public meeting is to facilitate discussion and obtain input from stakeholders about the use of complex adaptive and other novel investigation designs, data from foreign countries, real world evidence, and biomarkers and surrogate endpoints in drug development and regulatory decision making.

The meeting is expected to include four sessions that focus on the following topics: (1) Complex adaptive and other novel investigation designs; (2) data from foreign countries; (3) real world evidence; and, (4) biomarkers and surrogate endpoints. Within each session and following all sessions there will be an opportunity for public comment. To facilitate the development of guidance on these topics, please consider the following questions. When responding please identify the topic and question in your response.

Topic 1: Complex Adaptive and Other Novel Investigation Designs

1. In September 2018, FDA published draft Guidance for Industry: Adaptive Designs for Clinical Trials of Drugs and Biologics, which applies to human drugs and biologics (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/adaptive-design-clinical-trials-drugs-and-biologics*). How should these apply to study designs for animal drugs? What are the potential study adaptation features that could be applied to animal drug investigations? What are the challenges and possible solutions to apply these adaptations to studies for animal drugs? To what type of studies for animal drugs would these study designs be most applicable?

2. How does complex adaptive design differ from adaptive design? What constitutes other novel investigation designs? What examples are directly applicable to animal drug development?

3. Are there partnerships that can be formed between FDA and the regulated industry, academia, or other groups to facilitate the development or use of these novel investigational designs for animal drug development? What strategic work is needed to enable the regulated industry to make full use of these novel investigational designs for animal drug development? What methods are needed, such as the use of simulations or modeling, to facilitate the use of these novel investigational designs for animal drug development?

Topic 2: Data From Foreign Countries

For the purposes of this meeting, FDA considers data from foreign countries to be data from investigations or studies conducted outside the United States (U.S.). FDA can accept data from studies conducted outside the United States to support a new animal drug application, provided the applicant demonstrates that the data are adequate under applicable standards to support approval (section 569B of the FD&C Act; 21 U.S.C. 360bbb–8b). FDA also accepts data from studies conducted outside the United States to support a food additive petition for a food additive intended for use in animal food, when provided by the petitioner (section 409(k)(1) of the FD&C Act; 21 U.S.C. 348(k)(1)). While the regulatory standards for approval differ between animal drugs and animal food additives, data from foreign countries can be used to support either approval if the data meet the appropriate regulatory standards.

1. What challenges and potential solutions do you have in meeting the requirements of substantial evidence of effectiveness, as defined in 21 CFR 514.4, when using data from foreign countries for an animal drug?

2. Typically in the United States, when we wish to show a test drug is no worse than an active control, that active control is an approved animal drug in the United States. A non-inferiority analysis is used to statistically demonstrate this relationship. In studies conducted outside the United States, an active control may be used that is not approved for that use in the United States. In the absence of a U.S. approval for the active control, FDA cannot interpret non-inferiority to the unapproved active control. What challenges exist in utilizing these studies? What criteria should FDA use to accept a study where the active control is not approved in the United

States? What are potential options or solutions to enable FDA to use these studies?

3. What challenges exist in demonstrating that data from foreign countries were generated under conditions representative of typical conditions in the United States for an animal drug or food additive? What are potential solutions to these challenges?

4. What challenges exist in designing studies for an animal drug or food additive to meet the approval requirements of different jurisdictions? What are possible solutions to these challenges?

5. What challenges exist in study conduct and the collection and interpretability of data from foreign countries (both manual and electronic) that may influence study quality and data integrity to support the approval of an animal drug or food additive? What are possible solutions to these challenges?

6. What other challenges have you encountered and what potential solutions would you propose with regard to providing data from foreign countries to FDA?

Topic 3: Real World Evidence

There is significant activity within FDA aimed at clarifying how to determine if real-world data (RWD) are sufficient to generate real-world evidence (RWE) that could be used for regulatory decision making by the Agency. In August 2017, FDA published a guidance document entitled, ''Guidance for Industry and Food and Drug Administration Staff: Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' (available at *https://www.fda.gov/media/99447/download*) and, in accordance with the 21st Century Cures Act (Pub. L. 114–255), released a draft framework entitled ''Framework for FDA's Real-World Evidence Program'' (available at *https://www.fda.gov/media/120060/download*) in December 2018 for human drug and biological products.

1. How should FDA define RWE for making regulatory decisions for animal drugs? What sources of RWD should FDA consider to generate RWE for animal drugs?

2. What challenges exist for the use of RWE for animal drug approvals? What are possible solutions to these challenges?

3. In what contexts might RWD/RWE be used to generate clinical evidence for regulatory decision making for animal drugs?

4. What factors should FDA consider when evaluating RWE for animal drugs?

Topic 4: Biomarkers and Surrogate Endpoints

Biomarkers have long been a part of veterinary medicine. Examples include routine tests such as body temperature, heart rate, complete blood cell count and clinical chemistry, radiographs, and intraocular pressure. Numerous technological advancements have greatly increased the number of available biomarkers while reducing their cost. Unfortunately, many potential biomarkers are not validated for their use and interpretation in clinical investigations. FDA's Center for Drug Evaluation and Research (CDER) has a formal Biomarker Qualification Program, related guidance, and affiliated consortia to support the development and use of biomarkers in regulatory decision making for human drugs (*https://www.fda.gov/drugs/drug-development-tool-qualification-programs/cder-biomarker-qualification-program*). FDA is seeking stakeholder feedback on how to best support the identification and development of new biomarkers for new animal drug applications and on ways to better incorporate biomarkers and surrogate endpoints into animal drug development.

1. What are the expectations of sponsors, researchers, veterinarians, and producers for the use of biomarkers in the context of animal drug regulation and how might biomarkers be used in addition to surrogate endpoints in the design and conduct of clinical studies?

2. Biomarkers are commonly used for diagnosing disease to enroll patients, sample size estimations, and pilot/proof-of-concept studies. What information should be provided to FDA to support their use in these contexts (*e.g.,* analytical validation, clinical validation, establishing clinical utility, companion diagnostics etc.)?

3. What are the major challenges in translating potential biomarkers and/or surrogate endpoints into practical tools in clinical trials? What are possible solutions to these challenges?

4. How do we determine the evidentiary criteria for evaluating biomarker use?

5. Should FDA's Center for Veterinary Medicine develop a biomarker qualification program like CDER's? Would such a program be beneficial, and is it something that stakeholders (*e.g.,* drug sponsors) would use? Are there other approaches to the development and acceptance of biomarkers for animal drugs?

III. Information About the Public Meeting

Additional information about the public meeting is available on our website at *https://www.fda.gov/animal-veterinary/workshops-conferences-meetings/public-meeting-incorporating-alternative-approaches-clinical-investigations-new-animal-drugs.* If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 8 a.m. We will post a notice on the above website no later than July 12 as to whether onsite registration is available.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. Registration for the webcast is required. Information to register for the webcast is available at *https://www.fda.gov/animal-veterinary/workshops-conferences-meetings/public-meeting-incorporating-alternative-approaches-clinical-investigations-new-animal-drugs.* You can register for the webcast up until the time of the meeting.

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* For a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available at *https://www.fda.gov/animal-veterinary/workshops-conferences-meetings/public-meeting-incorporating-alternative-approaches-clinical-investigations-new-animal-drugs.*

Dated: July 2, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14528 Filed 7–8–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Assessing Care and Health Outcomes Among Ryan White HIV/AIDS Program Clients Who Do Not Receive RWHAP-Funded Outpatient Ambulatory Health Services, OMB No. 0906–xxxx—NEW

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than August 8, 2019.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Assessing Care and Health Outcomes Among Ryan White HIV/AIDS Program (RWHAP) Clients Who Do Not Receive RWHAP-Funded Outpatient Ambulatory Health Services (OAHS), OMB No. 0906–xxxx—NEW.

Abstract: RWHAP is administered by HRSA's HIV/AIDS Bureau. RWHAP funds and coordinates with cities, states, and local clinics and community-based organizations to deliver HIV care, treatment, and support to low-income people living with HIV (PLWH). Nearly two-thirds of RWHAP clients live at or below 100 percent of the federal poverty level and about three-quarters are racial or ethnic minorities. Since 1990, RWHAP has developed a comprehensive system of nearly 2,000 provider organizations that deliver high quality health care and support services to more than 500,000 PLWH, more than 50 percent of all diagnosed PLWH in the United States. Recipients and subrecipients funded to provide direct services must submit client-level data annually to HRSA as part of their RWHAP Services Report (RSR). RSR (0906–0039) contains a single record for each RWHAP-eligible client who received a service during the calendar year. Providers report demographic and service use data for all their clients. However, they report clinical data (including lab results) only for those who received RWHAP-funded OAHS.

HRSA is embarking on a 24-month study called Assessing Care and Health Outcomes Among RWHAP Clients Who Do Not Receive RWHAP-Funded OAHS. The purpose of the study is to learn about the quality of care and health outcomes among the one-third of clients for whom HRSA does not collect clinical information—that is, for the 164,000 clients who do not receive directly funded OAHS under the RWHAP. HRSA will use the findings to (1) assess HIV care and health outcomes among its non-OAHS clients, (2) determine if and where these clients receive OAHS, (3) identify any unmet HIV care and treatment needs faced by this population, and (4) develop strategies to better coordinate services between RWHAP-funded and nonfunded providers. To meet these objectives, HRSA proposes to conduct interviews and medical chart reviews at 30 sites. Sites include RWHAP-funded providers that are not directly funded to deliver OAHS and, if necessary for accessing the medical records of their non-OAHS clients, up to two non-RWHAP medical providers. At each site visit, HRSA will collect qualitative and quantitative information via (1) semistructured interviews with program managers, clinicians, and frontline service providers, as well as with non-OAHS clients; and (2) medical chart reviews for clients who do not receive directly funded OAHS under the RWHAP.

A 60-day **Federal Register** Notice was published in the **Federal Register** on April 8, 2019, vol. 84, No. 67; pp. 13934–35. There were no public comments.

Need and Proposed Use of the Information: The interviews with provider staff and clients will provide qualitative information on HIV-related medical service use, process, and health outcomes; barriers to care; unmet needs; provider referral relationships; and opportunities to improve care and outcomes among clients who do not receive directly funded OAHS under the RWHAP. The medical chart reviews will provide quantitative information on medical visits, prescription medications, and clinical outcomes for a representative sample of non-OAHS clients. HRSA will use the data to estimate three main outcomes for the study population: (1) Retention in care, (2) initiation of antiretroviral therapy, and (3) viral suppression. This information will supplement data available from the RSR on OAHS clients and enable HRSA for the first time to measure the quality of care and health outcomes for its entire client population, an important step toward ending the HIV epidemic in the United States.

Likely Respondents: HRSA plans to conduct individual interviews with two groups of informants: (1) Program managers, case managers or other frontline service providers, and medical directors or clinicians; and (2) RWHAP clients. HRSA also plans to review and abstract key data elements from non-OAHS client medical records from providers.

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
Program Manager	30	1	30	1.00	30.00
Case Manager	30	1	30	1.00	30.00
Medical Director	40	1	40	1.00	40.00
Client	120	1	120	.50	60.00
Medical Record Abstraction	30	50	1,500	.08	120.00
Telephone Screening	45	1	45	.25	11.25
Total	295		1,765		291.25

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–14535 Filed 7–8–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Clinical and Secondary Data Analysis Applications.

Date: August 2, 2019.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Eye Institute, 6700 B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeanette M. Hosseini, Ph.D., Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov*.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI: Pathway to Independence (K99) Applications.

Date: August 5–6, 2019.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Eye Institute, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zhihong Shan, Ph.D., Scientific Review Administrator, Division of Extramural Research, National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 2, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14487 Filed 7–8–19; 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 the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular and Hematology.

Date: July 30, 2019.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrinology, Metabolism, Nutrition and Reproductive Science.

Date: July 31, 2019.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Pediatric and Obstetric Pharmacology and Therapeutics.

Date: July 31, 2019.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.

Date: July 31, 2019.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Antimicrobial Drugs and Resistance.

Date: July 31, 2019.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Susan Daum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, Bethesda, MD 20892, 301–827–7233, *susan.boyle-vavra@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Autoimmunity, Transplantation and Tumor Immunology.

Date: July 31, 2019.

Time: 12:00 p.m. to 6:00 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: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mitochondrial Function and Neurodegeneration.

Date: August 1, 2019.

Time: 10:00 a.m. to 4:40 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: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: August 1–2, 2019.

Time: 10:00 a.m. to 11:59 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: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@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: July 1, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14485 Filed 7–8–19; 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 the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Pulmonary Diseases.

Date: July 30–31, 2019.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Autism, Epilepsy, and other Neurodevelopmental Disorders.

Date: July 30, 2019.

Time: 1:00 p.m. to 5:00 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: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Dermatology and Autoimmune.

Date: July 30, 2019.

Time: 1:00 p.m. to 5:00 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: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Stress, Cognition, and Suicidal Behavior.

Date: August 6, 2019.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Transport Across the Blood-Testis/Epididymal Barriers.

Date: August 7, 2019.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@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: July 1, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14486 Filed 7–8–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3412–EM; Docket ID FEMA–2019–0001]

Kansas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Kansas (FEMA–3412–EM), dated May 28, 2019, and related determinations.

DATES: The declaration was issued May 28, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 28, 2019, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Kansas resulting from flooding beginning on May 9, 2019, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Kansas.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, David Gervino, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Kansas have been designated as adversely affected by this declared emergency:

Anderson, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Franklin, Greenwood, Harvey, Montgomery, Neosho, Osage, Reno, Sumner, Wilson, and Woodson Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14611 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3413–EM; Docket ID FEMA–2019–0001]

Louisiana; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Louisiana (FEMA–3413–EM), dated May 29, 2019, and related determinations.

DATES: This amendment was issued June 20, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective June 17, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14600 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4421–DR; Docket ID FEMA–2019–0001]

Iowa; Amendment No. 11 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA–4421–DR), dated March 23, 2019, and related determinations.

DATES: The amendment was issued June 19, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now March 12, 2019, through and including June 15, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14580 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4406–DR; Docket ID FEMA–2019–0001]

Alabama; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Alabama (FEMA–4406–DR), dated November 5, 2018, and related determinations.

DATES: This change occurred on May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Terry L. Quarles, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Gerald M. Stolar as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14578 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued June 11, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 1, 2019.

Delaware, Mayes, Okmulgee, Payne, Pottawatomie Counties for Individual Assistance.

Kay and Sequoyah Counties for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14581 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4419–DR; Docket ID FEMA–2019–0001]

Alabama; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Alabama (FEMA–4419–DR), dated March 5, 2019, and related determinations.

DATES: This change occurred on May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Terry L. Quarles, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Gerald M. Stolar as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14594 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3413–EM; Docket ID FEMA–2019–0001]

Louisiana; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Louisiana (FEMA–3413–EM), dated May 29, 2019, and related determinations.

DATES: The declaration was issued May 29, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 29, 2019, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Louisiana resulting from flooding beginning on May 10, 2019, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Louisiana.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to provide emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program in the designated area and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in the other designated areas.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Traci L. Brasher, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Louisiana have been designated as adversely affected by this declared emergency:

St. Mary Parish for emergency protective measures (Category B), including direct federal assistance, under the Public Assistance program.

Assumption, Catahoula, Concordia, Iberville, Pointe Coupee, Rapides, St. Landry, St. Martin, Terrebonne, and West Feliciana Parishes for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14613 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4439–DR; Docket ID FEMA–2019–0001]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4439–DR), dated June 3, 2019, and related determinations.

DATES: The declaration was issued June 3, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 3, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and tornadoes during the period of April 24 to April 25, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Traci L. Brasher, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Louisiana have been designated as adversely affected by this major disaster:

Lincoln, Morehouse, and Union Parishes for Public Assistance.

All areas within the State of Louisiana are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14597 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued June 17, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 1, 2019.

Cherokee and Nowata Counties for Individual Assistance.

Le Flore and Noble Counties for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14582 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4421–DR; Docket ID FEMA–2019–0001]

Iowa; Amendment No. 10 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–4421–DR), dated March 23, 2019, and related determinations.

DATES: This amendment was issued June 11, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 23, 2019.

Buchanan, Clayton, Clinton, Des Moines, Jackson, Jones, Lee, Mitchell, Muscatine, Ringgold, and Worth Counties for Public Assistance.

Louisa and Scott Counties for Public Assistance (already designated for Individual Assistance).

Winnebago County for Public Assistance [Categories C–G] (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14589 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4426–DR; Docket ID FEMA–2019–0001]

Alabama; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Alabama (FEMA–4426–DR), dated April 17, 2019, and related determinations.

DATES: This change occurred on May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency

Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Terry L. Quarles, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Gerald M. Stolar as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14587 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4441–DR; Docket ID FEMA–2019–0001]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–4441–DR), dated June 8, 2019, and related determinations.

DATES: The declaration was issued June 8, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 8, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms and flooding beginning on May 21, 2019, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance; assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program; and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in the designated areas; Hazard Mitigation throughout the State; and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs).

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Conway, Crawford, Faulkner, Jefferson, Perry, Pulaski, Sebastian, and Yell Counties for Individual Assistance.

Conway, Crawford, Faulkner, Jefferson, Perry, Pulaski, Sebastian, and Yell Counties for debris removal and emergency protective measures (Categories A and B), including direct federal assistance under the Public Assistance program.

Arkansas, Chicot, Desha, Franklin, Johnson, Lincoln, Logan, and Pope Counties for emergency protective measures (Category B), limited to direct federal assistance under the Public Assistance program.

All areas within the State of Arkansas are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14571 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3411–EM; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Oklahoma (FEMA–3411–EM), dated May 25, 2019, and related determinations.

DATES: This amendment was issued June 21, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for

this emergency is closed effective June 9, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14601 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4441–DR; Docket ID FEMA–2019–0001]

Arkansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–4441–DR), dated June 8, 2019, and related determinations.

DATES: This amendment was issued June 21, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 14, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14598 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: The declaration was issued June 1, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 1, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms, straight-line winds, tornadoes, and flooding beginning on May 7, 2019, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance; assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program; and emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in the designated areas; Hazard Mitigation throughout the State; and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs).

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gerard M. Stolar, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this major disaster:

Muskogee, Tulsa, and Wagoner Counties for Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

Haskell, Kay, Le Flore, Noble, Osage, Pawnee, and Sequoyah Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

All areas within the State of Oklahoma are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—

Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14608 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4416–DR; Docket ID FEMA–2019–0001]

Texas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Texas (FEMA–4416–DR), dated February 25, 2019, and related determinations.

DATES: This change occurred on May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Sandra Eslinger, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Jerry S. Thomas as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14575 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3414–EM; Docket ID FEMA–2019–0001]

Arkansas; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Arkansas (FEMA–3414–EM), dated May 30, 2019, and related determinations.

DATES: This amendment was issued June 21, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective June 14, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14599 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4440–DR; Docket ID FEMA–2019–0001]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–4440–DR), dated June 7, 2019, and related determinations.

DATES: The declaration was issued June 7, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 7, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of South Dakota resulting from a severe winter storm, snowstorm, and flooding during the period of March 13 to April 26, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas and Hazard Mitigation throughout the State. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot

Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act. Quote Letter

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James R. Stephenson, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Dakota have been designated as adversely affected by this major disaster:

Bon Homme, Charles Mix, Hutchinson, Minnehaha, and Yankton; the Pine Ridge Reservation to include the counties of Oglala Lakota, Jackson, and Bennett Counties; the Rosebud Reservation to include the counties of Mellette and Todd; and the Cheyenne River Sioux Reservation to include the counties of Dewey and Ziebach for Individual Assistance.

Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Campbell, Charles Mix, Clark, Clay, Codington, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Hamlin, Hand, Hanson, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lincoln, Lyman, Marshall, McCook, McPherson, Mellette, Miner, Minnehaha, Moody, Oglala Lakota, Pennington, Perkins, Potter, Roberts, Sanborn, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, and Ziebach Counties; and the Cheyenne River Sioux Reservation, the Lake Traverse Reservation, and the Rosebud Reservation for Public Assistance.

Beadle, Brookings, Clark, Codington, Deuel, Edmunds, Hamlin, Hyde, Jerauld, Kingsbury, Mellette, and Potter for snow assistance under the Public Assistance program for any continuous 48-hour period during the proximate incident period.

All areas within the State of South Dakota are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14570 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4444–DR; Docket ID FEMA–2019–0001]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–4444–DR), dated June 12, 2019, and related determinations.

DATES: The declaration was issued June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 12, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from flooding during the period of March 21 to April 28, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas C. Carroll, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of North Dakota have been designated as adversely affected by this major disaster:

Adams, Barnes, Cass, Dickey, Emmons, Grand Forks, Grant, Hettinger, LaMoure, Logan, McKenzie, Morton, Pembina, Ransom, Richland, Sargent, Steele, Traill, and Walsh Counties for Public Assistance.

All areas within the State of North Dakota are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14574 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3414–EM; Docket ID FEMA–2019–0001]

Arkansas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Arkansas (FEMA–3414–EM), dated May 30, 2019, and related determinations.

DATES: The declaration was issued May 30, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 30, 2019, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Arkansas resulting from severe storms and flooding beginning on May 21, 2019, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Arkansas.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Arkansas have been designated as adversely affected by this declared emergency:

Arkansas, Chicot, Conway, Crawford, Desha, Faulkner, Franklin, Jefferson, Johnson, Lincoln, Logan, Perry, Pope, Pulaski, Sebastian, and Yell Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14614 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4429–DR; Docket ID FEMA–2019–0001]

Mississippi; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Mississippi (FEMA–4429–DR), dated April 23, 2019, and related determinations.

DATES: This change occurred on June 6, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jose M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Lai Sun Yee as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14586 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4414–DR; Docket ID FEMA–2019–0001]

Minnesota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Minnesota (FEMA–4414–DR), dated February 1, 2019, and related determinations.

DATES: This change occurred on June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, John F. Boyle, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Steven W. Johnson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling;

97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14577 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4441–DR; Docket ID FEMA–2019–0001]

Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–4441–DR), dated June 8, 2019, and related determinations.

DATES: This amendment was issued June 14, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 8, 2019.

Arkansas, Desha, Logan, and Pope Counties for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14593 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued June 20, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 1, 2019.

Alfalfa, Craig, Garfield, Kingfisher, and Woods Counties for Individual Assistance.

Pawnee County for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14590 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4442–DR; Docket ID FEMA–2019–0001]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–4442–DR), dated June 12, 2019, and related determinations.

DATES: The declaration was issued June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 12, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from a severe winter storm, straight-line winds, and flooding during the period of March 12 to April 28, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and

Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Steven W. Johnson, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this major disaster:

Big Stone, Blue Earth, Brown, Chippewa, Clay, Cottonwood, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Jackson, Kittson, Lac Qui Parle, Le Sueur, Lincoln, Lyon, Mahnomen, Marshall, Martin, McLeod, Mower, Murray, Nicollet, Nobles, Norman, Olmsted, Pennington, Pipestone, Polk, Ramsey, Red Lake, Redwood, Renville, Rock, Roseau, Scott, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Washington, Watonwan, Wilkin, Winona, and Yellow Medicine Counties and the Prairie Island Indian Community, Red Lake Band of Chippewa, Upper Sioux Community, and the White Earth Nation for Public Assistance.

All areas within the State of Minnesota are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14572 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4443–DR; Docket ID FEMA–2019–0001]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA–4443–DR), dated June 12, 2019, and related determinations.

DATES: The declaration was issued June 12, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 12, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Idaho resulting from severe storms, flooding, landslides, and mudslides during the period of April 7 to April 13, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Idaho.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Idaho have been designated as adversely affected by this major disaster:

Adams, Idaho, Latah, Lewis, and Valley Counties and the Nez Perce Tribe for Public Assistance.

All areas within the State of Idaho are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14573 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4415–DR; Docket ID FEMA–2019–0001]

Mississippi; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Mississippi (FEMA–4415–DR), dated February 14, 2019, and related determinations.

DATES: This change occurred on June 6, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jose M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Lai Sun Yee as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14579 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4390–DR; Docket ID FEMA–2019–0001]

Minnesota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Minnesota (FEMA–4390–DR), dated September 5, 2018, and related determinations.

DATES: This change occurred on June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, John F. Boyle, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Steven W. Johnson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14576 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4420–DR; Docket ID FEMA–2019–0001]

Nebraska; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–4420–DR), dated March 21, 2019, and related determinations.

DATES: This amendment was issued June 4, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 21, 2019.

Holt County for Individual Assistance (already designed for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14592 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4442–DR; Docket ID FEMA–2019–0001]

Minnesota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Minnesota (FEMA–4442–DR), dated June 12, 2019, and related determinations.

DATES: This change occurred on June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, John F. Boyle, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Steven W. Johnson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14595 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued June 17, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 9, 2019.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14588 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued June 8, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 1, 2019.

Canadian, Creek, Logan, Ottawa, Rogers, and Washington Counties for Individual Assistance.

Osage County for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14585 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3411–EM; Docket ID FEMA–2019–0001]

Oklahoma; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Oklahoma (FEMA–3411–EM), dated May 25, 2019, and related determinations.

DATES: The declaration was issued May 25, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 25, 2019, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Oklahoma resulting from flooding beginning on May 7, 2019, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Oklahoma.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to

75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Gerard M. Stolar, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Oklahoma have been designated as adversely affected by this declared emergency:

Haskell, Kay, Le Flore, Muskogee, Noble, Osage, Pawnee, Sequoyah, Tulsa, and Wagoner Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–14609 Filed 7–8–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Chemical Facility Anti-Terrorism Standards; Personnel Surety Program Implementation Notice

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: Notice Implementing the CFATS Personnel Surety Program at All High-risk Chemical Facilities.

SUMMARY: CISA is providing notice to the public and chemical facilities regulated under the Chemical Facility Anti-Terrorism Standards (CFATS) that it is commencing full implementation of the CFATS Personnel Surety Program at all high-risk chemical facilities. CFATS requires regulated chemical facilities to implement security measures designed to ensure that certain individuals with or seeking access to the restricted areas or critical assets at those chemical facilities are screened for terrorist ties. The CFATS Personnel Surety Program enables regulated chemical facilities to meet this requirement.

DATES: This notice is applicable July 9, 2019.

SUPPLEMENTARY INFORMATION:

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I. Notice of Full Implementation

CISA is publishing this notice to inform high-risk chemical facilities, in particular Tier 3 and Tier 4 facilities, regulated under CFATS of the full implementation of the CFATS Personnel Surety Program at all high-risk chemical facilities. CISA has previously implemented the Personnel Surety Program at Tier 1 and 2 facilities.[1] CISA will now implement the program in a phased manner at all high-risk chemical facilities, to include Tier 3 and 4 facilities.[2] High-risk chemical facilities will be individually notified when to begin implementing risk based performance standard (RBPS) 12(iv) in accordance with its Site Security Plan (SSP).[3] High-risk chemical facilities at which the CFATS Personnel Surety Program is already implemented are unaffected by this notice.

II. Statutory and Regulatory History of the CFATS Personnel Surety Program

Section 550 of the Department of Homeland Security Appropriations Act of 2007, Public Law 109–295 (2006) (''Section 550''), provided the Department with the authority to identify and regulate the security of high-risk chemical facilities using a risk-based approach. On April 9, 2007, the Department issued the CFATS Interim Final Rule (IFR) implementing this statutory mandate. 72 FR 17688.

Section 550 required that the Department establish risk-based performance standards for high-risk chemical facilities, and through the CFATS regulations the Department promulgated 18 RBPSs, including RBPS 12—Personnel Surety. Under RBPS 12, high-risk chemical facilities regulated under CFATS are required to account for the conduct of certain types of background checks in their Site Security Plans. Specifically, RBPS 12 requires high-risk chemical facilities to:

Perform appropriate background checks on and ensure appropriate credentials for facility personnel, and as appropriate, for unescorted visitors with access to restricted areas or critical

[1] On December 18, 2015 at 80 FR 79058, the Department published the initial implementation notice for the CFATS Personnel Surety Program. The initial implementation was limited to Tier 1 and Tier 2 high-risk chemical facilities. The initial implementation notice may be viewed at *https://www.federalregister.gov/d/2015-31625.*

[2] CISA is implementing in a phased manner based upon its experience implementing the CFATS Personnel Surety Program at Tier 1 and Tier 2 facilities, requests by commenters to the 60-day PRA notice and 30-day notice, and the terms of clearance within the Notice of Action issued by OMB when it approved the CFATS Personnel Surety Program Information Collection Request in May of 2019.

[3] Throughout this notice any reference to SSPs also refers to Alternative Security Programs submitted by high-risk chemical facilities as described in 6 CFR 27.235.

assets, including, (i) Measures designed to verify and validate identity; (ii) Measures designed to check criminal history; (iii) Measures designed to verify and validate legal authorization to work; and (iv) Measures designed to identify people with terrorist ties[.]6 CFR 27.230(a)(12).

The first three aspects of RBPS 12 (checks for identity, criminal history, and legal authorization to work) have already been implemented, and all high-risk chemical facilities have addressed these aspects of RBPS 12 in their Site Security Plans. This notice announces to the public and chemical facilities that it is commencing full implementation of the CFATS Personnel Surety Program at all high-risk chemical facilities, which requires high-risk chemical facilities to implement security measures designed to ensure that certain individuals with or seeking access to the restricted areas or critical assets at those chemical facilities are screened for terrorist ties.

Identifying affected individuals who have terrorist ties is an inherently governmental function and requires the use of information held in government-maintained databases that are unavailable to high-risk chemical facilities. 72 FR 17688, 17709 (April 9, 2007). Thus, under RBPS 12(iv), CISA and high-risk chemical facilities must work together to satisfy the ''terrorist ties'' aspect of the Personnel Surety performance standard. To implement the provisions of RBPS 12(iv), and in accordance with Title XXI of the Homeland Security Act of 2002, as amended,[4] the following options will be available to enable high-risk chemical facilities to facilitate terrorist-ties vetting of affected individuals.

Option 1. High-risk chemical facilities may submit certain information about affected individuals that CISA will use to vet those individuals for terrorist ties. Specifically, the identifying information about affected individuals will be compared against identifying information of known or suspected terrorists contained in the federal government's consolidated and integrated terrorist watchlist, the Terrorist Screening Database (TSDB), which is maintained by the Department of Justice (DOJ) Federal Bureau of Investigation (FBI) in the Terrorist Screening Center (TSC).[5]

Option 2. High-risk chemical facilities may submit information about affected individuals who already possess certain credentials that rely on security threat assessments conducted by the Department. *See* 72 FR 17688, 17709 (April 9, 2007). This will enable CISA to verify the continuing validity of these credentials.

Option 3. High-risk chemical facilities may comply with RBPS 12(iv) without submitting to CISA information about affected individuals who possess Transportation Worker Identification Credentials (TWICs), if a high-risk chemical facility electronically verifies and validates the affected individual's TWICs through the use of TWIC readers (or other technology that is periodically updated using the Canceled Card List).

Option 4. High-risk chemical facilities may visually verify certain credentials or documents that are issued by a Federal screening program that periodically vets enrolled individuals against the Terrorist Screening Database (TSDB). CISA continues to believe that visual verification has significant security limitations and, accordingly, encourages high-risk chemical facilities choosing this option to identify in their Site Security Plans the means by which they plan to address these limitations.

Each of these options is described in further detail below in Section III.D.

III. Contents and Requirements of the CFATS Personnel Surety Program

The CFATS Personnel Surety Program enables CISA and high-risk chemical facilities to mitigate the risk that certain individuals with or seeking access to restricted areas or critical assets at high-risk chemical facilities may have terrorist ties.

A. Who must be checked for terrorist ties?

RBPS 12(iv) requires that certain individuals with or seeking access to restricted areas or critical assets at high-risk chemical facilities be checked for terrorist ties. These individuals are referred to as ''affected individuals.'' Specifically, affected individuals are facility personnel or unescorted visitors with or seeking access to restricted areas or critical assets at high-risk chemical facilities. High-risk facilities may classify particular contractors or categories of contractors either as ''facility personnel'' or as ''visitors.'' This determination should be a facility-specific determination, and should be based on facility-security considerations, operational requirements, and business practices.

There are also certain groups of persons, which CISA does not consider to be affected individuals, such as (1) federal officials who gain unescorted access to restricted areas or critical assets as part of their official duties; (2) state and local law enforcement officials who gain unescorted access to restricted areas or critical assets as part of their official duties; and (3) emergency responders at the state or local level who gain unescorted access to restricted areas or critical assets during emergency situations.

B. Checking for Terrorist Ties During an Emergency or Exigent Situation

In some emergency or exigent situations, access to restricted areas or critical assets by other individuals who have not had appropriate background checks under RBPS 12 may be necessary. For example, emergency responders who are not emergency responders at the state or local level may require such access as part of their official duties under appropriate circumstances. If high-risk chemical facilities anticipate that an individual will require access to restricted areas or critical assets without visitor escorts or without the background checks listed in RBPS 12 under exceptional circumstances (*e.g.,* foreseeable but unpredictable circumstances), high-risk chemical facilities may describe such situations and the types of individuals who might require access in those situations in their SSPs. CISA will assess the situations described, and any security measures the high-risk chemical facility plans to take to mitigate vulnerabilities presented by these situations, as it reviews each high-risk chemical facility's SSP.

C. High-Risk Chemical Facilities Have Flexibility When Implementing the CFATS Personnel Surety Program

A high-risk chemical facility will have flexibility to tailor its implementation of the CFATS Personnel Surety Program to fit its individual circumstances and, in this regard, to best balance who qualifies as an affected individual, unique security issues, costs, and burden. For example a high-risk chemical facility may, in its Site Security Plan:

- Restrict the numbers and types of persons allowed to access its restricted areas and critical assets, thus limiting the number of persons who will need to be checked for terrorist ties.
- Define its restricted areas and critical assets, thus potentially limiting the number of persons who will need to be checked for terrorist ties.
- Choose to escort visitors accessing restricted areas and critical assets in lieu of performing terrorist ties background checks under the CFATS Personnel Surety Program. The high-risk chemical facility may propose in its SSP traditional escorting solutions and/or

[4] 6 U.S.C. 621 *et seq.*

[5] For more information about the TSDB, see DOJ/FBI–019 Terrorist Screening Records System, 72 FR 47073 (August 22, 2007).

innovative escorting alternatives such as video monitoring (which may reduce facility security costs), as appropriate, to address the unique security risks present at the facility.

D. Options Available to High-Risk Chemical Facilities To Comply With Rbps 12(IV)

CISA has developed a CFATS Personnel Surety Program that provides high-risk chemical facilities several options to comply with RBPS 12(iv). In addition to the alternatives expressly described in this notice, CISA will also permit high-risk chemical facilities to propose alternative measures for terrorist ties identification in their SSPs, which CISA will consider on a case-by-case basis in evaluating high-risk chemical facilities' SSPs. Of note, and as discussed further below, a high-risk chemical facility may choose one option or a combination of options to comply with RBPS 12(iv).

Overview of Option 1

The first option allows high-risk chemical facilities (or designee(s))[6] to submit certain information about affected individuals to CISA through a Personnel Surety Program application in an online technology system developed under CFATS called the Chemical Security Assessment Tool (CSAT). Access to and the use of CSAT is provided free of charge to high-risk chemical facilities (or their designee(s)).

Under this option, information about affected individuals submitted by, or on behalf of, high-risk chemical facilities will be compared against identifying information of known or suspected terrorists contained in the TSDB.[7]

If Option 1 is selected by a high-risk chemical facility in its SSP, the facility (or its designee(s)) must submit the following information about an affected individual to satisfy RBPS 12(iv):

- For U.S. Persons (U.S. citizens and nationals as well as U.S. lawful permanent residents):
  - Full Name
  - Date of Birth
  - Citizenship or Gender
- For Non-U.S. Persons:
  - Full Name
  - Date of Birth
  - Citizenship
  - Passport information and/or alien registration number

To reduce the likelihood of false positives in matching against records in the Federal Government's consolidated and integrated terrorist watchlist, high-risk chemical facilities (or their designee(s)) are encouraged, but not required, to submit the following optional information about each affected individual:

- Aliases
- Gender (for Non-U.S. Persons)
- Place of Birth
- Redress Number[8]

If a high-risk chemical facility chooses to submit information about an affected individual under Option 1, the following table summarizes the biographic data that would be submitted to CISA.

TABLE 01—AFFECTED INDIVIDUAL REQUIRED AND OPTIONAL DATA UNDER OPTION 1

Data elements submitted to CISA	For a U.S. person	For a Non-U.S. person
Full Name	Required.	
Date of Birth	Required.	
Gender	Must provide Citizenship or Gender	Optional.
Citizenship		Required.
Passport Information and/or Alien Registration Number.	N/A	Required.
Aliases	Optional.	
Place of Birth	Optional.	
Redress Number	Optional.	

Overview of Option 2

The second option also allows high-risk chemical facilities (or designee(s)) to submit certain information about affected individuals to CISA through a Personnel Surety Program application.[9] This option allows high-risk chemical facilities and CISA to take advantage of the vetting for terrorist ties already being conducted on affected individuals enrolled in the TWIC Program, Hazardous Materials Endorsement (HME) Program, as well as the NEXUS, Secure Electronic Network for Travelers Rapid Inspection (SENTRI), Free and Secure Trade (FAST), and Global Entry Trusted Traveler Programs.

Under Option 2, high-risk chemical facilities (or designee(s)) may submit information to CISA about affected individuals possessing the appropriate credentials to enable CISA to electronically verify the affected individuals' enrollments in these other programs. CISA will subsequently notify the Submitter[10] of the high-risk chemical facility whether or not an affected individual's enrollment in one of these other DHS programs was electronically verified. CISA will also periodically re-verify each affected individual's continued enrollment in one of these other programs, and notify the high-risk chemical facility and/or designee(s) of significant changes in the status of an affected individual's enrollment (*e.g.,* if an affected individual who has been enrolled in the HME Program ceases to be enrolled,

[6] A designee is a third party that submits information about affected individuals to CISA on behalf of a high-risk chemical facility.

[7] Detailed information about the submission of information about affected individuals under Option 1 to the Department for vetting purposes via CSAT can be found in the CSAT Personnel Surety Program User Manual available on *www.dhs.gov/chemicalsecurity.*

[8] For more information about Redress Numbers, please go to *http://www.dhs.gov/one-stop-travelers-redress-process#1.*

[9] Detailed information about the submission of information about affected individuals under Option 2 to the Department via CSAT can be found in the CSAT Personnel Surety Program User Manual available on *www.dhs.gov/chemicalsecurity.*

[10] A Submitter is a person who is responsible for the submission of information through the CSAT system as required in 6 CFR 27.200(b)(3).

then CISA would change the status of the affected individual in the CSAT Personnel Surety Program application and notify the Submitter).[11] Electronic verification and re-verification ensure that both CISA and the high-risk chemical facility can rely upon the continuing validity of an affected individual's credential or endorsement. As a condition of choosing Option 2, a high-risk chemical facility must describe in its SSP what action(s) it, or its designee(s), will take in the event CISA is unable to verify, or no longer able to verify, an affected individual's enrollment in the other DHS program. The high-risk facility must take some action and not leave the situation unresolved.

If Option 2 is selected by a high-risk chemical facility in it SSP, the high-risk chemical facility (or designee(s)) must submit the following information about an affected individual to satisfy RBPS 12(iv):

- Full Name;
- Date of Birth; and
- Program-specific information or credential information, such as unique number, or issuing entity (*e.g.,* State for Commercial Driver's License (CDL) associated with an HME).

To further reduce the potential for misidentification, high-risk chemical facilities (or designee(s)) are encouraged, but not required, to submit the following optional information about affected individuals to CISA:

- Aliases
- Gender
- Place of Birth
- Citizenship

If a high-risk chemical facility chooses to submit information about an affected individual under Option 2, the following table summarizes the biographic data that would be submitted to CISA.

TABLE 02—AFFECTED INDIVIDUAL REQUIRED AND OPTIONAL DATA UNDER OPTION 2

Data elements submitted to CISA	For affected individual with a TWIC	For affected individual with an HME	For affected individual enrolled in a trusted traveler program (NEXUS, SENTRI, FAST, or Global Entry)
Full Name	Required.		
Date of Birth	Required.		
Expiration Date	Required.		
Unique Identifying Number	TWIC Serial Number: Required	CDL Number: Required	PASS ID Number: Required.
Issuing State of CDL	N/A	Required*	N/A.
Aliases	Optional.		
Gender	Optional.		
Place of Birth	Optional.		
Citizenship	Optional.		

Overview of Option 3

Under Option 3—Electronic Verification of TWIC, a high-risk chemical facility (or its designee(s)) will not submit to CISA information about affected individuals in possession of TWICs, but rather will electronically verify and validate the affected individuals' TWICs[12] through the use of TWIC readers (or other technology that is periodically updated with revoked card information). Any high-risk chemical facility that chooses this option must describe in its SSP the process and procedures it will follow if it chooses to use TWIC readers, including what action(s) it, or its designee(s), will take in the event the high-risk chemical facility is unable to verify the TWIC, or subsequently unable to verify an affected individual's TWIC. For example, if a TWIC cannot be verified through the use of a TWIC Reader, the high-risk chemical facility may choose to verify the affected individual's enrollment in TWIC under Option 2, or submit information about the affected individual under Option 1.

Overview of Option 4

Option 4—Visual Verification Of Credentials Conducting Periodic Vetting complies with section 2102(d)(2) of the Homeland Security Act and allows a high-risk chemical facility to satisfy its obligation under 6 CFR 27.230(a)(12)(iv) to identify individuals with terrorist ties using any Federal screening program that periodically vets individuals against the TSDB if:

- The Federal screening program issues a credential or document,[13]
- The high-risk chemical facility is presented[14] a credential or document by the affected individual,[15] and
- The high-risk chemical facility verifies the credential or document is current in accordance with its SSP.[16]

As a result, a high-risk chemical facility may verify that a credential or

[11] When the Department notifies the Submitter of the high-risk chemical facility of significant changes in the status of an affected individual's enrollment, such a notification should not be construed to indicate that an individual has terrorist ties or be treated as derogatory information.

[12] Electronic verification and validation of an affected individual's TWIC requires authentication that the affected individual's TWIC (1) is a valid credential issued by TSA, and (2) has not been cancelled by the TSA, and (3) the biometric live sample matches the biometric template on the TWIC.

[13] This requirement is derived from section 2102(d)(2)(B)(i) of the Homeland Security Act.

[14] The Department considers records of credentials or documents maintained by the high-risk chemical facility, or designee, as having been presented by the affected individual. For example, if high-risk chemical facility (or designee) has in its personnel or access control files a photocopy of an affected individual's CDL with an HME, the high-risk chemical facility may consider the copy in its files as having been presented by the affected individual.

[15] Section 2102(d)(2)(B)(i)(II)(aa) of the Homeland Security Act requires high-risk chemical facilities to accept the credential or document from any federal screening program that conducts periodic vetting against the TSDB. Under Option 4, a high-risk chemical facility may contact the Department when drafting its SSP to determine if a specific credential or document is from a federal screening program that conducts periodic vetting against the TSDB.

[16] This requirement is derived from section 2102(d)(2)(B)(i)(II)(bb) of the Homeland Security Act.

document is current based upon visual inspection, if the processes for conducting such visual inspections are described in its SSP. When developing such processes, CISA encourages high-risk chemical facilities to consider any rules, processes, and procedures prescribed by the entity issuing the credential or document. CISA believes that visual verification has inherent limitations and provides less security value than the other options available under the CFATS Personnel Surety Program. CISA encourages every high-risk chemical facility to consider a means of verification that is consistent with its specific circumstances and its assessment of the threat posed by the acceptance of such credentials. If a facility chooses to use Option 4, in whole or in part, it should also identify in its Site Security Plan the means by which it plans to address these limitations.

An example of Option 4 that could be implemented by a high-risk chemical facility is to leverage the vetting conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) on affected individuals who are employee possessors of a Federal explosives licensee/permittee. For example, a high-risk chemical facility may rely on a ''letter of clearance'' issued by ATF when presented by an affected individual who is also an employee-possessor of explosives. The high-risk chemical facility should describe in its SSP the procedures it will use to verify the letter of clearance is current. CISA will consider high-risk chemical facilities' proposals in the course of evaluating individual SSPs.

E. High-Risk Chemical Facilities May Use More Than One Option

High-risk chemical facilities have discretion as to which option(s) to use for an affected individual. For example, if an affected individual possesses a TWIC or some other credential or document, a high-risk chemical facility could choose to use Option 1 for that individual. Similarly, a high-risk chemical facility, at its discretion, may choose to use Option 1 or Option 2 rather than Option 3 or Option 4 for affected individuals who have TWICs or some other credential or document. High-risk chemical facilities also may choose to combine Option 1 with Option 2, Option 3, and/or Option 4, as appropriate, to ensure that adequate terrorist ties checks are performed on different types of affected individuals (*e.g.,* employees, contractors, unescorted visitors). Each high-risk chemical facility must describe how it will comply with RBPS 12(iv) in its SSP.

F. High-Risk Chemical Facilities May Propose Additional Options

In addition to the options described above for satisfying RBPS 12(iv), a high-risk chemical facility is welcome to propose alternative or supplemental options not described in this document in its SSPs. CISA will assess the adequacy of such alternative or supplemental options on a facility-by-facility basis, in the course of evaluating each facility's SSP.

G. Security Considerations for High-Risk Chemical Facilities To Weigh in Selecting Options

CISA believes the greatest security benefit is achieved when a high-risk chemical facility selects either Option 1 and/or Option 2. Option 3 also provides significant security benefit. Option 4 provides some security benefit but less than Option 1, Option 2, or Option 3.

Option 1 and Option 2 provide the greatest security benefit because the information submitted about each affected individual will be recurrently vetted against the TSDB. Recurrent vetting is a Department best practice and compares an affected individual's information against new and/or updated TSDB records as such records become available. Further, in the event that an affected individual with terrorist ties has or is seeking access to restricted areas or critical assets, if information about that affected individual is submitted to CISA under Option 1 or Option 2, CISA will be able to ensure that an appropriate Federal law enforcement agency is notified and that, as appropriate and consistent with law-enforcement and intelligence requirements, the facility receives notification as well.

Option 3 also provides significant security benefit because information about affected individuals with TWICs is recurrently vetted against the TSDB. However, since CISA does not receive information about these affected individuals from high-risk chemical facilities under Option 3, CISA cannot ensure that the appropriate Federal law enforcement agency is provided information about the high-risk chemical facility at which any such affected individual with terrorist ties has or is seeking access.

Finally, Option 4 provides a more-limited security benefit, as some Federal screening programs do not conduct recurrent vetting. Recurrent vetting compares an affected individual's information against new and/or updated TSDB records as those new and/or updated records become available. Recurrent vetting is a Department best practice because often records about terrorists are either created or updated in the TSDB after the initial vetting has already occurred. Consequently, recurrent vetting results in additional matches and provides substantial security value.

In addition, relying on a visual inspection of a credential or document is not as secure as electronic verification because visual inspection may make it more difficult to ascertain whether a credential or document has expired, been revoked, or is fraudulent. For example, the visual verification of a TWIC will not reveal whether the TWIC has been revoked by the Transportation Security Administration. Similarly, visual verification of a Hazardous Material Endorsement on a commercial driver's license will not reveal if the endorsement has expired or been revoked.

Finally, since CISA will not receive from high-risk chemical facilities information about affected individuals whose credentials are visually verified, CISA will be unable to ensure the appropriate Federal law enforcement agency is provided information regarding the risks posed to a high-risk chemical facility by any such affected individual with terrorist ties, nor will it be able to ensure that the facility receives appropriate notification of the risk.

For the reasons described above, Option 4 provides less security value than the other options available to high-risk chemical facilities under the CFATS Personnel Surety Program.

H. When the Check for Terrorist Ties Must Be Completed

CISA will notify high-risk chemical facilities, individually, when it will require each to address RBPS 12(iv) in its SSP. After that notification, a facility must update or draft its SSP to address RBPS 12(iv), as appropriate, prior to authorization or approval by CISA. After authorization or approval, a high-risk chemical facility (as described in its authorized or approved SSP) must complete the terrorist ties check required to be conducted on a particular affected individual by 6 CFR 27.230(a)(iv) prior to the affected individual being granted access to any restricted area or critical asset. For affected individuals with existing access, CISA will expect, unless otherwise noted in an authorized or approved SSP or ASP, that the terrorist ties check will be completed within 60 days after receiving authorization or approval of an SSP requiring the facility to implement measures to comply with RBPS 12(iv). A high-risk chemical

facility may suggest an alternative schedule based on its unique circumstances in its SSP. Table 03 below outlines the four primary options, and the expected time a high-risk chemical facility will have to complete the required activity(ies) outlined in the authorized or approved SSP to comply with RBPS 12(iv) for new affected individual as well as affected individuals with existing access.

TABLE 03—SUMMARY OF OPTIONS TO CHECK FOR TERRORIST TIES.

Option for compliance	Facility activity description	Timeline for new affected individuals	Timeline for affected individuals with existing access
OPTION 1—Direct Vetting	Facility submits information to CISA.	Unless otherwise noted in an authorized or approved SSP, CISA expects that this activity will be completed prior to the affected individual being granted access to any restricted area or critical asset.	Unless otherwise noted in an authorized or approved SSP, CISA expects that this activity will be completed within 60 days after receiving authorization or approval of an SSP requiring the facility to implement measures to comply with RBPS 12(iv).
OPTION 2—Use of Vetting Conducted Under Other DHS Programs.	Facility submits information to CISA.		
OPTION 3—Electronic Verification of TWIC.	Facility uses a TWIC Reader.		
OPTION 4—Visual Verification of Credentials Conducting Periodic Vetting.	Facility conducts visual verifications by examining affected individuals' credentials or documents.		
Facility-Proposed Alternative	Details about facility-proposed alternatives could vary significantly from facility to facility.	Details about facility-proposed alternatives could vary significantly from facility to facility.	Details about facility-proposed alternatives could vary significantly from facility to facility

IV. Additional Details About Option 1 and Option 2 (Which Involve the Submission of Information to CISA)

A. Submission of a New Affected Individual's Information Under Option 1 or Option 2

Under Option 1 or Option 2, a high-risk chemical facility may submit information about new affected individuals in accordance with its SSP. CISA encourages high-risk chemical facilities to submit information about affected individuals as soon as possible after an individual has been determined to be an affected individual. As described earlier in this notice, the high-risk chemical facilities must submit information prior to a new affected individual obtaining access to any restricted area or critical asset.

B. Updates & Corrections to Information About Affected Individuals Under Option 1 or Option 2

Section 2102(d)(2)(A)(i) of the Homeland Security Act prohibits CISA from requiring a high-risk chemical facility to submit information about an individual more than one time under Option 1 or Option 2. Therefore, under Option 1 or Option 2, a high-risk chemical facility may choose whether to submit data updates or corrections about affected individuals.

CISA believes that there are substantial privacy risks if a high-risk chemical facility opts not to provide updates and corrections (*e.g.,* updating or correcting a name or date of birth) about affected individuals. Specifically, the accuracy of an affected individual's personal data being vetted against the TSDB for terrorist ties may be affected. Accurate information both (1) increases the likelihood of correct matches against information about known or suspected terrorists, and (2) decreases the likelihood of incorrect matches that associate affected individuals without terrorist ties with known and suspected terrorist identities. As a result, CISA encourages high-risk chemical facilities to submit updates and corrections as they become known so that the Department's checks for terrorist ties, which are done on a recurrent basis, are accurate. A lesson learned from the implementation of the CFATS Personnel Surety Program since December of 2015 was that high-risk chemical facilities could reduce the burden of continuous updates or corrections by reducing the frequency of updates or correction. For example, a high-risk chemical facility could conduct audits of submitted information on a regular basis such as quarterly or annually and then subsequently update or correct the information. If a high-risk chemical facility is either unable or unwilling to update or correct an affected individual's information, the affected individual may seek redress as described in the CFATS Personnel Surety Program Privacy Impact Assessment.

C. Notification That an Affected Individual No Longer Has Access Under Option 1 or Option 2

Section 2102(d)(2)(A)(i) of the Homeland Security Act also prohibits CISA from requiring a high-risk chemical facility to notify CISA when an affected individual no longer has access to the restricted areas or critical assets of a high-risk chemical facility. Therefore, under Option 1 or Option 2, a high-risk chemical facility has the option to notify CISA when the affected individual no longer has access to any restricted areas or critical assets, but such notification is not required. CISA strongly encourages high-risk chemical facilities to notify CISA when an affected individual no longer has access to restricted areas or critical assets to ensure the accuracy of CISA's data and to stop the recurrent vetting on the person who is no longer an affected individual. A lesson learned from the implementation of the CFATS Personnel Surety Program since December of 2015 was that high-risk chemical facilities could reduce the burden of immediately updating the affected individual's record within CSAT to reflect they no longer have access by reducing the frequency of these updates. For example, a high-risk chemical facility could conduct audits of submitted information on a regular basis such as

quarterly or annually rather and then subsequently update the affected individual's information. Alternatively, a high-risk chemical facility could submit the date an individual will no longer have access (*e.g.,* a badge expiration date of an employee or contractor, or the date a contract expires for contractors). If a high-risk chemical facility is either unable or unwilling to notify CISA when an affected individual no longer has access to restricted areas or critical assets, the affected individual may seek redress as described in the CFATS Personnel Surety Program Privacy Impact Assessment.

D. What/Who Is the Source of the Information Under Option 1 and Option 2

High-risk chemical facilities are responsible for complying with RBPS 12(iv). However, companies operating multiple high-risk chemical facilities, as well as companies operating only one high-risk chemical facility, may comply with RBPS 12(iv) in a variety of ways. A high-risk chemical facility, or its parent company, may choose to comply with RBPS 12(iv) by identifying and directly submitting to CISA the information about affected individuals. Alternatively, a high-risk chemical facility, or its parent company, may choose to comply with RBPS 12(iv) by outsourcing the information-submission process to third parties.

CISA also anticipates that many high-risk chemical facilities will rely on businesses that provide them with contract services (*e.g.,* complex turn-arounds, freight delivery services, landscaping) to identify and submit the appropriate information about affected individuals the contract services employ to CISA under Option 1 and Option 2.

Both third parties that submit information on behalf of high-risk chemical facilities and businesses that provide services to high-risk chemical facilities must be designated by the high-risk chemical facility within CSAT in order to submit appropriate information about affected individuals to CISA on behalf of the high-risk chemical facility.[17]

V. CSAT User Roles and Responsibilities

Under Options 1 and 2 (as described above), high-risk chemical facilities have wide latitude in assigning CSAT user roles to align with their business operations and/or the business operations of third parties that provide contracted services to them. CISA has structured the CSAT Personnel Surety Program application to allow designee(s) of high-risk chemical facilities to submit information about affected individuals directly to CISA on behalf of high-risk chemical facilities.

High-risk chemical facilities and designee(s) will be able to structure CSAT user roles to submit information about affected individuals to CISA in several ways, including but not limited to the following:

- A high-risk chemical facility may directly submit information about affected individuals, and designate one or more officers or employees of the facility with appropriate CSAT user roles; and/or
- A high-risk chemical facility may ensure the submission of information about affected individuals by designating one or more persons affiliated with a third party (or with multiple third parties); and/or
- A company owning several high-risk chemical facilities could consolidate its submission process for affected individuals. Specifically, the company could designate one or more persons to submit information about affected individuals on behalf of all or some of the high-risk chemical facilities within the company on a company-wide basis.

Third parties interested in providing information about affected individuals to CISA on behalf of high-risk chemical facilities may request a CSAT user account from the high-risk chemical facility or company for which the third party will be working. Third parties will not be able to submit information about affected individuals until a high-risk chemical facility designates the third party within CSAT to submit information on its behalf.

CSAT Authorizers will receive access to the Personnel Surety application after the facility's SSP has been approved or authorized by CISA for RBPS 12(iv). The CSAT Authorizer user role creates and manages all other CSAT user roles on behalf of the high-risk chemical facility. A high-risk chemical facility (or designee(s)) may then submit information under Option 1 or Option 2.

One lesson learned since the implementation of the CFATS Personnel Surety Program in December of 2015 was that high-risk chemical facilities can benefit from organizing records about affected individuals within the Personnel Surety application. Organizing the records of affected individuals can be particularly useful when a CSAT Authorizer needs to transfer responsibility of some or all, records about affected individuals to another CSAT Authorizer (*e.g.,* a company sells one or more high-risk chemical facilities to another company).

High-risk chemical facilities may organize submitted records about affected individuals through the use of ''groups''. Records about affected individuals within groups can be easily transferred. Groups also have the benefit of protecting against the unauthorized disclosure of records. For example, if a company uses third party or a contractor to submit records about affected individuals, a company can limit a third party or contractor access to certain groups (*e.g.,* a contractor could only access the group of records for the affected individuals who are employees of the contractor) and prevent the third party or contractor designee from accessing the records of affected individuals from another contractor or employees of the facility. Additional information about groups and scenarios about how facilities may choose to implement groups may be found within the CSAT 2.0 User Manual.[18]

CSAT Authorizers can also organize submitted records about affected individual through the use of ''user defined fields''. CSAT Authorizers may add one or more ''user defined fields'' (*e.g.,* facility location, badge number, employee type, employee status, or contract name/designation) that allow a record about an affected individual to be labeled in manner that best aligns with the high-risk chemical facilities business practices. CSAT Authorizers may use either or both methods (*i.e.,* groups and ''user defined fields'') when considering how to organize submitted records of affected individuals.

Finally, CISA can provide assistance to CSAT Authorizers who must transfer responsibility for one or more facilities to another CSAT Authorizer, in which one or more of the facilities have affected individuals that have been submitted under Option 1 or Option 2. CSAT Authorizers may request assistance by contacting the CSAT Helpdesk.[19]

VI. Privacy Considerations

High-risk chemical facilities (or designee(s)) may maintain information about an affected individual, for the purpose of complying with CFATS, which is not submitted to CISA as part of the CFATS Personnel Surety Program (*e.g.,* for compliance with RBPS 12(i)-

[17] Information about how to designate a third party within CSAT is explain in the CFATS Personnel Surety Program User Manual available on *www.dhs.gov/chemicalsecurity.*

[18] The CSAT 2.0 User Manual may be found at *https://www.dhs.gov/publication/csat-portal-user-manual.*

[19] The CSAT Helpdesk may be contacted at 866–323–2957 (toll free) between 8:30 a.m. and 5 p.m. (ET), Monday through Friday. The CSAT Help Desk is closed for Federal holidays.

(iii), or for recordkeeping pertaining to Option 3 or Option 4). Information not in the possession of and not submitted to CISA is not covered under the Privacy Act of 1974. Nevertheless, CISA expects that high-risk chemical facilities and designee(s) will protect and safeguard any such information as outlined in their SSPs and in accordance with any other Federal, State, or local privacy laws that are applicable to the collection of the information, just as the high-risk chemical facilities would for other similar information collected under a their normal business practices for activities unrelated to CFATS.

A. Privacy Act Requirements To Enable Option 1 and Option 2

CISA complies with all applicable federal privacy requirements including those contained in the Privacy Act, the E-Government Act, the Homeland Security Act, and Departmental policy. The United States also follows international instruments on privacy, all of which are consistent with the Fair Information Practice Principles (FIPPs).[20] The Department:

- Published a System of Records Notice (SORN) for the CFATS Personnel Surety Program on June 14, 2011 as well as a SORN Update on May 19, 2014.[21]
- Issued a Final Rule [22] to exempt portions of the Chemical Facility Anti-Terrorism Standards Personnel Surety Program SORN from certain provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements on May 21, 2014.
- Published a CFATS Personnel Surety Program Privacy Impact Assessment (PIA) in May 2011, and CFATS Personnel Surety Program PIA Updates in May of 2014, November of 2015, and May of 2017. The PIA and the updates are available at *https://www.dhs.gov/publication/dhs-nppd-pia-018a-chemical-facilities-anti-terrorism-standards-personnel-surety.*

With the publication of these privacy documents, CISA has ensured that the CFATS Personnel Surety Program complies with the appropriate privacy laws and Department of Homeland Security privacy policies.

B. Redress

The CFATS Personnel Surety Program complies with the requirement of section 2102(d)(2)(A)(iii) of the Homeland Security Act to provide redress to an individual: (1) Whose information was vetted against the TSDB under the program; and (2) who believes that the personally identifiable information submitted to the Department for such vetting by a covered chemical facility, or its designated representative, was inaccurate. The Department has described how to seek redress in the CFATS Personnel Surety Program Privacy Impact Assessment.

C. Additional Privacy Considerations Related To Option 1 and Option 2

The Submitter(s) of each high-risk chemical facility (or designee(s)) will be required to affirm that, in accordance with its SSP, notice required by the Privacy Act of 1974 has been given to affected individuals before their information is submitted to CISA. The Department has made available a sample Privacy Act notice that complies with subsection (e)(3) of the Privacy Act (5 U.S.C. 552a(e)(3)) in the CFATS Personnel Surety Program PIA Update published on November 10, 2015.[23] The sample notice, or a different satisfactory notice, must be provided by a high-risk chemical facility to affected individuals prior to the submission of Personally Identifiable Information (PII) to CISA under Option 1 and Option 2. This notice must: (1) Notify those individuals that their information is being submitted to CISA for vetting against the TSDB, and that in some cases additional information may be requested and submitted in order to resolve a potential match; (2) instruct those individuals how to access their information; (3) instruct those individuals how to correct their information; and (4) instruct those individuals on procedures available to them for redress if they believe their information has been improperly matched by the Department to information contained in the TSDB. Individuals have the opportunity and the right to decline to provide information; however, if an individual declines to provide information, he or she may impact a high-risk chemical facility's compliance with CFATS.

D. Additional Privacy Considerations for Option 3 and Option 4

A high-risk chemical facility will not submit information to CISA if the facility opts to electronically verify and validate affected individuals' TWICs through the use of TWIC readers (or other technology that is periodically updated with revoked card information) under Option 3. High-risk chemical facilities that opt to implement Option 3 are encouraged, but are not required, to provide notice to each affected individual whose TWIC is being verified and validated. Although Option 3 allows high-risk chemical facilities to comply with RBPS 12(iv) without submitting information to CISA, CISA feels that appropriate notice should still be given to those individuals so that they know their TWICs are now being used to comply with 6 CFR 27.230(a)(12)(iv). The Department has provided a sample privacy notice for high-risk chemical facilities to use in the CFATS Personnel Surety Program PIA Update, published on November 10, 2015.

In addition, a high-risk chemical facility will not submit information to CISA if the facility opts to utilize Option 4 and to visually inspect a credential or document for any Federal screening program that periodically vets individuals against the TSDB. High-risk chemical facilities that opt to implement Option 4 are encouraged, but are not required, to provide notice to each affected individual whose Federal screening program credential or document is being visually inspected in order to comply with 6 CFR 27.230(a)(12)(iv).

VII. Information a High-Risk Chemical Facility May Wish To Consider Including in Its SSP

When writing, revising, or updating their SSPs, high-risk chemical facilities may wish to consider including information about the following topics to assist CISA in evaluating the adequacy of the security measures outlined in the SSP for RBPS12(iv):

1. General

- Who does the facility consider an affected individual and how does the facility identify affected individuals?
  - Who does the facility consider facility personnel and how does the facility identify them?
  - Who does the facility consider unescorted visitors and how does the facility identify them?

[20] See Privacy Policy Guidance Memorandum, The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security, available at *http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008–01.pdf* (December 29, 2008).

[21] See DHS/NPPD–002—Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records, published on May 19, 2014 at 79 FR 28752. DHS/NPOPD–002 may be viewed at *https://www.federalregister.gov/d/2014–11431.*

[22] See Implementation of Exemptions; Department of Homeland Security/National Protection and Programs Directorate—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records, published on May 21, 2014 at 79 FR 29072. The final rule may be viewed at *https://www.federalregister.gov/d/2014–11433.*

[23] The November 20, 2015 CFATS Personnel Surety Program PIA Update, as well as other privacy related documents, are available at on the Department's website at *https://www.dhs.gov/publication/dhs-nppd-pia-018a-chemical-facilities-anti-terrorism-standards-personnel-surety.*

- If the facility escorts any visitors, how does it escort them and does the facility have an escort policy?
- How does the facility define its restricted areas and/or critical assets for the purposes of RBPS 12?
- Does the facility include computer systems or remote access as either a restricted area or critical asset?
- Which Option(s), or alternative approaches not described in this notice, will the facility or its designee(s) use to check for terrorist ties?
- Does the facility intend to use one or more Options for some affected individuals that it will not use for other affected individuals? If so, which Option(s) apply to which groups of affected individuals?
- Will the facility opt to have a designee(s) (*e.g.* third party company, contractor, co-located company) submit information about affected individuals? If so, what guidance will the high-risk chemical facility establish for designee(s) when it submits information (*e.g.,* when are affected individuals considered to be ''facility personnel'' or ''unescorted visitors'', how will submitted records by the designee about affected individuals be organized within the CSAT Personnel Surety application, how will the facility verify that notice has been provided to an affected individual before information about him/her is provided to CISA)?
- Does the high-risk chemical facility anticipate that any individuals will require access to restricted areas or critical assets without visitor escorts or without the background checks listed in RBPS 12 under exceptional circumstances (*e.g.,* foreseeable but unpredictable circumstances)? If so, who? If so, which exceptional circumstances would warrant access without visitor escorts or without the background checks listed in RBPS 12?
- Will the facility be capable of implementing the options within the timeframes specified? If not, what timeframe does the facility propose for submission and what justification has been provided to CISA to allow for an extended timeframe?

2. With Regard to Option 1

- How will notice be provided to affected individuals that information is being provided to CISA? Does the facility plan to use the DHS sample privacy notice?
- Does the facility plan to organize submitted records about affected individuals using groups?
- Does the facility plan to organize submitted records about affected individuals using ''user defined fields'' If so, what ''user defined fields'' will be added?
- Does the facility intend to notify CISA when the affected individual no longer has access to any restricted areas or critical assets? If so, how and when?

3. With Regard to Option 2

- How will notice be provided to affected individuals that information is being provided to CISA? Does the facility plan to use the DHS sample privacy notice?
- What credentials does the facility plan to use under Option 2? Are there credentials the facility has decided not to accept under Option 2?
- What will the facility do if CISA is unable to verify an affected individual's enrollment in another Department TSDB vetting program?
- What will be the timeframe for this follow-on action?
- What will the facility do if CISA does verify the credential, but later during a periodic re-verification, is unable verify the credential?
- What will be the timeframe for this follow-on action?
- Does the facility describe how it will comply with RBPS 12(iv) for affected individuals without credentials capable of being verified under Option 2?
- Does the facility plan to organize submitted records about affected individuals using groups?
- Does the facility plan to organize submitted records about affected individuals using ''user defined fields'' If so, what ''user defined fields'' will be added?
- Does the facility intend to notify CISA when the affected individual no longer has access to any restricted areas or critical assets? If so, how and when?

4. With Regard to Option 3

- How will the facility identify those affected individuals who possess TWICs?
- How will the facility comply with RBPS 12(iv) for affected individuals without TWICs?
- How will the facility electronically verify and validate TWICs of affected individuals?
- Which reader(s) or Physical Access Control System (PACS) will the facility be using? Or, if it is not using readers, how it will use the CCL or CRL?
- Where will the reader(s) or PAC(s) be located?
- What mode or modes (*i.e.,* which setting on the TWIC Reader) will be used when verifying and validating the TWIC of an affected individual?[24]
- Will the TWIC of an affected individual be re-verified and re-validated with TWIC readers, and, if so, how often?
- What will the facility (or designee(s)) do if an affected individual's TWIC cannot be verified or if the TWIC reader is not functioning properly?

5. With Regard to Option 4

- Upon which Federal screening program(s) does the facility or designee intend to rely?
- What document(s) or credential(s) issued by the Federal screening program(s) will the facility visually verify?
- What procedures will the facility use to allow affected individuals to present document(s) or credential(s)?
- How will the facility verify that the credential or document presented by affected individuals is not fraudulent?
- What procedures will the facility follow to visually verify that a credential or document is current and valid (*i.e.,* not expired)?
- How frequently will the facility visually verify the credentials (*e.g.,* upon each entry or on a recurring cycle)?
- Will the visual verification include the following?
  - Comparing any picture on a document or credential to the bearer of the credential or document;
  - Comparing any physical characteristics listed on the credential or document (*e.g.* height, hair color, eye color) with the bearer's physical appearance;
  - Checking for tampering;
  - Reviewing both sides of the credential or document and checking for the appropriate stock/credential material;
  - Checking for an expiration date; and
  - Checking for any insignia, watermark, hologram, signature or other unique feature.
- What will the facility do if it is unable to visually verify an affected individual's credential or document, if the credential or document fails visual verification, or if the credential or document appears invalid, expired, or fraudulent?

6. With Regard to Other Options

- A facility that chooses to propose an option not listed above in its SSP should provide as much detail as possible to allow CISA to consider the

[24] See table 4.1 on page 18 of the TSA reader specification at *http://www.tsa.gov/sites/default/files/publications/pdf/twic/twic_reader_card_app_spec.pdf.*

potential option and evaluate whether or not it meets the RBPS 12(iv) standard.

David Wulf

Director, Infrastructure Security Compliance Division, Infrastructure Security Division, Cybersecurity and Infrastructure Security Agency, U.S. Department of Homeland Security.

[FR Doc. 2019–14591 Filed 7–8–19; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2019–N076; FXES11140200000–190–FF02ENEH00]

Incidental Take Permit Application To Participate in American Burying Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, we, the U.S. Fish and Wildlife Service, invite the public to comment on a federally listed American burying beetle incidental take permit (ITP) application. The applicant anticipates American burying beetle take as a result of impacts to Oklahoma habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicant's activities associated with oil and gas well field and pipeline infrastructure (gathering, transmission, and distribution), including geophysical exploration (seismic), construction, maintenance, operation, repair, decommissioning, and reclamation. If approved, the permit would be issued under the approved *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.*

DATES: To ensure consideration, we must receive written comments on or before August 8, 2019.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP application by one of the following methods. Please refer to the proposed permit number when requesting documents or submitting comments.

- *Email: fw2_hcp_permits@fws.gov.*
- *U.S. Mail:* U.S. Fish and Wildlife Service, Endangered Species—HCP Permits, P.O. Box 1306, Room 6093, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at U.S. Fish and Wildlife Service, Environmental Review Division, P.O. Box 1306, Room 6078, Albuquerque, NM 87103; by telephone at 505–248–6651; or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit (ITP) application to take the federally listed American burying beetle (*Nicrophorus americanus*) during oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

If approved, the permit would be issued to the applicant under the *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.* The original ICP was approved on May 21, 2014, and the ''no significant impact'' finding notice was published in the **Federal Register** on July 25, 2014 (79 FR 43504). The second draft amendment to the ICP was made available for public comment via publication in the **Federal Register** on March 14, 2019 (84 FR 9371), with a comment period end of April 15, 2019. It was approved on May 24, 2019. The original ICP of 2014 and the associated environmental assessment/finding of no significant impact and the amended ICP of 2019 are available on our website at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these finalized, approved documents.

Application Available for Review and Comment

We invite local, state, Tribal, and Federal agencies, and the public to comment on the following application under the ICP for incidentally taking the federally listed American burying beetle. Please refer to the proposed permit number (TE41861D–0) when requesting application documents and when submitting comments. Documents and other information the applicant submitted are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Permit No. T41861D–0

Applicant: Tallgrass MLP Operations, LLC—Seahorse LLC, Lakewood, KS.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit No. T45547D–0

Applicant: Navigator Energy Services, Oklahoma City, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Public Availability of Comments

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 your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we 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.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and

its implementing regulations (40 CFR 1506.6).

Amy Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2019–14546 Filed 7–8–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028266; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Peabody Museum of Archaeology and Ethnology has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Peabody Museum of Archaeology and Ethnology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Peabody Museum of Archaeology and Ethnology at the address in this notice by August 8, 2019.

ADDRESSES: Patricia Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA. The human remains and associated funerary objects were removed from Shawnee Island, Smithfield Township, Monroe County, PA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe; and the Stockbridge Munsee Community, Wisconsin.

History and Description of the Remains

In 1878, human remains representing, at minimum, one individual were removed from Shawnee Island, Smithfield Township, Monroe County, PA, by Charles C. Abbott during a Peabody Museum-sponsored expedition and were sent to the Peabody Museum in July 1878. No known individuals were identified. The four associated funerary objects are one white clay tobacco pipe, two blue glass beads, and one lot of wampum beads. All of the associated funerary objects with the exception of the pipe were also sent to the Peabody Museum in July 1878; the pipe was sent to the Museum in October 1878.

Abbott described the collection location for the human remains and objects as ''big Shawnee Island 4 ms. above Delaware Water Gap'' in New Jersey. The island Abbott references is likely Shawnee Island, which is located on the Pennsylvania side of the Delaware River in the Delaware Water Gap region in Smithfield Township, Monroe County. Abbott may have been unaware of the location of Shawnee Island in relation to the state line and consequently misattributed it to New Jersey. Shawnee Island has been documented by variants of that name since its first purchase in 1727, including ''Shawna Island,'' ''Great Shawna,'' and ''Shawano.''

Osteological characteristics indicate that this individual is Native American. This interment likely dates to the Contact Period (post A.D. 1640), based on the date ranges of the associated funerary objects. The white clay tobacco pipe is Dutch in form and resembles Friederich's Dutch pipe index type 9166 of group 1, with a date range of 1640–1655. This pipe very closely resembles pipes produced by Edward Bird, whose pipes were manufactured from approximately 1638 until 1665. The pipe's bore diameter is $^{8}/_{64}$″, a diameter typically dated to 1620–1650 but extending to 1680. The pipe's shape, bore size, and maker's mark suggest that it was manufactured by Edward Bird between 1640 and 1655. The two glass beads are of Kidd and Kidd type IIIa12, consisting of tubular drawn, compound beads with a bright blue exterior and core and an opaque white layer in between, and are common on Native sites from the 1640s through the 1650s. The white clay tobacco pipe and two glass beads support a Contact Period date range of A.D. 1640–1659.

Archeological evidence, historical documentation, and oral histories indicate that the identifiable earlier group for the human remains and associated funerary objects is the Munsee-speaking Lenape people, also known as the Minisink or Munsee. The human remains and associated funerary objects were collected from an area of the Delaware Water Gap considered to be part of the aboriginal homelands and traditional burial areas of the Munsee-speaking Lenape people. Although the Shawnee briefly occupied a portion of the Delaware River Valley from 1694 until 1728, there is insufficient archeological, anthropological, linguistic, and historical evidence to place the Shawnee settlement in the area of Shawnee Island. As the Munsee-speaking Lenape migrated west, they joined communities at Stockbridge and further west, including Unami-speaking Lenape (Delaware) communities, and established present-day communities in Oklahoma, Ontario, and Wisconsin. The descendants of the Munsee-speaking Lenape are found among the present-day Delaware Nation, Oklahoma; Delaware Tribe of Indians; and Stockbridge Munsee Community, Wisconsin.

Determinations Made by the Peabody Museum of Archaeology and Ethnology

Officials of the Peabody Museum of Archaeology and Ethnology have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the four objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Patricia Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu,* by August 8, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin may proceed.

The Peabody Museum of Archaeology and Ethnology is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe; and the Stockbridge Munsee Community, Wisconsin that this notice has been published.

Dated: June 21, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–14567 Filed 7–8–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028226; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State Police, Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Michigan State Police (MSP) has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Michigan State Police. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Michigan State Police at the address in this notice by August 8, 2019.

ADDRESSES: Hanna Friedlander, Human Remains Analyst, Michigan State Police Special Investigation Division—Missing Persons Unit, 7150 Harris Drive, P.O. Box 30634, Lansing, MI 48821, telephone (517) 242–5731, email *friedlanderh@michigan.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Michigan State Police, Lansing, MI. The human remains were removed from the City of Cheboygan, in Cheboygan County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Michigan State Police professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

History and Description of the Remains

On July 15, 2014, human remains representing, at minimum, one individual were removed from their resting spot in Cheboygan, MI. MSP Officer Gaylord was dispatched to a private residence in Cheboygan, MI, following the report of a possible bone found laying between the driveway and the shoulder of the roadway. Upon arrival, the officer examined the human remains and sent a photo to the Mclaren Hospital, which determined that it was human. The bone is approximately 12 inches long with a cut/slot in the ball/shoulder end and a hole in the elbow end. The bone was transferred to Dr. Todd Fenton and his then student Caitlin Vogelsberg for analysis. They concluded the bone—a humerus—was prehistoric Native American in origin, based on FORDISC 3.1 (Jantz and Ousley 2005) and a five-way discriminant function analysis algorithm. The human remains are probably female, based on epicondylar breadth, maximum length, and vertical head diameter (Dittrick and Suchey 1986), and belong to an adult over the age of 15, based on epiphyseal fusion (Baker, Dupras, and Tocheri 2005). There is noted slight osteoarthritic lipping on the humeral head border (Ortner 2003). The stature was calculated on FORDISC as well, noting the individual to be 60.9–67.0 inches tall. Following analysis, the human remains (MSP073–000–3548–14) were returned to MSP custody. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Michigan State Police

Officials of the Michigan State Police have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on FORDSIC 3.1 (Jantz and Ousley 2005) software, which uses a five-way discriminant function analysis algorithm.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

• According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of

the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Ottawa Tribe of Oklahoma; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota (hereafter referred to as ''The Tribes'').

• Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Tribes.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Hanna Friedlander, Michigan State Police Special Investigation Division—Missing Persons Unit, 7150 Harris Drive, P.O. Box 30634, Lansing, MI 48821, telephone (517) 242–5731, email *friedlanderh@michigan.gov,* by August 8, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Michigan State Police is responsible for notifying The Tribes that this notice has been published.

Dated: June 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–14566 Filed 7–8–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028223; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Memphis Pink Palace Museum, Memphis, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Memphis Pink Palace Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Memphis Pink Palace Museum. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Memphis Pink Palace Museum at the address in this notice by August 8, 2019.

ADDRESSES: Louella Weaver, Memphis Pink Palace Museum, 3050 Central Avenue, Memphis, TN 38111, telephone (901) 636–2325, email *Louella.Weaver@memphistn.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Memphis Pink Palace Museum, Memphis, TN. The human remains were removed from DeSoto County, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Memphis Pink Palace Museum professional staff in consultation with representatives of The Chickasaw Nation.

History and Description of the Remains

Sometime prior to 1972, human remains representing, at minimum, one individual were removed from Lake Cormorant in DeSoto County, MS. In 1972, the human remains, an ulna, were given to the Pink Palace Museum by an unknown donor (label 1972.27.7). No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Memphis Pink Palace Museum

Officials of the Memphis Pink Palace Museum have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, as the land from which they were removed was formerly the tribal land of The Chickasaw Nation.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

• According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of The Chickasaw Nation.

• Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Chickasaw Nation.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Louella Weaver, Memphis Pink Palace Museum, 3050 Central Avenue, Memphis, TN 38111, telephone (901) 636–2325, email

Louella.Weaver@memphistn.gov, by August 8, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Chickasaw Nation may proceed.

The Memphis Pink Palace Museum is responsible for notifying The Chickasaw Nation that this notice has been published.

Dated: June 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–14565 Filed 7–8–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028265; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Milwaukee Public Museum, Milwaukee, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Milwaukee Public Museum (MPM) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Milwaukee Public Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Milwaukee Public Museum at the address in this notice by August 8, 2019.

ADDRESSES: Dawn Scher Thomae, Milwaukee Public Museum, 800 W Wells Street, Milwaukee, WI 53233, telephone (414) 278–6157, email *thomae@mpm.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Milwaukee Public Museum, Milwaukee, WI. The human remains and associated funerary objects were removed from southwestern KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Milwaukee Public Museum professional staff in consultation with representatives of The Chickasaw Nation and The Choctaw Nation of Oklahoma. The Quapaw Tribe of Indians were invited to consult but did not participate.

History and Description of the Remains

In 1938, human remains representing, at minimum, four adult individuals were removed from southwestern KY by T.M.N. Lewis (University of Tennessee archeology instructor) and donated to MPM. The age of individuals cannot be determinated. No known individuals were identified. The nine associated funerary objects are pottery sherds that approximately date to the Late Woodland/Mississippian time periods.

Determinations Made by the Milwaukee Public Museum

Officials of the Milwaukee Public Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on examination by two individuals with knowledge and training in identifying Native American human remains.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the nine objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Chickasaw Nation; The Choctaw Nation of Oklahoma; and The Quapaw Tribe of Indians (hereafter referred to as ''The Tribes'').
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dawn Scher Thomae, Milwaukee Public Museum, 800 W Wells Street, Milwaukee, WI 53233, telephone (414) 278–6157, email *thomae@mpm.edu,* by August 8, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Milwaukee Public Museum is responsible for notifying The Tribes that this notice has been published.

Dated: June 21, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–14563 Filed 7–8–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On June 24, 2019, the Department of Justice lodged a proposed Second Joint Stipulation to Modify Consent Decree

with the United States District Court for the Central District of California in the lawsuit entitled *United States and the State of California* v. *ITT LLC, et al.,* Civil Action No. 2:99–cv–00552.

In 1999, the United States and the State of California Department of Toxic Substances Control filed a lawsuit against numerous parties under the Comprehensive Environmental Response, Compensation, and Liability Act in connection with groundwater contamination at the Glendale North and South Operable Units of the San Fernando Valley (Area 2) Superfund Site in and around Glendale, California. The complaint sought reimbursement of response costs and the performance of response actions by the defendants. In 2000, a consent decree settling the case was entered by the court. Pursuant to the consent decree, certain settling defendants (referred to in the consent decree as ''Settling Work Defendants'') have been performing response actions at the site in coordination with the City of Glendale.

The proposed Second Joint Stipulation provides that (1) the Settling Work Defendants will not request a Certificate of Completion regarding the work before November 30, 2024, and they and the City of Glendale shall continue to perform their respective actions until at least November 30, 2024, and (2) the Settling Work Defendants agree to pay to the U.S. Environmental Protection Agency (EPA) their allocated share of ''Basin-Wide Future Response Costs'' (as that term is defined in the consent decree) paid by EPA on or after October 1, 2016.

The publication of this notice opens a period for public comment on the Second Joint Stipulation to Modify Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of California* v. *ITT LLC, et al.,* D.J. Ref. No. 90–11–2–442A. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Second Joint Stipulation to Modify Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Second Joint Stipulation to Modify Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–14514 Filed 7–8–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

On May 6, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States of America, New Jersey Department of Environmental Protection, and Administrator of the New Jersey Spill Compensation Fund* v. *Ford Motor Co. and the Borough of Ringwood,* Civil Action No. 2:19–cv–12157.

The United States seeks reimbursement of response costs incurred under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for response actions at or in connection with the release or threatened release of hazardous substances at Operable Unit 2 of the Ringwood Mines/Landfill Superfund Site (the ''Site'') in Ringwood, New Jersey.

Under the proposed consent decree, Settling Defendants will remove contaminated soil and install caps at three locations within the Site: The Peters Mine Pit Area, the Cannon Mine Pit Area, and the O'Connor Disposal Area. In conjunction with the soil remediation, the Borough of Ringwood will install a recycling center on the O'Connor Disposal Area. The proposed consent decree requires Ford Motor Company to pay approximately $5.7 million for past response costs of both the United States and the State of New Jersey. The proposed consent decree will resolve the United States' CERCLA claims alleged in this action, and the New Jersey Department of Environmental Protection's Spill Act claims alleged in this action. The proposed consent decree will not resolve claims related to groundwater contamination at the Site, which will be addressed at a future point.

On May 9, 2019, the Department of Justice published a notice in the **Federal Register** opening a public comment on the consent decree for a period of sixty (60) days, through July 8, 2019. By this notice, the Department of Justice is extending the public comment by an additional twenty-one (21) days, through July 29, 2019. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *United States of America, New Jersey Department of Environmental Protection, and Administrator of the New Jersey Spill Compensation Fund* v. *Ford Motor Co. and the Borough of Ringwood,* D.J. Ref. No. 90–11–3–830/1. All comments must be submitted no later than July 29, 2019. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $44.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–14480 Filed 7–8–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Advisory Board on Toxic Substances and Worker Health; notice of Advisory Board Charter renewal.

SUMMARY: In accordance with section 3687 of Public Law 106–398, which was added by section 3141(a) of the National Defense Authorization Act (NDAA) of 2015, Executive Order 13699 (June 26, 2015), and the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. A. 2) and its implementing regulations issued by the General Services Administration (GSA), the Advisory Board on Toxic Substances and Worker Health was established on July 2, 2015. The current Charter was signed on June 29, 2017 and expires on June 28, 2019. Pursuant to FACA, Section 14(b)(2), the Secretary of Labor has renewed the Charter for two years.

The Charter renewal allows the Advisory Board on Toxic Substances and Worker Health (Board) to continue its operations. The Board advises the Secretary of Labor (Secretary) with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Board, when necessary, coordinates exchanges of data and findings with the Department of Health and Human Services' Advisory Board on Radiation and Worker Health.

Membership of the Board currently consists of 12 members appointed by the Secretary (eleven sitting members and one replacement member pending), who also appointed a Chair. Public Law 106–398, Section 3687(a)(3). Pursuant to Section 3687(a)(2), membership is balanced and includes members from the scientific, medical and claimant communities. The members serve two-year terms. At the discretion of the Secretary, members may be appointed to successive terms or removed at any time. The Board meets no less than twice per year.

The Board reports to the Secretary of Labor. As specified in Section 3687(i), the Board shall terminate ten (10) years after the date of the enactment of the NDAA, which was December 19, 2014. Thus, the Board shall terminate on December 19, 2024.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

FOR FURTHER INFORMATION CONTACT: You may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 2nd day of July, 2019.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2019–14542 Filed 7–8–19; 8:45 am]

BILLING CODE 4510–24–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Cost Accounting Standards Board Meeting Agenda

AGENCY: Cost Accounting Standards Board, Office Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of agenda for closed Cost Accounting Standards Board meetings.

SUMMARY: The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards Board (CAS Board) is publishing this notice to advise the public of planned meetings on July 25, 2019, and August 21, 2019. The notice is published pursuant to section 820(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, which requires the CAS Board to publish agendas of its meetings in the **Federal Register**. The meetings are closed to the public.

DATES: July 25, 2019, August 21, 2019.

ADDRESSES: New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Raymond Wong, Staff Director, Cost Accounting Standards Board (telephone: 202–395–6805; email: *rwong@omb.eop.gov*).

SUPPLEMENTARY INFORMATION: Section 820 amended section 1501(d) of title 41 of the United States Code to require that the CAS Board meet at least quarterly and publish a notice of its meeting, including the meeting agenda, in the **Federal Register**. To date, the CAS Board has convened five times in FY 2019, on (i) November 24, 2018, (ii) February 28, 2019, (iii) March 21, 2019, (iv) April 18, 2019, and (v) June 27, 2019. Due to the lapse in appropriations, the meeting originally scheduled for January 24, 2019 was rescheduled to February 28, 2019. The Board held a brief status teleconference on January 24, 2019. The Notice of agenda for closed Cost Accounting Standards Board meetings, 83 FR 59422 (November 23, 2018), provides a description of agenda items covered at these meetings in November as well as the meeting in February that was rescheduled from January. The topics discussed at the March and April meetings fell within the same general scope as those described in the November notice. The topics discussed at the June meeting fell within the scope as those described in this notice.

The CAS Board is issuing this notice for public awareness of upcoming meetings to be held on July 25, 2019, and August 21, 2019. The list of agenda items for these meetings is set forth below. While CAS Board meetings are closed to the public, the Board welcomes comments and inquiries, which may be directed to the staff director using the contact information provided above. The CAS Board will discuss its accomplishments and activities for FY 2019 in its annual report to Congress, which will be transmitted after the end of the fiscal year, in accordance with section 820(e).

Planned Agenda for CAS Board Meetings on July 25, 2019, and August 21, 2019

1. *Conformance of CAS to Generally Accepted Accounting Principles (GAAP).* Section 820 requires the CAS Board to review and conform CAS, where practicable, to GAAP. The CAS Board will continue its discussion of the Staff Discussion Paper (SDP) addressing conformance of CAS 411, Accounting for Acquisition Costs of Material and CAS 404, Capitalization of Tangible Assets, to GAAP. The Board will also review public comments received in response to the publication of the first

SDP on CAS–GAAP conformance. See *Staff Discussion Paper on Conformance of the Cost Accounting Standards to Generally Accepted Accounting Principles* (84 FR 9143, March 13, 2019). The first SDP provided a proposed conceptual framework and guiding principles to prioritize the evaluation of whether and to what extent CAS may be conformed to GAAP as well as an initial comparison of CAS 408, Accounting for Costs of Compensated Personal Absence, and CAS 409, Cost Accounting Standard Depreciation of Tangible Capital Assets, for public comment.

2. *Review of CAS-Applicability Recommendations made by the Advisory Panel on Streamlining and Codifying Acquisition Regulations (the ''section 809 Panel'').* On April 30, 2019, the Office of Management and Budget transmitted two legislative proposals to Congress—for consideration in the acquisition title of the National Defense Authorization Act (NDAA) for Fiscal Year 2020 or as part of other appropriate Congressional bills—addressing certain recommendations made by the Section 809 Panel in volume 2 of its report. One legislative proposal would repeal the statutory requirement for the Department of Defense to manage a Defense Cost Accounting Standards Board. The second legislative proposal would decouple the monetary threshold for CAS applicability from the threshold for Truth in Negotiations Act applicability and increase the basic threshold for CAS applicability from $2 million to $15 million. These proposals were developed with input from the CAS Board. Copies of these proposals may be found on the OMB homepage at *https://www.whitehouse.gov/wp-content/uploads/2019/05/NDAA-Transmittal-of-OFPP-Proposals-Summary-MPence-Entire-Leg-Pkg-Final-2.pdf* (see pp. 22–32). The Board will consider other CAS applicability recommendations made by the section 809 Panel.

3. *Review of Court and Board Decisions Related to CAS.* Section 820(a) requires the CAS Board to review on an annual basis disputes before the Boards of Contract Appeals (BCAs) or Federal courts involving its standards to determine whether greater clarify in CAS could avoid such disputes. The Board will discuss recent decisions by the BCAs and Courts involving its standards.

4. *CAS Board Working Groups.* The Board will assess the need for additional support on its pension harmonization working group. The working group has completed fact-finding for the SDP on Pension Adjustments for Extraordinary Events and provided recommendations to the Board to support promulgation of an Advanced Notice of Proposed Rulemaking (ANPRM) on this subject. The Board intends to simultaneously publish the SDP and ANPRM and reconvene the working group following receipt of public comments on the ANPRM. The Board will also evaluate the need for a dedicated working group to support ongoing work associated with the CAS–GAAP conformance project.

Lesley A. Field,

Acting Chair, Cost Accounting Standards Board.

[FR Doc. 2019–14476 Filed 7–8–19; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2019–032]

Chief FOIA Officers' Council Meeting

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA), Office of Information Policy (OIP), U.S. Department of Justice (DOJ).

ACTION: Notice of meeting.

SUMMARY: We are announcing 2019's annual Chief FOIA Officers' Council meeting, co-chaired by the Director of OGIS and the Director of OIP.

DATES: The meeting will be on Monday, August 5, 2019, from 10:00 a.m. to 12:00 p.m. EDT. Please register for the meeting no later than 5:00 p.m. EDT on Friday, August 2, 2019 (registration information is below).

ADDRESSES: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW, William G. McGowan Theater; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Kirsten Mitchell, by mail at National Archives and Records Administration; Office of Government Information Services; 8601 Adelphi Road—OGIS; College Park, MD 20740–6001, by telephone at 202.741.5782, or by email at *ogis@nara.gov* with the subject line ''Chief FOIA Officers' Council.''

SUPPLEMENTARY INFORMATION: This meeting is open to the public in accordance with the Freedom of Information Act (5 U.S.C. 552(k)). The Chief FOIA Officers' Council is co-chaired by the Directors of OIP and OGIS. Among the purposes of the Chief FOIA Officers' Council is developing recommendations to increase compliance and efficiency and sharing best practices and innovative approaches. Additional details about the meeting will be available on OGIS's website at *https://archives.gov/ogis/about-ogis/Chief-FOIA-Officers-Council* and OIP's website at *https://www.justice.gov/oip/chief-foia-officers-council.*

Procedures: Due to security requirements, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Registration for the meeting will go live via Eventbrite on Friday, July 12, 2019. To register for the meeting, please do so at the following Eventbrite link: *https://www.eventbrite.com/e/chief-foia-officers-council-meeting-august-5-2019-tickets-64422234638.*

We will also live-stream the meeting on the National Archives YouTube channel, *https://www.youtube.com/user/usnationalarchives/playlists,* and include a captioning option. Please check back on the OGIS and OIP websites for the specific National Archives YouTube channel link. To request additional accommodations (*e.g.,* a transcript), email *ogis@nara.gov* or call 202.741.5770.

Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Kirsten Mitchell at the phone number, mailing address, or email address listed above.

Alina Semo,

Director, Office of Government Information Services.

[FR Doc. 2019–14508 Filed 7–8–19; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Community of Interest Meeting on Future Computing

AGENCY: Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO), National Science Foundation.

ACTION: Notice of meeting.

SUMMARY: The community of interest (CoI) meeting will focus on the R&D challenges and opportunities in future computing landscape for the coming decade and beyond to ensure that the public, academic, and private sectors are prepared for the new computing modalities.

DATES: August 5–6, 2019.

ADDRESSES: The CoI meeting will be held at the NITRD NCO, Washington, DC. Registration is required for in-person attendance. For more information regarding registration and remote participation, please see the CoI meeting website: *https://www.nitrd.gov/nitrdgroups/index.php?title=FC-COI-2019.*

FOR FURTHER INFORMATION CONTACT: Email *FC–COI@nitrd.gov* or call Ji Hyun Lee at (202) 459–9674. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Overview: This notice is issued on behalf of the NITRD High End Computing (HEC) Interagency Working Group (IWG) and the National Strategic Computing Initiative (NSCI) Joint Program Office for Strategic Computing (JPO–SC). Agencies of the HEC IWG and JPO–SC are jointly conducting a CoI meeting focused on future computing. Experts from government, private industry, and academia will discuss emerging and future application drivers, emerging computing paradigms, longer-term future computing possibilities, and identify gaps and opportunities in future computing landscape. The CoI meeting will take place on August 5 from 8:15 a.m. to 5:45 p.m. (ET) and August 6 from 8:30 a.m. to 12:30 p.m. (ET) at the NITRD NCO, Washington, DC. In-person attendance is limited to invitation only due to meeting space limitations; virtual attendance will be available via webcast. The agenda and information about how to join the webcast will be available the week of the event at: *https://www.nitrd.gov/nitrdgroups/index.php?title=FC-COI-2019.*

Workshop Goals: HEC IWG and JPO–SC will use information gathered from this workshop to help update the strategic computing objectives and to inform agencies in planning of their agency-specific research agenda.

Workshop Objectives: Identify and discuss: Emerging and future HPC applications and their impact on future computing systems and paradigms; emerging computing paradigms and how these technologies can be integrated effectively with existing infrastructures; and longer-term future computing possibilities.

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on July 2, 2019.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2019–14481 Filed 7–8–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on July 24, 2019, to discuss the NRC's Abnormal Occurrence Criteria and the ACMUI subcommittee's report on a draft guidance document. Meeting information, including a copy of the agenda and publicly available handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2019.html.* The agenda and handouts may also be obtained by contacting Ms. Kellee Jamerson using the contact information below.

Date and Time for Open Session: July 24, 2019, from 10:00 a.m. to 10:30 a.m. Eastern Standard Time (EST).

Date and Time for Closed Session: July 24, 2019, from 10:30 a.m. to 12:00 p.m. (EST). This session will be closed to discuss information of which the premature disclosure would likely significantly frustrate implementation of a proposed agency action.

Public Participation: Any member of the public who wishes to participate in the open session of the teleconference should contact Ms. Jamerson using the contact information below or may register for the GoToWebinar at *https://attendee.gotowebinar.com/register/1516330288686216460* for the July 24, 2019, meeting.

FOR FURTHER INFORMATION CONTACT: Kellee Jamerson, email: *Kellee.Jamerson@nrc.gov,* telephone: (301) 415–7408.

Conduct of the Meeting

Dr. Christopher Palestro, ACMUI Chairman, will preside over the meeting. Dr. Palestro will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Jamerson at the contact information listed above. All submittals must be received by July 19, 2019, three business days prior to the July 24, 2019, meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's website *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2019.html* on or about September 5, 2019.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations part 7.

Dated: July 3, 2019.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–14516 Filed 7–8–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0097]

Information Collection: Nuclear Energy Innovation and Modernization Act Local Community Advisory Board Questionnaire

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a proposed collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Nuclear Energy Innovation and Modernization Act Local Community Advisory Board Questionnaire.''

DATES: Submit comments by August 8, 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 on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs

(3150–XXXX), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0097 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–2019–0097. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0097 on this website.
- *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, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19177A082. The supporting statement is available in ADAMS under Accession No. ML19177A084.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a proposed collection of information to OMB for review entitled, ''Nuclear Energy Innovation and Modernization Act Local Community Advisory Board Questionnaire.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 19, 2019 (84 FR 16547).

1. *The title of the information collection:* Nuclear Energy Innovation and Modernization Act Local Community Advisory Board Questionnaire.

2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.

3. *Type of submission:* New.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* Once.

6. *Who will be required or asked to respond:* Respondents will be the existing local community advisory boards in the vicinity of power reactors undergoing decommissioning, similar established stakeholder groups, or local government organizations.

7. *The estimated number of annual responses:* 15 (7 responses from sites with established local community advisory boards + 8 responses from sites where local community advisory boards have not been established).

8. *The estimated number of annual respondents:* 15 (7 sites with established local community advisory boards + 8 sites where local community advisory boards have not been established).

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 54 hours.

10. *Abstract:* The NRC is planning to coordinate activities in accordance with Section 108 of the Nuclear Energy Innovation and Modernization Act to collect information on the use of local community advisory boards during decommissioning activities and issue a best practices report. In order to ensure appropriate best practices are identified, the NRC has developed a questionnaire that will seek feedback in a number of areas related to the formation and operation of local community advisory boards. The questionnaire will address the following areas: The type of topics that might be brought before a community advisory board; how the board's input could inform the decision-making process for various decommissioning stakeholders; how the board might interact with other State and Federal agencies to promote dialogue between the licensee and impacted stakeholders; and how the board could offer opportunities for public engagement throughout the decommissioning process. The NRC will issue a report to Congress in June 2020 identifying best practices for establishment and operation of local community advisory boards.

Dated at Rockville, Maryland, this 2nd day of July, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14483 Filed 7–8–19; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of a new system of records.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is proposing the following changes to its system of records notices to establish a new system of records PBGC–26: PBGC Insider Threat and Data Loss Prevention. The new system of records will cover records about individuals,

retrieved by personal identifier, which are compiled and used by PBGC's Insider Threat and Data Loss Prevention teams, to administer PBGC's insider threat and data loss prevention programs. Because records in this system include investigatory material compiled for law enforcement purposes, elsewhere in this issue of the **Federal Register** PBGC has published a final rule to exempt this system of records from certain requirements of the Privacy Act. The system of records is more fully described in in the **SUPPLEMENTARY INFORMATION** section of this notice and in the System of Records Notice (SORN) published in this notice.

DATES: Comments must be received on or before August 8, 2019. The system of records described herein will become effective July 9, 2019, without further notice, unless comments result in a contrary determination and a notice is published to that effect.

ADDRESSES: You may submit written comments to PBGC by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.* Refer to SORN in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to ''SORN.'' All comments received will be posted without change to PBGC's website, *www.pbgc.gov,* including any personal information provided. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Margaret Drake, Chief Privacy Officer, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005, 202–326–4400, extension 6435. For access to any of PBGC's system of records, contact D. Camilla Perry, Disclosure Officer, Office of the General Counsel, Disclosure Division, 1200 K Street NW, Washington DC 20005, or by calling 202–326–4040.

SUPPLEMENTARY INFORMATION: PBGC is proposing to establish a new system of records titled, ''PBGC–26, PBGC Insider Threat and Data Loss Prevention—PBGC.'' Executive Order 13587, issued on October 7, 2011, mandated that agencies with classified networks establish insider threat programs. While PBGC does not have any classified networks, it does maintain a significant amount of Controlled Unclassified Information (CUI) that, under law, it is required to safeguard from unauthorized access or disclosure. One method utilized by PBGC to ensure that only those with a need-to-know have access to CUI is a set of tools to minimize data loss, whether inadvertent or intentional.

Working from the Minimum Standards set forth in the Presidential Memorandum—National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs (Nov. 21, 2012), PBGC is also establishing an Insider Threat Program. While PBGC is not legally mandated to deploy an insider threat program, the principles developed by the National Institute of Standards and Technology and the National Insider Threat Task Force ''can also be employed effectively to improve the security of Controlled Unclassified Information in non-national security systems.'' An ''insider'' is any individual authorized to access PBGC facilities, information, equipment, and systems. This includes Federal employees and contractors. An ''insider threat'' occurs when that individual exceeds their authorized access, intentionally or not, or uses information for an improper purpose, including, but not limited to, personal gain, which ''negatively affect[s] the confidentiality, integrity, or availability'' of PBGC data.

The records that PBGC will compile to administer its data loss prevention and insider threat programs may be from any PBGC program, record, or source, and may contain records pertaining to information security, personnel security, or physical security. The records covered under PBGC–26,PBGC Insider Threat and Data Loss Prevention—PBGC, include investigatory material compiled for law enforcement purposes. Accordingly, PBGC has published a Final Rule in the **Federal Register** to exempt such material in the new system or record from certain requirements under the Privacy Act of 1974 (5 U.S.C. 552a), based on subsection (k)(2) of the Act.

The collection and maintenance of these records is new. The implementation of this new system of records will be effective on July 9, 2019.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

SYSTEM NAME AND NUMBER

PBGC—26: PBGC Insider Threat and Data Loss Prevention—PBGC

SECURITY CLASSIFICATION

Unclassified

SYSTEM LOCATION

Pension Benefit Guaranty Corporation (PBGC), 1200 K Street NW, Washington, DC 20005. (Records may be kept at an additional location as backup for continuity of operations.)

SYSTEM MANAGER(S) AND ADDRESS

Chief Information Officer, Office of Information Technology, PBGC, 1200 K Street NW, Washington, DC 20005.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

29 U.S.C. 1302(b)(3); 5 U.S.C. 301; 44 U.S.C. 3101; 44 U.S.C. 3554; Executive Order 13587, Structural Reforms To Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information (Oct. 7, 2011); Presidential Memorandum—National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs (Nov. 21, 2012); Executive Orders 13488 and 13467, as amended by 13764, To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters; Executive Order 3356, Controlled Unclassified Information (Nov. 4, 2010); 5 CFR part 731; 5 CFR part 302; OMB Circular A–130 (July 28, 2016); National Institute of Standards and Technology Special Publication 800–53.

PURPOSE(S) OF THE SYSTEM

The purpose of the system is to detect anomalous behavior by PBGC insiders and, as warranted, gather information from sources or existing PBGC systems of records to support an investigation of the incident.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

The categories of individuals covered by this system are PBGC insiders, defined as any person with authorized access to any PBGC resource including facilities, information, equipment, networks, or systems.

CATEGORIES OF RECORDS IN THE SYSTEM

A. THE SYSTEM WILL CONTAIN THESE CATEGORIES OF RECORDS

Information collected through user activity monitoring, including

keystrokes, screen captures, and content transmitted via email, chat, or data import or export.

Reports of investigation regarding security violations and privacy breaches, including incident reports; usernames and aliases, levels of network access, audit data, information regarding misuse of PBGC devices, information regarding unauthorized use of removable media, and logs of printer, copier, and facsimile machine use.

Records relating to the management and operation of PBGC personnel and physical security, including information relating to continued eligibility for access to PBGC facilities, information, and information systems.

Information identifying threats to PBGC personnel, property, facilities, and information; information obtained from the Department of Justice, the Federal Bureau of Investigation, or from other agencies or organizations about individuals known or suspected of being engaged in conduct constituting, preparing for, aiding, or relating to an insider threat, including espionage or unauthorized disclosure of personally identifiable information (PII).

B. THE SYSTEM MAY INCLUDE THESE CATEGORIES OF RECORDS

Publicly available information, such as information regarding: Arrests and detentions; real property; bankruptcy; liens or holds on property; vehicles; licensure (including professional and pilot's licenses, firearms and explosive permits); business licenses and filings; and from social media.

Reports furnished to the PBGC, or collected by PBGC, in connection with personnel security investigations and Insider Threat Detection Program operated by PBGC pursuant to Federal laws and Executive Orders, rules, regulations, guidance, and PBGC policies.

Documentation pertaining to investigative or analytical efforts by PBGC Insider Threat Program Personnel to identify threats to PBGC personnel, property, facilities, and information.

Intelligence reports and database query results relating to individuals covered by this system.

RECORD SOURCE CATEGORIES

To monitor for, identify, and respond to potential insider threats, information in the system will be received on an as needed basis from PBGC employees, contractors, vendors, interns, and detailees; officials from other foreign, federal, tribal, state, and local government agencies and organizations; non-government, commercial, public, and private agencies and organizations; complainants, informants, suspects, and witnesses; and from relevant records, including counterintelligence and security databases and files; personnel security databases and files; PBGC human resources databases and files; PBGC contractor files; PBGC's Office of Information Technology; information collected through user activity monitoring; PBGC telephone usage records; federal, state, tribal, territorial, and local law enforcement and investigatory records; Inspector General records; available U.S. Government intelligence and counterintelligence reporting information and analytic products pertaining to adversarial threats; other Federal agencies; and publicly available information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 522a(b), and:

1. General Routine Uses G1 through G14 apply to this system of records (see Prefatory Statement of General Routine Uses).

2. Records may be disclosed to any person, organization, or governmental entity in order to notify them of a serious threat for the purpose of guarding against or responding to the threat.

3. Records may be disclosed to a federal, state, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable the intelligence agency with the relevant authority and responsibility for the matter to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA act of 1949 as emended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

4. Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by PBGC and DHS pursuant to a DHS cybersecurity program that monitors internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS

Records are maintained in electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS

Information from this system may be retrieved by numerous data elements and key word searches, including, but not limited to name, dates, subject, and other information retrievable with full text searching capability.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS

The records in this system of records are covered by National Archives and Records Administration General Records Schedule 5.6, items 210, 220, 230, and 240.

RECORD ACCESS PROCEDURES

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4, should submit a written request to the Disclosure Officer, PBGC, 1200 K Street NW, Washington, DC 20005, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

CONTESTING RECORD PROCEDURES

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request identifying the information they wish to correct in their file, in addition to

following the requirements of the Record Access Procedure above.

NOTIFICATION PROCEDURES

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, 1200 K Street NW, Washington, DC 20005, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM

Pursuant to 5 U.S.C. 552a(k)(2), PBGC has established regulations at 29 CFR 4902.12 that exempt records in this system depending on their purpose.

HISTORY

None.

[FR Doc. 2019–14605 Filed 7–8–19; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–159 and CP2019–179]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 11, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–159 and CP2019–179; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 105 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 2, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* July 11, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–14531 Filed 7–8–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 9, 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 July 2, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 105 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–159, CP2019–179.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–14495 Filed 7–8–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86283; File No. SR–CboeBZX–2019–059]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fee Schedule Applicable to Members and Non-Members [1] of the Exchange Pursuant to BZX Rules 15.1(a) and (c)

July 2, 2019.

Pursuant to Section 19(b)(1) [2] of the Securities Exchange Act of 1934 (the

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

[2] 15 U.S.C. 78s(b)(1).

''Act'') [3] and Rule 19b–4 thereunder,[4] notice is hereby given that, on June 19, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members [5] of the Exchange pursuant to BZX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing. The text of the proposed rule change is attached as 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/bzx/*), 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 Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to adopt a new Step-Up Tier, effective July 1, 2019.

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's Fees Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, the Exchange provides a standard rebate of $0.0020 per share for orders that add liquidity [6] and assesses a fee of $0.0025 per share for orders that remove liquidity. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

For example, pursuant to footnote 2 of the Fees Schedule, the Exchange offers four Step-Up Tiers that provide Members an opportunity to qualify for an enhanced rebate on their orders that add liquidity where they increase their relative liquidity each month over a predetermined baseline. Under the current Step-Up Tiers, a Member receives a rebate of $0.0030 (Tier 1), $0.0031 (Tier 2 and Tier 3), or $0.0032 (Tier 4) per share for qualifying orders which yield fee codes B,[7] V,[8] or Y [9] if the corresponding required criteria per tier is met.[10] More specifically, Step-Up Tiers 1–4 require that Members reach certain Step-Up Add TCV thresholds. As currently defined in the BZX Equities fee schedule, Step-Up Add TCV means ADAV [11] as a percentage of TCV [12] in the relevant baseline month subtracted from current ADAV as a percentage of TCV.[13] The Exchange notes that step-up tiers are designed to encourage Members that provide displayed liquidity on the Exchange to increase their order flow, which would benefit all Members by providing greater execution opportunities on the Exchange.

The Exchange now proposes to amend footnote 2 to adopt a fifth Step-Up Tier, which would become ''Step-Up Tier 1''. Under the proposed Step-Up Tier 1, a Member would receive a rebate of $0.0030 per share for their qualifying orders which yield fee codes B, V, or Y where the Member has a Step-Up Add TCV from April 2019 greater or equal to 0.05%. Members that achieve the proposed Step-Up Tier 1 must therefore increase the amount of liquidity that they provide on BZX by 0.05% relative to their ADAV as a percentage of TCV in April 2019, thereby contributing to a deeper and more liquid market, which benefits all market participants. The proposed tier provides Members an additional opportunity to receive a rebate and is designed to provide Members that provide displayed liquidity on the Exchange a further incentive to increase that order flow, which would benefit all Members by providing greater execution opportunities on the Exchange. The Exchange notes the proposed tier is available to all Members.

Lastly, in connection with the proposed change described above, the Exchange also proposes to renumber the existing Step-Up Tiers accordingly.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[14] in general, and furthers the

[3] 15 U.S.C. 78a.

[4] 17 CFR 240.19b–4.

[5] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

[6] Displayed Orders which add liquidity in Tape B securities receive a standard rebate of $0.0025 per share.

[7] Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of $0.0025 per share.

[8] Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of $0.0020 per share.

[9] Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of $0.0020 per share.

[10] *See* Cboe BZX U.S. Equities Fees Schedule, Footnote 2, Step-Up Tiers.

[11] ''ADAV'' means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[12] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[13] The following demonstrates how Step-Up Add TCV is calculated: In April [sic] 2018, Member A had an ADAV of 12,947,242 shares and average daily TCV was 9,248,029,751, resulting in an ADAV as a percentage of TCV of 0.14%; In February 2019, Member A had an ADAV of 46,826,572 and average daily TCV was 7,093,306,325, resulting in an ADAV as a percentage of TCV of 0.66%. Member A's Step-Up Add TCV from December 2018 was therefore 0.52% which makes Member A eligible for the existing Step-Up Tier 4 rebate. (*i.e.,* 0.66% (Feb 2019)–0.14% (Dec 2018), which is greater than 0.50% as required by current Tier 4).

[14] 15 U.S.C. 78f.

objectives of Section 6(b)(4),[15] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed tier is reasonable because it provides an additional opportunity for Members to receive an enhanced rebate. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[16] including the Exchange,[17] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[18]

Moreover, the Exchange believes the proposed Step-Up Tier 1 is a reasonable means to encourage Members to increase their liquidity on the Exchange based on increasing their relative volume above a predetermined baseline. Particularly, the Exchange believes that adopting a tier with less stringent criteria compared to existing Step-Up Tiers 2–4 (now Step-Up Tiers 3–5), and an alternative criteria to Step-Up Tier 1 (now Step-Up Tier 2), will encourage those Members who could not achieve the existing tiers previously to increase their order flow as compared to April 2019 as a means to receive the new tier's enhanced rebate. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that proposed rebate is reasonable based on the difficulty of satisfying the tier's criteria, using April 2019 as the predetermined baseline and ensures the proposed rebate and threshold appropriately reflects the incremental difficulty to achieve the existing Step-Up Tiers. The proposed rebate amount also does not represent a significant departure from the rebates currently offered under the Exchange's existing Step-Up Tiers. Indeed, the rebate amount is the same offered as existing Step-Up Tier 1 (now Step-Up Tier 2) (*i.e.,* $0.0030 per share) and slightly less than the rebates offered under Step-Up Tiers 2–4 (now Step-Up Tiers 3–5) (*i.e.,* $0.0031–$0.0032 per share).

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all Members are eligible for the proposed tier and have a reasonable opportunity to meet the tier's criteria, which as noted above is less stringent than other existing step-up tiers. Without having a view of Member's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any Members qualifying for this tier. However, the Exchange believes the proposed tier would provide an incentive for Members to submit additional adding liquidity to qualify for the proposed rebate. The Exchange also notes that the proposal will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive an enhanced rebate. Furthermore, the proposed rebate would apply to all Members that meet the required criteria under proposed Step-Up Tier 1.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [19]

The Exchange believes the proposed rule change does [sic] impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies to all Members equally in that all Members are eligible for the proposed tier, have a reasonable opportunity to meet the tier's criteria and will all receive the proposed rebate if such criteria is met. Additionally the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed tier would incentivize market participants to direct providing displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and director their order flow, including 12 other equities exchanges and off-exchange venues, including 32 alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information,

[15] 15 U.S.C. 78f(b)(4).

[16] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step-Up Tiers.

[17] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 2, Step-Up Tiers 1–4.

[18] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step-Up Tiers which offers rebates between $0.0022–$0.0034 per share if the corresponding required criteria per tier is met. NYSE Arca Equities' Step-Up Tiers similarly require Members to increase their relative liquidity each month over a predetermined baseline.

[19] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

no single equities exchange has more than 18% of the market share.[20] Therefore, no exchange possesses significant pricing power in the execution of option [sic] order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [21] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[22] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 unsolicited written comments from Members or other interested parties.

[20] *See* Cboe Global Markets U.S. Equities Market Volume Summary (June 14, 2019), available at *http://markets.cboe.com/us/equities/market_share/.*

[21] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[22] NetCoalition v. SEC, 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 [24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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–CboeBZX–2019–059 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–CboeBZX–2019–059. 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–CboeBZX–2019–059 and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14491 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86278; File No. SR–NASDAQ–2019–052]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Listing and Trading the Shares of the AlphaMark Actively Managed Small Cap ETF

July 2, 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, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change the rule for listing and trading the shares of the AlphaMark Actively Managed Small Cap ETF (the ''Fund'') of ETF Series Solutions (the ''Trust''). Currently, the shares are listed pursuant to an SEC

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

approval order, but will now be listed pursuant to the generic listing standards under Nasdaq Rule 5735.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of 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 change the rule for listing and trading the shares of the Fund. Currently, the shares are listed pursuant to an SEC approval order,[3] but will now be listed pursuant to the generic listing standards under Nasdaq Rule 5735.

The Shares began trading on the Exchange on April 21, 2015 after the Commission issued an order approving the listing and trading of the Shares on the Exchange.[4] At that time, the Exchange was required to file separate proposals under Section 19(b) of the Act before the listing of any funds listed pursuant to Nasdaq Rule 5735 (''Managed Fund Shares'') and, as provided in the Filing, the Exchange will commence delisting procedures under the Nasdaq Rule 5800 series for a Fund where the Fund is not in compliance with the applicable listing requirements.[5] On September 23, 2016, the Commission approved generic listing standards for Managed Fund Shares that would allow shares of a series of Managed Fund Shares to list and trade on the Exchange pursuant to Rule 19b–4(e) so long as the components of that series of Managed Fund Shares meet the criteria in Nasdaq Rule 5735(b)(1) on an initial and continual basis.[6]

The Exchange now proposes to list and trade the Shares pursuant to Rule 19b–4(e) of the Act as provided in Nasdaq Rule 5735(b)(1) and, as such, the components of the Fund will be required to comply with the requirements of that rule on an initial and continual basis. The Exchange has confirmed that the Fund's portfolio currently complies with the requirements of Nasdaq Rule 5735(b)(1).[7] The Exchange notes that if the Fund was not already listed, it could be listed pursuant to Rule 19b–4(e) without the submission of a rule filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because the sole change in the proposal is to have the Fund listed and traded on the Exchange pursuant to the generic listing standards under Nasdaq Rule 5735. As noted above, if the Fund was not already listed, it would be able to be listed pursuant to Rule 19b–4(e) without the submission of a rule filing because the SEC has approved rules on the Exchange related to generic listing standards for Managed Fund Shares on the basis that the generic listing criteria is consistent with the Act and, in particular, ''is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [11]

Therefore, the Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 Exchange believes that the proposal to allow the Fund to be listed on the Exchange pursuant to the generic listing standards under Nasdaq Rule 5735(b)(1) will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the

[3] *See* Securities Exchange Act Release No. 74377 (Feb. 25, 2015), 80 FR 11502 (Mar. 3, 2015) (SR–NASDAQ–2015–013) (order approving the listing and trading on the Exchange of the AlphaMark Actively Managed Small Cap ETF) (the ''Filing'').

[4] *Id.*

[5] As provided in the Filing, all statements and representations made in the Filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

[6] *See* Securities Exchange Act Release No. 78918 (Sept. 23, 2016), 81 FR 67033 (Sept. 29, 2016) (SR–NASDAQ–2016–104).

[7] As provided in Nasdaq Rule 5735(b)(1), the Fund must also comply with such requirements on a continual basis and any failure to meet such requirements will result in the Exchange initiating delisting proceedings for the Fund pursuant to the Nasdaq Rule 5800 series.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra* note 8[sic].

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would streamline and simplify the listing rule applicable to the Shares and thereby reduce the Fund's compliance costs. The Exchange further states that, if the Shares were not currently listed, they would be eligible for immediate listing pursuant to Nasdaq Rule 5735(b)(1) and the Exchange asserts that there is no reason the Shares should be treated differently because they are already listed on the Exchange. For those reasons, the Exchange believes that waiver of the operative delay would be consistent with the protection of investors and the public interest. 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 proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–052 and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14489 Filed 7–8–19; 8:45 am]

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[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86286; File No. SR–Phlx–2019–25]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1019, Adopt a New Rule 1073, Adopt a New Rule 1074, Rule 1080, Adopt a New Rule 1096, and Adopt a New Rule 1097

July 2, 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 20, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by 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 a proposal to amend Rule 1019, ''Acceptance of Bid and Offer,'' adopt a new Rule 1073, ''Kill Switch,'' adopt a new Rule 1074 ''Detection of Loss of Communication,'' Rule 1080, ''Electronic Acceptance of Quotes and Orders,'' adopt a new Rule 1096, ''Entry and Display of Orders'' and adopt a new Rule 1097, ''Limitations on Order Entry.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes several amendments within this rule change: (i) Amend Rule 1019, ''Acceptance of Bid and Offer''; (ii) adopt a new Rule 1073, ''Kill Switch,'' and Rule 1074 ''Detection of Loss of Communication,'' from relocated rule text from Rule 1080, ''Electronic Acceptance of Quotes and Orders,''; (iii) adopt a new Rule 1096, ''Entry and Display of Orders''; and (iv) adopt a new Rule 1097, ''Limitations on Order Entry.'' With this proposal, the Exchange intends to create a rule that concerns the requirements for submitting a quote and a separate rule that concerns the requirements for submitting an order. The Exchange also is proposing to relocate rules to reorganize its Rulebook and conform certain rule text within Rule 1097 to rules of other Nasdaq markets.[3]

Rule 1019, Acceptance of Bid or Offer

Currently, Rule 1019 is titled ''Acceptance of Bid or Offer.'' The Exchange proposes to retitle Rule 1019 as ''Entry and Display of Quotes.'' The Exchange proposes to amend Rule 1019(a) to revise the text of (a) from ''All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to the exercise by the Board of Directors of the powers in respect thereto vested in said Board by the By-Laws, and to the Rules of the Exchange, and said contracts shall also be subject to the rules of The Options Clearing Corporation and to the exercise by The Options Clearing Corporation of the powers reserved to it in its by-laws and rules'' to more simply ''All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to applicable requirements and the rules of the Clearing Corporation. The Exchange is proposing to removing the requirement for the Board of Directors to Act and retain the applicability of the rules of the Clearing Corporation.

The Exchange proposes to add a new Rule 1019(b) to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Rule 1019(b), ''Quotes are subject to the following requirements and conditions:''. The Exchange proposes to add at Rule 1019(b)(1) that ''RSQTs or Remote Specialists may generate and submit option quotations.'' Current Rule 1080(k) provides,

Electronic Streaming Quotations. SQTs may generate and submit option quotations if such SQT is physically present on the Exchange floor, and RSQTs may generate and submit option quotations from off the floor of the Exchange, electronically.

Respecting options trading on Phlx XL II, specialists, SQTs and RSQTs who are quoting in an option may also submit Sweeps, which are defined in and governed by Rule 1082.

The Exchange proposes removing this rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019. The first paragraph within Rule 1080(k) describes SQTs and RSQTs that stream quotations. These participants are currently defined within Rule 1014(b). This language in the first paragraph of Rule 1080(k) is redundant and unnecessary. The second paragraph of Rule 1080(k) references Sweeps within Phlx Rule 1082, ''Firm Quotations,'' which describes sweeps within that rule in relation to Quote Exhaust. The Exchange proposes to provide at proposed new Rule 1019(b)(2) that ''The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.'' The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Rule 1019(b)(3) states that ''Specialists, Remote Specialists and ROTs may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.'' The Exchange believes that this information will provide Specialists, Remote Specialists and ROTs with information on submitting a quote. The Exchange notes that bid or offer size may be a ''0,'' however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Rule 1019(b)(4) to provide clarity for entering quotes and proposes to specify, ''The System accepts quotes for the Opening Process as specified in Rule 1017.''[4] The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Rule 1019(b)(5):

Firm Quote. When quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule,[5] orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (''OPRA''); quotes received from another market designated as ''not firm'' using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

Phlx Rule 1082 describes Firm Quote for purposes of quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.[6] The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes

[3] The Exchange intends to file a separate rule change for each Nasdaq market to amend rules as described herein.

[4] Rule 1017(d) provides, ''Phlx Electronic Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.''

[5] The term ''SEC Quote rule'' shall mean rule 602 of Regulation NMS under the Securities Exchange Act of 1934, as amended. See Phlx Rule 1082(a)(iii).

[6] 17 CFR 242.602.

how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Rule 1019(b)(6):

Trade-Through Compliance and Locked or Crossed Markets. A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, quotations may not be executed against prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is also described within Phlx Rules 1083, 1084 and 1086. Also, quotations may not lock or cross an away market. The repricing is provided for today within Phlx Rule 1093.[7] By stating this limitation in the rule, Specialists and ROTs will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (''MPV'') above (for offers) or below (for bids) the national best price. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market's quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on Phlx.

Finally, the Exchange proposes at Rule 1019(b)(7) to provide, ''Quotes submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099 and Quote Exhaust provided for in Rule 1082.'' The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Phlx Rules. Specifically, if the Specialist or ROT does not submit a quotation compliant with Rule 1034, the quote will not be accepted by the System because market participants are required to abide by Rule 1034 which describes the increments with which options series are to be quoted. Rule 1099 provides a list of all protections applicable to quotes that may be rejected. Finally, Specialists and ROTs are subject to the Exchange's rule regarding quote exhaust within Rule 1082(a)(ii)(B)(3). The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Rule 1019(c), ''Quotes will be displayed in the System as described in Rule 1070.'' Rule 1070, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by Phlx.

The amendment to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.[8] The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Relocation of Kill Switch and Detection of Loss of Communication

The Exchange also proposes to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively. The relocations are consistent with the Act because the proposed changes are intended to provide greater transparency to these rules by making them easier to locate which benefits investors and the public interest. The Exchange is not proposing to amend the Kill Switch or Detection of Loss of Communication rules; this rule change is non-substantive. The Exchange proposes to update internal cross-references.

Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange proposes to amend Rule 1080(a)(i)(B) to add the following sentence to Specialized Quote Feed (''SQF''), ''Specialists, SQTs and RSQTs may only enter interest into SQF in their

[7] Phlx Rule 1093(a)(iii)(A) provides that a DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the Phlx Order Book and be displayed at a price one minimum price variation (''MPV'') inferior to that away best bid/offer. If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. Similar language is provided for with respect to the routable orders (FIND and SRCH). Phlx Rule 1093(a)(iii)(B)(4) provides ''A FIND Order received after an Opening Process that is marketable against the internal PBBO when the ABBO is inferior to the internal PBBO will be traded at the Exchange at or better than the PBBO price. If the FIND Order has size remaining after exhausting the PBBO, it may: (1) Trade at the next PBBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the Order Book at its limit price, or (3) if locking or crossing the ABBO, be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO.'' This is also the case for a SRCH Order. See Phlx Rule 1093(a)(iii)(C)(4).

[8] Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules to proposed Phlx Rule 1019.

assigned options series.'' The Exchange notes that today these participants may utilize SQF to quote only in their assigned options series.[9] This proposed rule text is consistent with the Act because it will add greater clarity to the current rule for the protection of investors and the public interest.

The Exchange proposes to delete certain rule text within Rule 1080(c)(ii)(C) and 1080(j) and relocate that language to new Rule 1097, as described below.

The Exchange also proposes to delete Rule 1080(k), as discussed above, and Rule 1080(l) which is currently reserved. These proposed amendments are consistent with the Act because they are simply administrative and non-substantive.

Rule 1096, Entry and Display of Orders

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule.

The Exchange proposes to state within new Rule 1096(a), ''Members can enter orders into the System, subject to the following requirements and conditions:''. The Exchange proposes within new Rule 1096(a)(1), ''Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.'' The Exchange's new rule text at 1096(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Rule 1096(a)(2), ''The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.'' The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.[10]

The Exchange proposes new Rule 1096(a)(3), ''The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.'' Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add new Rule 1096(a)(4), ''Orders submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099, and the restrictions of any order type as provided for in Rule 1080(b). Orders may execute at multiple prices.'' All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Rule 1034 and also the risk protections for orders which are listed within current Rule 1099. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add new Rule 1096(a)(5) the following, ''Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The rule text of new Rule 1096(a)(5) is similar to Nasdaq ISE, LLC (''ISE'') Options 3, Section 4(b). Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Proposed Rule 1096(b) is similar to ISE Options 3, Section 15(a). This proposed rule provides,

NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Rule 1083(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Rule 1083(j)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Rule 1083(k)).

The Exchange believes that although Phlx Rule 1084 [11] makes clear that simple orders may not execute at prices inferior to the NBBO, this rule text will provide that limitation in this proposed list of limitations for ease of reference. The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Rule 1096, which applies to all market participants. In contrast, Rule 1019, which applies to quotes entered by those members that conduct market marking, Specialists and ROTs, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Rules 1019 and 1096.

Proposed Rule 1096(c) seeks to define the Exchange's best bid and offer as the ''PBBO'' and distinguish the displayed book from the non-displayed book for reference. The Exchange provides that the System automatically executes eligible orders using the Exchange's displayed best bid and offer (''PBBO''). Phlx also permits members to enter non-displayed orders. The non-displayed orders are available on the Exchange's order book (''internal PBBO''). The Phlx contingency orders, which are non-displayed are exclusively: (i) All-or-None Orders; [12] and (ii) stop orders [13] (collectively ''Non-Displayed Contingency Orders''). Finally, Phlx reprices orders to avoid locking or crossing another market as explained below. Therefore, on Phlx, eligible orders will execute at the best price available, the PBBO or the internal PBBO. The Exchange believes that this information will provide Members with additional information to how the Exchange describes its displayed and non-displayed orders. Further the proposal to add information related to NBBO Protection and define the Exchange's best bid and offer as the

[9] Rules 501, ''Specialist Appointment'' and 507 ''Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options'' govern option assignments.

[10] The Exchange's website makes the timeframes in which orders may be submitted to the System: *http://www.nasdaqtrader.com/content/phlx/phlx_systemtime.pdf.*

[11] Phlx Rule 1084 describes the avoidance of trade-through and Rule 1083(h) described ISOs.

[12] An All-or-None Order is a limit or market order that is to be executed in its entirety or not at all. An All-or None Order may only be submitted by a public customer. All-or-None Orders are non-displayed and non-routable. All-or-None Orders are executed in price-time priority among all public customer orders if the size contingency can be met. The Acceptable Trade Range protection in Rule 1099(a) is not applied to All-Or-None Orders. *See* Phlx Rule 1078.

[13] A stop order is a limit or market order to buy or sell at a limit price when a trade or quote on the Exchange for a particular option contract reaches a specified price. A stop-market or stop-limit order shall not be triggered by a trade that is reported late or out of sequence or by a complex order trading with another complex order. *See* Phlx Rule 1080(b).

''PBBO'' and distinguish the displayed book from the non-displayed book for reference will bring greater transparency and clarity to the Exchange's rules. The Exchange disseminates its PBBO which does not contain non-displayed information. The Exchange believes that describing the ''internal PBBO'' will bring greater transparency to the rule as the Order Book may contain non-displayed orders which may offer better prices than the PBBO. The Exchange believes describing the displayed and non-displayed order book will inform members as to availability of orders on the Order Book and protect investors and the general public by providing additional information about non-displayed order types.

Similar to Rule 1019(b)(6), the Exchange proposes to note at new Rule 1096(d),

> Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The Exchange reprices orders that are non-routable. The Exchange proposes to make clear the manner in which orders are repriced on the order book. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Today, orders may not be executed at prices that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions within Phlx Rule 1084. The Exchange reprices orders that are non-routable. The Exchange's proposal to memorialize rule text related to trade-throughs will make clear the manner in which orders are repriced on the order book and protect investors and general public by further describing this restriction with respect to orders specifically. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. The Exchange would re-price an order to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one MPV above (for offers) or below (for bids) the national best price. The Exchange reprices orders one MPV inferior to cause the displayed price to reflect the available market on Phlx.[14] The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Finally, the Exchange proposes to provide at new Rule 1096(e), similar to Rule 1019(c) which states, ''Orders will be displayed in the System as described in Rule 1099.''

The Exchange's proposal to adopt a new Rule 1096, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

Rule 1097, Limitations on Order Entry

The Exchange proposes to adopt a new Rule 1097, titled ''Limitations on Order Entry,'' and relocate rule text from Rule 1080. The Exchange proposes to adopt rule text within new Rule 1097(a) which rule is similar to ISE Options 3, Section 22(b) as follows:

> *Limit Orders.* Members shall not enter public customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: The simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

Specifically, Phlx Rule 1080(j) is similar to ISE Options 3, Section 22(b) in that it prohibits public customers,[15] which are equivalent to ISE Priority Customers, from entering limit orders into the Order Book in the same option series in a manner where the public customer is effectively operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. Both rules are [sic] extend to beneficial owners. Phlx rule [sic] 1080(j) provides, ''[i]n determining whether an off floor member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: The simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract; the multiple acquisition and liquidation of positions in the same options series during the same day; and the entry of multiple limit orders at different prices in the same options series.'' This language is the same as ISE's Options 3, Section 22(b). Because Phlx has a trading floor, the ''off floor'' references are in Phlx Rule 1080(j) and no such references are in the ISE Rules. Further, Phlx's Rule 1080(j) provides, ''The limitation set forth in this Rule 1080(j) does not apply to the accounts of off-floor broker dealers or Professionals as the term is defined in Rule 1000(b)(14).'' Phlx Rule 1080(j) therefore would apply to accounts for public customers, and prevent public customers from conducting business as a market maker. ISE Options 3, Section 22(b) was adopted to limit the ability of Electronic Access Members that are not market makers to compete on preferential terms within ISE's automated systems,[16] including Priority Customers, who are provided with certain benefits, such as priority of bids and offers. ISE's Prior Rule Change noted that it did not believe it was necessary to impose Options 3, Section 22 restrictions on the entry of Professional or broker-dealer orders because the same priority does not exist.

[14] *See* Phlx Rule 1086.

[15] For purposes of this rule change, the term ''public customer'' shall mean a person or entity that is not a broker or dealer in securities and is not a Professional, as that term is defined within Phlx Rule 1000(b)(14).

[16] *See* Securities Exchange Act Release No. 63017 (September 29, 2010), 75 FR 61795 (October 6, 2010) (SR–ISE–2010–95) (''Prior Rule Change'').

Both rules therefore apply to same market participants. The Exchange notes that the Phlx and ISE Rules are substantively the same, despite the difference in the rule text.

On Phlx, ROTs (as well as Specialists) are required to register with the Exchange.[17] On Phlx, ROTs are entitled to certain allocations [18] and preferential pricing [19] and are obligated to submit Valid Width Quotes during the opening [20] and quotes intra-day.[21] The Exchange believes that public customers that desire to make markets on Phlx should register with the Exchange. The Exchange also notes that ROTs are restricted from entering orders on Phlx as described within Rule 1080(b). The Exchange also proposes to amend the title from ''Limitations on Orders'' to ''Limit Orders.'' The Exchange notes that the term ''Phlx XL'' is the same as the defined term ''System.'' [22] Finally, the Exchange proposes to remove the final sentence, ''Notwithstanding the foregoing, the limitation in Rule 1080(j) above will continue to apply to all-or-none orders submitted by Professionals to the Exchange.'' Rule 1078 notes that All-or-None Orders may be only be entered by Public Customers. This order type was recently amended and therefore this limitation is unnecessary.[23]

The Exchange proposes to relocate rule text from current Rule 1080(c)(ii)(C)(2) to proposed Rule 1097(b). Current Rule 1080(c)(ii)(C)(2) provides,

Principal Transactions: Order Entry Firms may not execute as principal against orders on the limit order book they represent as agent unless: (a) Agency orders are first exposed on the limit order book for at least one (1) second, (b) the Order Entry Firm has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such order, (c) the Order Entry Firm proceeds in accordance with the crossing rules contained in Rule 1064, (d) the orders are entered into Price Improvement XL or ''PIXL'' pursuant to Rule 1087, (e) the orders are entered into the Complex Order Live Auction or ''COLA'' pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (f) orders entered into the Qualified Contingent Cross or ''QCC'' mechanism pursuant to Rules 1080(o).

This rule provides for the exposure of orders entered on Phlx. Specifically, with respect to orders entered as where a Phlx member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Price Improvement XL or ''PIXL'' mechanism [24] the Complex Order Live Auction or ''COLA'' [25] pursuant to Rule 1098(e); or the Qualified Contingent Cross or ''QCC'' mechanism.[26] Further, Phlx Rule 1064 permits members to cross orders provided certain contingencies are met. This rule is intended to encourage price discovery and price improvement of all orders entered on Phlx. The Exchange proposes to utilize the broader term ''members'' instead of the specific term ''Order Entry Firms'' [27] as this rule applies to all members. The Exchange has updated the current rule references.

The Exchange proposes to delete the rule text from current Rule 1080(c)(ii)(C)(2) and (3) which provides,

Solicitation Orders. Order Entry Firms must expose orders they represent as agent for at least one (1) second before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders, except for: (a) Orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

(3) It shall be a violation of Rule 1080(c)(ii)(C) for any Exchange member or member organization to be a party to any arrangement designed to circumvent Rule 1080(c)(ii)(C) by providing an opportunity for a customer, member, member organization, or non-member broker-dealer to execute immediately against agency orders delivered to the Exchange, whether such orders are delivered via AUTOM or represented in the trading crowd by a member or a member organization, except for: (a) Orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

This language is repetitive of language currently within current Rule 1080(c)(ii)(C)(1). Current Rule 1080(c)(ii)(C)(1) requires exposure similar to of one second and describes the same behavior as current Rule 1080(c)(ii)(C)(2) and (3) and lists the same exceptions. The Exchange does not believe that this rule text is necessary or covers a scenario that is not contemplated by current Rule 1080(c)(ii)(C)(2) and (3). The Exchange believes that this rule was merely the inverse of the rule for principal transactions.

The Exchange proposes new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Phlx Rule 1087(f), related to PIXL. Rule 1097(b)(1) would provide,

This Rule prevents a member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of this Rule for a member to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the member immediately upon their entry into the System.

The Exchange believes that specifically noting this prohibition within the proposed rule will assist members in understanding the type of behavior that would violate Exchange rules when executing agency orders. Specifically, today pursuant to Phlx Rule 707, ''Conduct Inconsistent with Just and Equitable Principles of Trade,'' it would be violative for members to execute agency orders to increase its economic gain from trading against the order without first giving other trading

[17] *See* Phlx Rule 507.

[18] *See* Rule 100(g)(vi).

[19] *See* Phlx's Pricing Schedule at Options 8.

[20] *See* Phlx Rule 1017.

[21] *See* Phlx Rule 1081.

[22] The term ''System'' shall mean the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (A) An order execution service that enables members to automatically execute transactions in System Securities; and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority (''OPRA'') for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (C) the data feeds described at Rule 1070. *See* Phlx Rule 1000(b)(45).

[23] *See* Securities Exchange Act Release No. 85262 (March 7, 2019), 84 FR 9192 (March 13, 2019) (SR–Phlx–2019–03).

[24] *See* Phlx Rule 1087.

[25] *See* Rule 1098(e) or (f).

[26] *See* Rule 1088.

[27] The term ''Order Entry Firms'' is described in Rule 1080(c)(ii) as a member organization of the Exchange that is able to route orders to AUTOM. Replacing the term ''Order Entry Firm'' with ''member'' does not change the meaning on the sentence.

interest on Phlx an opportunity to either trade with the agency order or to trade at the execution price when the member was already bidding or offering on the book. The Exchange proposes to make clear with this Rule that members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent members from seeking price discovery and potentially preventing price improvement which may result from exposing an order.

The Exchange proposes to add a new rule at 1097(c) which provides, ''Prior to or after submitting an order to Phlx, a member cannot inform another member or any other third party of any of the terms of the order for purposes of violating Rule 1095.'' Similar rule text is contained in The Nasdaq Options Market LLC (''NOM'') Rules.[28] The Exchange believes that adding this language will better information participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

The Exchange's proposal to adopt a new Rule 1097 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.[29] The Exchange's proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080 and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[30] in general, and furthers the objectives of Section 6(b)(5) of the Act,[31] 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 as provided for within the purpose section.

Phlx proposes amendments to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule to provide a list of other requirements which may impact the execution of an order. Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects 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's proposal to adopt a new Rule 1096, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's proposal to adopt a new Rule 1097 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.[32] The Exchange's proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080

[28] *See* NOM Rules at Chapter VII, Section 12 at Commentary .04.

[29] Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that other options markets have similar rules with respect to order and quote entry and the requirements to expose orders. The implementation of such rules may vary across options markets. Despite the variation in implementation, the Exchange does not believe this proposal creates an undue burden on inter-market competition because the requirements for order exposure are consistent with respect to all markets as well as the ability to submit quotes and orders on all options markets.

Rule 1019, Acceptance of Quote and Orders

The Exchange's proposal to add Rule 1019(b) to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange's proposal to amend Rule 1080(a)(i)(B) to add the following sentence to Specialized Quote Feed (''SQF''), ''Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series'' is consistent with the Act because it will make clear the manner in which quotes may be submitted to the System.

The Exchange's proposal to remove rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019 does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today.

Rule 1096, Entry and Display of Orders

The Exchange's proposal to adopt a new Rule 1096, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes does not impose an undue burden on competition because it applies uniformly to all members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Adding new rules for ''Nullification by Mutual Agreement and new Rule 1096(a)(5) does not impose an undue burden on competition as these rules apply to all members today and would be considered conduct violate of Rule 707, ''Conduct Inconsistent with Just and Equitable Principles of Trade.''

Rule 1097, Limitations on Order Entry

The Exchange's proposal to adopt a new Rule 1097, titled ''Limitations on Orders,'' and relocate rule text from current Rule 1080 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.[33] This rule will apply uniformly to all members. The Exchange' proposal add new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Rule 1087(f) related to PIXL will provide members greater transparency as to the type of behavior that would violate Exchange rules when executing agency orders. Additionally, adding a new rule at 1097(d), similar to rule text is contained in NOM Rules,[34] will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

Relocation of Kill Switch and Detection of Loss of Communication

The Exchange's proposal to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively does not impose an undue burden on competition. The relocations are non-substantive and intended to provide greater transparency to these rules by making them easier to locate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[35] and subparagraph (f)(6) of Rule 19b–4 thereunder.[36]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[33] Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to adopt similar rules to proposed Phlx Rule 1097.

[34] *See* NOM Rules at Chapter VII, Section 12 at Commentary .04.

[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–Phlx–2019–25 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-Phlx-2019–25. 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–Phlx–2019–25, and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14494 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86291; File No. SR–NYSE–2019–20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Amending Section 302 of the Listed Company Manual To Provide Exemptions for the Issuers of Certain Categories of Securities From the Obligation to Hold Annual Shareholders' Meetings

July 3, 2019.

On May 6, 2019, New York Stock Exchange LLC (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 amend Section 302 of the Listed Company Manual (the ''Manual'') to provide exemptions for the issuers of certain categories of securities from the obligation to hold annual shareholders' meetings. The proposed rule change was published for comment in the **Federal Register** on May 23, 2019.[3] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [4] 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 July 7, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. 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. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates August 21, 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 (File No. SR–NYSE–2019–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14622 Filed 7–8–19; 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. 85889 (May 17, 2019), 84 FR 23815.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86300; File No. SR–NYSEArca–2019–46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37–E To Update a Rule Cross Reference

July 3, 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 25, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37–E (Order Execution and Routing) to update a rule cross reference. 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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.37–E (Order Execution and Routing) to update a rule cross reference.

Rule 7.37–E(b)(7) provides that electronically-entered requests to cancel or reduce in size MOC Orders or LOC orders in New York Stock Exchange LLC (''NYSE'') listed securities will be rejected if entered after the times specified in NYSE Rules 123C(3)(b) and Supplementary Materials .40 to that rule. The NYSE recently amended its rules to support the transition of NYSE-listed securities to the Pillar trading platform.[3] Among other things, when NYSE transitions NYSE-listed securities to the Pillar trading platform, the NYSE Rule 7.35 Series will govern auctions on the NYSE and NYSE Rule 123C will no longer be applicable.[4]

The Exchange proposes to amend Rule 7.37–E(b)(7)(C) to update the cross reference to the NYSE rule that will be applicable when NYSE-listed securities transition to the Pillar trading platform. Instead of cross referencing NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule, the Exchange proposes to cross reference NYSE Rule 7.35(a)(7), which defines the term ''Closing Auction Imbalance Freeze Time.'' As provided for in NYSE Rule 7.35B(f)(2), the NYSE will begin limiting the circumstances when a MOC or LOC Order may be cancelled or reduced in size beginning at that Closing Auction Imbalance Freeze Time. These NYSE Pillar rules are substantively the same as current NYSE Rule 123C(3)(b) as both sets of rules use the same cut-off time for when the NYSE begins restricting the circumstances when a MOC or LOC Order may be cancelled or reduced in size, *i.e.,* ten minutes before the scheduled end of trading.

The proposed amended rule text will provide as follows (deleted text in brackets, new text underlined):

For MOC Orders or LOC Orders in NYSE listed securities, requests to cancel or reduce in size that are electronically entered after *the ''Closing Auction Imbalance Freeze Time'' specified in NYSE Rule 7.35(a)(7)*[the times specified in NYSE Rule 123C(3)(b) and Supplementary Materials .40 to that rule] will be rejected.

The Exchange also proposes to amend the rule to specify for which orders this provision would be applicable. As noted above, the current rule provides that the Exchange will reject electronic requests to cancel or reduce in size MOC Orders or LOC Orders in NYSE-listed securities. Because the Exchange now conducts Closing Auctions in NYSE-listed securities, the Exchange proposes to amend this text to specify that this rule would be applicable to Primary Only MOC/LOC Orders, which are defined in Rule 7.31–E(f)(1)(C) as a Primary Only Order, *i.e.,* an order that on arrival is routed directly to the primary listing market, designated for participation in the primary listing market's closing process as a MOC or LOC Order. The Exchange also proposes a non-substantive change to add a hyphen between ''NYSE'' and ''listed.''

The Exchange will implement these proposed rule changes on the same schedule that the NYSE transitions NYSE-listed securities to the Pillar trading platform. In other words, the current rule will remain operative for NYSE-listed securities until such time that they transition to NYSE's Pillar trading platform.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change to amend Rule 7.37–E would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would update the Exchange's rules to cross reference the NYSE rule that would be applicable when the NYSE transitions its listed securities to the Pillar trading platform. The proposed rule change does not propose any new or novel functionality because the NYSE Pillar rules provide for the same cut-off time and circumstances for cancelling or reducing in size MOC or LOC Orders as provided for in NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule. The Exchange therefore believes that the proposed rule change would protect investors and the public interest, in general, because it is designed to promote transparency and clarity in Exchange rules.

In addition, the Exchange believes that the proposed rule change to specify that this rule provision would be applicable to Primary Only MOC/LOC Orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide greater specificity that this Rule is only applicable to MOC or LOC Orders in NYSE-listed securities that have been routed to the NYSE. Because the Exchange now conducts Closing Auctions in NYSE-listed securities, this proposed rule change provides transparency that the Exchange would not cancel a MOC Order or a LOC Order in an NYSE-listed security if such order were intended for a Closing Auction on the Exchange.

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 is not designed to address any competitive issues, but rather, would update Rule 7.37–E to update a cross reference to the NYSE rule that would be applicable when the NYSE transitions its listed securities to the Pillar trading platform and to provide greater specificity that the rule is intended only for MOC or LOC Orders in NYSE-listed securities that are routed to the NYSE. The Exchange therefore believes that the proposed rule change is designed to promote transparency and clarity in Exchange rules.

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.

[3] *See* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR–NYSE–2019–05) (Approval Order).

[4] The NYSE has announced that, subject to rule approvals, the NYSE will begin transitioning NYSE-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf.* The NYSE will publish by separate Trader Update a complete symbol migration schedule.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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 [7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2019–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–46. 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–2019–46, and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14626 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86299; File No. SR–NYSEArca–2019–33]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, Regarding Certain Changes to Investments of the First Trust TCW Unconstrained Plus Bond ETF

July 3, 2019.

On May 6, 2019, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify certain investments of the First Trust TCW Unconstrained Plus Bond ETF, the shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E. On May 16, 2019, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 28, 2019.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 12, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates August 26, 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 (File No. SR–NYSEArca–2019–33),as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14623 Filed 7–8–19; 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. 85903 (May 21, 2019), 84 FR 24576.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10658; 34–86289; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, July 25, 2019 from 9 a.m. until 3 p.m. (ET). Written statements should be received on or before July 25, 2019.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549. The meeting will be webcast on the Commission's website at *www.sec.gov.* Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All statements 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.

FOR FURTHER INFORMATION CONTACT: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT**.

The agenda for the meeting includes: Welcome remarks; a discussion regarding regulation in areas with limited completion, a discussion regarding trends in investment research (which may include a recommendation from the Market Structure subcommittee); a discussion regarding the proxy process (which may include a recommendation from the Investor as Owner subcommittee); a presentation on the work of the Office of the Advocate for Small Business Capital Formation; a presentation on the work of the Office of Minority and Women Inclusion; subcommittee reports; and a nonpublic administrative work session during lunch.

Dated: July 3, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–14525 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86274; File No. SR–CboeEDGX–2019–043]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Update All References to ''Bats Auction Mechanism'' or ''BAM'' to ''Automated Improvement Mechanism'' or ''AIM'' in the EDGX Options Fee Schedule

July 2, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 1, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to update all references to ''Bats Auction Mechanism'' or ''BAM'' to ''Automated Improvement Mechanism'' or ''AIM'' in the EDGX Options Fee Schedule. 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/options/regulation/rule_filings/edgx/*), 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 Exchange proposes to update all references to ''Bats Auction Mechanism'' or ''BAM'' to ''Automated Improvement Mechanism'' or ''AIM'' in the EDGX Options Fees Schedule. Particularly, the Exchange previously submitted a rule filing which proposed, among other things, to rename the Bats Auction Mechanism (''BAM'') to ''Automated Improvement Mechanism'' (''AIM'') in the rulebook.[4] The Exchange notes however that it inadvertently failed to make the corresponding name change to the Fees Schedule. Accordingly, the Exchange proposes to replace the outdated references to ''Bats

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 85267 (March 7, 2019), 84 FR 9183 (March 13, 2019) (SR–CboeEDGX–2019–007).

Auction Mechanism'' and ''BAM'' to ''Automated Improvement Mechanism'' and ''AIM'', respectively, in the Fees Schedule. No substantive changes are being made by the proposed rule change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed change is a non-substantive change and does not impact the operations of the Exchange. Rather, it merely corrects an inadvertent oversight to update terminology in the Fees Schedule. The Exchange believes that updating the Fees Schedule to accurately reflect the new name for the BAM functionality will alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the EDGX Options Fee Schedule to reflect the abovementioned language changes, which will alleviate potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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–CboeEDGX–2019–043 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–CboeEDGX–2019–043. 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–CboeEDGX–2019–043 and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14488 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86301; File No. SR–NYSENAT–2019–15]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37 To Update a Rule Cross Reference

July 3, 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 25, 2019, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37 (Order Execution and Routing) to update a rule cross reference. 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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.37 (Order Execution and Routing) to update a rule cross reference.

Rule 7.37(b)(7) provides that electronically-entered requests to cancel or reduce in size MOC Orders or LOC orders in New York Stock Exchange LLC (''NYSE'') listed securities will be rejected if entered after the times specified in NYSE Rules 123C(3)(b) and Supplementary Material .40 to that rule. The NYSE recently amended its rules to support the transition of NYSE-listed securities to the Pillar trading platform.[3] Among other things, when NYSE transitions NYSE-listed securities to the Pillar trading platform, the NYSE Rule 7.35 Series will govern auctions on the NYSE and NYSE Rule 123C will no longer be applicable.[4]

The Exchange proposes to amend Rule 7.37(b)(7)(C) to update the cross reference to the NYSE rule that will be applicable when NYSE-listed securities transition to the Pillar trading platform. Instead of cross referencing NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule, the Exchange proposes to cross reference NYSE Rule 7.35(a)(7), which defines the term ''Closing Auction Imbalance Freeze Time.'' As provided for in NYSE Rule 7.35B(f)(2), the NYSE will begin limiting the circumstances when a MOC or LOC Order may be cancelled or reduced in size beginning at that Closing Auction Imbalance Freeze Time. These NYSE Pillar rules are substantively the same as current NYSE Rule 123C(3)(b) as both sets of rules use the same cut-off time for when the NYSE begins restricting the circumstances when a MOC or LOC Order may be cancelled or reduced in size, *i.e.,* ten minutes before the scheduled end of trading.

The proposed amended rule text will provide as follows (deleted text in brackets, new text in italics):

For MOC Orders or LOC Orders in NYSE-listed securities, requests to cancel or reduce in size that are electronically entered after *the ''Closing Auction Imbalance Freeze Time'' specified in NYSE Rule 7.35(a)(7)*[the times specified in NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule] will be rejected.

The Exchange will implement these proposed rule changes on the same schedule that the NYSE transitions NYSE-listed securities to the Pillar trading platform. In other words, the current rule will remain operative for NYSE-listed securities until such time that they transition to NYSE's Pillar trading platform.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change to amend Rule 7.37 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would update the Exchange's rules to cross reference the NYSE rule that would be applicable when the NYSE transitions its listed securities to the Pillar trading platform. The proposed rule change does not propose any new or novel functionality because the NYSE Pillar rules provide for the same cut-off time and circumstances for cancelling or reducing in size MOC or LOC Orders as provided for in NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule. The Exchange therefore believes that the proposed rule change would protect investors and the public interest, in general, because it is designed to promote transparency and clarity in Exchange rules.

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 is not designed to address any competitive issues, but rather, would update Rule 7.37 to update a cross reference to the NYSE rule that would be applicable when the NYSE transitions its listed securities to the Pillar trading platform. The Exchange therefore believes that the proposed rule change is designed to promote transparency and clarity in Exchange rules.

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[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of

[3] *See* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR–NYSE–2019–05) (Approval Order).

[4] The NYSE has announced that, subject to rule approvals, the NYSE will begin transitioning NYSE-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf.* The NYSE will publish by separate Trader Update a complete symbol migration schedule.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2019–15 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–NYSENAT–2019–15. 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–NYSENAT–2019–15, and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14625 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86280 ; File No. SR–CboeEDGX–2019–012]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Order Book Priority for Equity Orders Submitted on Behalf of Retail Investors

July 2, 2019.

On March 18, 2019, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') 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 introduce order book priority for equity orders submitted on behalf of retail investors. The proposed rule change was published for comment in the **Federal Register** on April 5, 2019.[3] The Commission received four comment letters on the proposed rule change.[4] On May 16, 2019, the Commission extended the time period within which to approve, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 4, 2019.[5] On June 18, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[6]

The Commission is publishing this notice and to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

I. Exchange's Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to introduce order book priority for equity orders submitted on behalf of retail investors.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85482 (April 2, 2019), 84 FR 13729 (''Notice'').

[4] *See* letters to Vanessa Countryman, Acting Secretary, Commission, from Sean Paylor, Trader, AJO, L.P., dated April 25, 2019 (''AJO Letter''); Joseph Saluzzi and Sal Arnuk, Partners, Themis Trading LLC, dated May 8, 2019 (''Themis Letter''); T. Sean Bennett, Principal Associate General Counsel, Nasdaq, dated May 9, 2019 (''Nasdaq Letter''); letter to Eduardo A. Aleman, Deputy Secretary, Commission from Stephen John Berger, Global Heady of Government & Regulatory Policy, Citadel Securities, dated April 26, 2019 (''Citadel Letter''). All comments received by the Commission on the proposed rule change are available at: *https://www.sec.gov/comments/sr-cboeedgx-2019-012/srcboeedgx2019012.htm.*

[5] *See* Securities Exchange Act Release No. 85879, 84 FR 23591 (May 16, 2019).

[6] Amendment No. 1 modifies the proposed rule change by: (1) Adding a proposed definition of ''Retail Priority Order''; (2) applying the proposed enhanced priority to ''Retail Priority Orders'' instead of ''Retail Orders''; (3) imposing certain requirements on Retail Member Organizations that enter ''Retail Priority Orders''; (4) removing the proposed requirement that ''Retail Orders'' must be identified as such on the EDGX Book Feed; and (5) requiring that all ''Retail Priority Orders'' be identified as such on the EDGX Book Feed. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-cboeedgx-2019-012/srcboeedgx2019012-5705327-185928.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

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 introduce order book priority for equity orders submitted on behalf of retail investors. Forty three million U.S. households hold a retirement or brokerage account,[8] and these investors are increasingly turning to the equities markets to fund important life goals. It is therefore critical that our markets are sensitive to the needs of the investing public. The Exchange continuously strives to innovate and improve market structure in ways that facilitate ordinary investors achieving their investment goals. The proposed introduction of retail priority is designed with this objective in mind. The Exchange believes that introducing retail priority may provide retail investors with better execution quality and better position the Exchange as the ''home'' for retail limit orders. This, in turn, will further allow retail liquidity to contribute to overall price formation and attract more market participants to the Exchange, creating a richer and more diverse ecosystem with deeper liquidity. Retail priority would therefore be consistent with the goals of the Commission to encourage markets that are structured to benefit ordinary investors,[9] while facilitating order interaction and price discovery to the benefit of all market participants.

Background

As defined in EDGX Rule 11.21, a ''Retail Order'' is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 [10] that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, 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 other computerized methodology.[11] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under EDGX Rule 11.21 to submit Retail Orders. Pursuant to EDGX Rule 11.21(b), which describes the qualification and application process for becoming a Retail Member Organization, any member may qualify as a Retail Member Organization if it conducts a retail business or routes retail orders on behalf of another broker-dealer.

Today, the Exchange operates based on a price/display/time priority execution algorithm that is similar to those employed by most other U.S. equities exchanges.[12] As such, the first Displayed [13] order resting on the EDGX Book [14] at a particular price has priority over the next order and so on based on the time of order entry. Non-Displayed [15] orders at that price are further categorized into a number of priority bands, with orders within each priority band prioritized again based on the time of order entry, as provided in EDGX Rule 11.9. The generally applicable allocation bands for orders executed on the Exchange are described in EDGX Rule 11.9(a)(2)(A), and similar allocation bands applicable to orders executed at the midpoint of the NBBO are described in EDGX Rule 11.9(a)(2)(B).[16] The price time allocation model has provided significant benefits to the equities markets as it encourages increased efficiency by rewarding market participants that are the first to provide liquidity at a particular price. At the same time, because this allocation methodology preferences speed, retail investors may have a more limited ability to secure an execution for their non-marketable orders under this model. The Exchange believes that retail priority would improve trading outcomes for retail investors and could perhaps encourage even more retail order flow to be entered into the displayed market.

Retail Priority Orders

The Exchange would offer priority benefits exclusively to Retail Orders that are entered on behalf of retail investors that enter a limited number of equity orders each trading day. As such, the Exchange would define a new term, ''Retail Priority Order'' to designate Retail Orders that are eligible for priority on the EDGX Book. Specifically, a ''Retail Priority Order'' would be defined as a Retail Order, as defined in Rule 11.21(a)(2), that is entered on behalf of a person that does not place more than 390 equity orders per day on average during a calendar month for its own beneficial account(s). The selected 390 orders per day threshold to qualify as a Retail Priority Order is similarly used for the options industry Priority Customer definition,[17] and represents one order entered each minute during regular trading hours—*i.e.,* from 9:30 a.m. ET to 4:00 p.m. ET. All orders entered on behalf of the retail customer would be counted to determine whether a customer's Retail Orders could be identified as Retail Priority Orders. This would therefore include both orders routed to other exchanges and orders that are not entered as Retail Orders (*e.g.,* because the price of such orders is modified by a broker-dealer algorithm). The Exchange believes that limiting the Retail Orders that would be priority eligible, as described, would assist in ensuring that these benefits flow only to retail investors that are not engaged in trading activity akin to that of a professional.

Similar to the rules of the Exchange's options trading platform (''EDGX Options''),[18] the EDGX Equities rules would describe how to count parent/child orders and cancel/replace orders when determining whether the 390 order per day threshold has been exceeded. As proposed, parent/child orders would be counted as a single order—*i.e.,* a ''parent'' order that is broken into multiple ''child'' orders by

[8] *See* The Evolving Market for Retail Investment Services and Forward-Looking Regulation—Adding Clarity and Investor Protection while Ensuring Access and Choice, Chairman Jay Clayton, Commission (May 2, 2018), available at *https://www.sec.gov/news/speech/speech-clayton-2018-05-02.*

[9] *See e.g.,* U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at *https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf* (''Commission Strategic Plan'').

[10] FINRA Rule 5320.03 clarifies that an RMO may enter Retail Orders on a riskless principal basis, provided that (i) the entry of such riskless principal orders meet the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

[11] Retail Member Organizations are able to designate their orders as Retail Orders on either an order-by-order basis using FIX ports or by designating certain of their FIX ports at the Exchange as ''Retail Order Ports.'' Unless otherwise instructed by the Retail Member Organization, a Retail Order will be identified as Retail when routed to an away Trading Center. *See* EDGX Rule 11.21(d).

[12] *See* EDGX Rule 11.12.

[13] ''Displayed'' is an instruction the User may attach to an order stating that the order is to be displayed by the System on the EDGX Book. *See* EDGX Rule 11.6(e)(1).

[14] ''EDGX Book'' means the System's electronic file of orders. *See* EDGX Rule 1.5(d)

[15] ''Non-Displayed'' is an instruction the User may attach to an order stating that the order is not to be displayed by the System on the EDGX Book. *See* EDGX Rule 11.6(e)(2).

[16] In addition, EDGX Rule 11.9(a)(2)(C) describes the sequence in which orders are timestamped when re-ranked by the System upon clearance of a locking quotation.

[17] *See e.g.,* EDGX Rule 16.1(a)(46),(47).

[18] *See* Interpretations and Policies .01 to EDGX Rule 16.1. Due to differences between equities and options trading there are some differences between the proposed methodology and the methodology used by options exchanges. For example, EDGX Options rules contain provisions related to complex orders and pegged orders, and differentiate between parent orders that are broken up into multiple child orders on the same side and series or both sides and/or multiple series.

a broker or dealer, or by an algorithm housed at a broker or dealer or by an algorithm licensed from a broker or dealer, but which is housed with the customer, would count as one order even if the ''child'' orders are routed across multiple exchanges. Similarly, with one exception for parent/child orders, any order that cancels and replaces an existing order would count as a separate order. An order that cancels and replaces any ''child'' order resulting from a ''parent'' order that is broken into multiple ''child'' orders, would not count as a new order. The Exchange believes that this guidance would assist RMOs in determining whether Retail Orders entered on behalf of a particular retail customer would qualify to be entered as Retail Priority Orders. Similar to the implementation of the Priority Customer designation in the options industry,[19] RMOs that enter Retail Priority Orders would also be required to have reasonable policies and procedures in place to ensure that such orders are appropriately represented on the Exchange. Such policies and procedures should provide for a review of retail customers' activity on at least a quarterly basis. Retail Orders for any retail customer that had an average of more than 390 orders per day during any month of a calendar quarter would not be eligible to be entered as Retail Priority Orders for the next calendar quarter. RMOs would be required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five business days after the end of each calendar quarter. While RMOs would only be required to review their accounts on a quarterly basis, if during a quarter the Exchange identifies a retail customer for which orders are being represented as Retail Priority Orders but that has averaged more than 390 orders per day during a month, the Exchange would notify the RMO, and the RMO would be required to change the manner in which it is representing the retail customer's orders within five business days.

Retail Priority Proposal

The Exchange proposes to introduce retail priority in order to ensure that non-marketable orders submitted on behalf of retail investors can more readily compete for execution with orders entered by sophisticated market participants that may be better equipped to optimize their place in the intermarket queue. Retail priority would be in place during all trading sessions, and would also be available to orders entered for participation in the Exchange's opening process and the re-opening process following a halt.

As proposed, the portion of a Retail Priority Order with a Displayed instruction would be given allocation priority ahead of all other available interest on the EDGX Book. This would be true of both orders executed pursuant to the regular priority bands described in EDGX Rule 11.9(a)(2)(A), and orders priced at the midpoint of the NBBO pursuant to EDGX Rule 11.9(a)(2)(B) where Retail Priority Orders subject to Display-Price Sliding [20] would have priority ahead of limit orders entered with such an instruction as well as any other orders resting at the midpoint of the NBBO.[21] In addition, since Reserve Orders contain a Displayed instruction but include both Displayed and Non-Displayed shares, the Reserve Quantity [22] of Retail Priority Orders would be given priority ahead of the Reserve Quantity of other limit orders on the EDGX Book.

Retail Priority Orders that are not willing to be displayed, or are only willing to be displayed at a less aggressive price than the execution price, would not receive any special priority. For example, a Retail Priority Order that is entered as a MidPoint Peg Order,[23] which by definition is Non-Displayed, would be prioritized along with all other MidPoint Peg Orders notwithstanding the fact that it is a Retail Priority Order. Similarly, a MidPoint Discretionary Order (''MDO'') [24] executed within its Discretionary Range would receive the same priority as other orders entered with a Discretionary Range instruction, regardless of whether the MDO is displayed at its pegged price.

The following examples illustrate the proposed implementation of retail priority: [25]

Example 1: Displayed Retail Priority Order Has Priority at a Given Price

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @$10.00—Displayed, Non-Retail Priority Order
Order 2: Buy 100 shares @$10.00—Displayed, Retail Priority Order
Order 3: Sell 100 shares @$10.00

A Retail Priority Order entered with a Displayed instruction would have priority over Non-Retail Priority Orders at the same price. As a result, Order 3 would trade with Order 2 for 100 shares @$10.00, securing a timely execution for the retail investor.

Example 2: Better Priced Non-Retail Priority Order Has Priority

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @$10.00—Retail Priority Order
Order 2: Buy 100 shares @$10.01—Non-Retail Priority Order
Order 3: Sell 100 shares @$10.00

Allocations would continue to be prioritized based on price. Although Retail Priority Orders entered with a Displayed instruction would have priority over Non-Retail Priority Orders at the same price, they would not have priority over Non-Retail Priority Orders at a better price. As a result, Order 3 would trade with the better priced Order 2 for 100 shares @$10.01.

Example 3: No Retail Priority for Non-Displayed Orders

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @$10.01—Non-Displayed, Non-Retail Priority Order
Order 2: Buy 100 shares @$10.01—Non-Displayed, Retail Priority Order
Order 3: Sell 100 shares @$10.00

A Retail Priority Order entered with a Non-Displayed instruction is not eligible for retail priority. As a result, Order 3 trades with Order 1 for 100 shares @$10.01 based on time priority. Retail Priority Orders would need to be submitted with a Displayed or Reserve instruction to qualify for the benefits of retail priority, which should encourage displayed retail liquidity.

Example 4: No Retail Priority in Discretionary Range

NBBO: $10.00 × $10.10

[19] *See* Securities Exchange Act Release No. 78221 (July 1, 2016), 81 FR 44353 (July 7, 2016) (SR–BatsEDGX–2016–28).

[20] Display-Price Sliding is an order instruction provided for compliance with Rule 610(d) of Regulation NMS. *See* EDGX Rule 11.6(l)(B). While a significant majority of Retail Orders are entered into the EDGX Book with a routing instruction, an RMO may choose to perform its own routing, in which case those orders may be handled pursuant to the Display-Price Sliding process, which is the default handling unless Price Adjust or Cancel Back is elected. *See* EDGX Rule 11.8(b)(10).

[21] Orders entered with Display-Price Sliding are ranked at the locking price and are therefore given priority when executed at the midpoint of the NBBO pursuant to current EDGX Rule 11.9(a)(2)(B).

[22] ''Reserve Quantity'' is the portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the EDGX Book. *See* EDGX Rule 11.6(m).

[23] A ''MidPoint Peg Order'' is a non-displayed Market Order or Limit Order with an instruction to execute at the midpoint of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. *See* EDGX Rule 11.8(d).

[24] A ''MidPoint Discretionary Order'' is a Limit Order that is executable at the NBB for an order to buy or the NBO for an order to sell while resting on the EDGX Book, with discretion to execute at prices to and including the midpoint of the NBBO. *See* EDGX Rule 11.8(g).

[25] In each example, orders are shown in the order in which they are entered.

Order 1: Buy 100 shares @$10.00 + $0.03 Discretion—Non-Retail Priority Order
Order 2: Buy 100 shares @$10.00 + $0.03 Discretion—Retail Priority Order
Order 3: Sell 100 shares @$10.02

Retail Priority Orders would only have priority if willing to be displayed at the execution price. Although orders entered with a Discretionary Range instruction may be displayed at their ranked price, the execution would occur at a non-displayed price within the Discretionary Range. As a result, Order 3 trades with Order 1 for 100 shares @ $10.02 based on time priority.[26]

Example 5: Retail Priority Reserve Order has Displayed and Non-Displayed Priority

NBBO: $10.00 × $10.10
Order 1: Buy 500 @$10.00—Non-Retail Priority Reserve Order, 100 shares displayed
Order 2: Buy 500 @$10.00—Retail Priority Reserve Order, 100 shares displayed
Order 3: Sell 300 @$10.00

A Retail Priority Order entered as a Reserve Order would have retail priority for both displayed and non-displayed size. However, any Reserve Quantity would be executed after other orders with a higher priority, including the displayed size available from Non-Retail Priority Orders. As a result, Order 3 would trade 100 shares @$10.00 with Order 2 based on retail priority, then would trade 100 shares @$10.00 with Order 1. After exhausting the available displayed size, Order 3 would trade the remaining 100 shares @$10.00 with Order 2 based on retail priority.

Example 6: Display-Price Sliding Retail Priority Orders are Eligible for Priority at Midpoint

NBBO: $10.00 × $10.01
EDGX BBO: $10.00 × $10.02
Order 1: Buy 100 shares @$10.01—Book Only, Display-Price Sliding, Non-Retail Priority Order
Order 2: Buy 100 shares @$10.01—Book Only, Display-Price Sliding, Retail Priority Order
Order 3: Sell 100 shares @$10.01—Post Only
Order 4: Sell 100 shares @$10.00

Due to the Display-Price Sliding instruction, both Order 1 and Order 2 are ranked at $10.01 and displayed at $10.00 to avoid locking the National Best Offer at $10.01.[27] Then, because of the Post Only instruction, Order 3 posts and displays on the EDGX Book at $10.01. Since there is displayed interest now resting on the same side of the order book, Order 4 is eligible for execution on entry at the midpoint price of $10.005—*i.e.,* one-half minimum price variation better than Order 3.[28] At the midpoint of the NBBO, a Retail Priority Order subject to Display-Price Sliding that is willing but unable to display at or better than the execution price would have priority over other orders. As a result, Order 4 would trade with Order 2 for 100 shares @$10.005, securing a timely execution for the retail investor.

Example 7: Reserve and Other Orders on EDGX Book

NBBO: $10.00 × $10.01
EDGX BBO: $10.00 × $10.02
Order 1: Buy 100 shares @$10.00—Non-Retail Priority Order
Order 2: Buy 500 @$10.00—Non-Retail Priority Reserve Order, 100 shares displayed
Order 3: Buy 500 @$10.00—Retail Priority Reserve Order, 100 shares displayed
Order 4: Buy 100 shares @$10.01—Book Only, Display-Price Sliding, Non-Retail Priority Order
Order 5: Sell 500 shares @$10.00

Due to the Display-Price Sliding instruction, Order 4 is displayed at $10.00 to avoid locking the National Best Offer at $10.01, but ranked and executable at its $10.01 limit price. Since allocations would continue to be prioritized based on price, Order 5 would first trade 100 shares @$10.01 with Order 4. At any given price, the displayed size of a Retail Priority Order would have priority over Non-Retail Priority Orders at the same price. As such, Order 5 would next trade 100 shares @$10.00 with Order 3. Next, the displayed size of Non-Retail Priority Orders would trade in time priority. Order 5 would therefore trade 100 shares @$10.00 with Order 1, followed by 100 shares @$10.00 with Order 2. Finally, after exhausting the available displayed size, the Reserve Quantity of the remaining Reserve Orders would trade, with Retail Priority Orders being eligible for retail priority. As a result, Order 5 would trade the remaining 100 shares @$10.00 with Order 3.

Example 8: Display-Price Sliding and Midpoint Peg Orders on EDGX Book

NBBO: $10.00 × $10.01
EDGX BBO: $10.00 × $10.02
Order 1: Buy 100 shares @$10.01—Book Only, Display-Price Sliding, Non-Retail Priority Order
Order 2: Buy 500 shares @$10.01—Book Only, Display-Price Sliding, Retail Priority Reserve Order, 100 shares displayed
Order 3: Buy 100 shares @$10.01—MidPoint Peg, Non-Retail Priority Order
Order 4: Sell 100 shares @$10.01—Post Only
Order 5: Sell 500 shares @$10.00

Due to the Display-Price Sliding instruction, both Order 1 and Order 2 are ranked at $10.01 and displayed at $10.00 to avoid locking the National Best Offer at $10.01. Order 3, meanwhile is ranked at the midpoint price of $10.005. Then, because of the Post Only instruction, Order 4 posts and displays on the EDGX Book at $10.01. Since there is displayed interest now resting on the same side of the order book, Order 5 is eligible for execution on entry at the midpoint price of $10.005—*i.e.,* one-half minimum price variation better than Order 4. At the midpoint of the NBBO, a Retail Priority Order subject to Display-Price Sliding that is willing but unable to display at or better than the execution price would have priority over other orders. As a result, Order 5 would first trade with Order 2 for 100 shares @$10.005. Non-Retail Priority Orders with Display-Price Sliding would be next in priority, and Order 5 would therefore next trade 100 shares @$10.005 with Order 1. Finally, Order 5 would trade the remaining 300 shares @10.005 with Order 2. Order 3 would not receive an execution since its ranked price of $10.005 is worse than the ranked price of Orders 1 and 2, which are both ranked at the locking price of $10.01.[29]

Retail Attribution

A Retail Member Organization on EDGX has the option of designating Retail Orders to be identified as such on the EDGX Book Feed,[30] which may increase potential execution opportunities for that order. Today, pursuant to EDGX Rule 11.21(f), this designation may be made on either an

[26] If Order 3 was to sell 100 shares @$10.00 then retail priority would be observed at the displayed price and Order 3 would trade with Order 2 for 100 shares @$10.00.

[27] An order with a Display-Price Sliding instruction that would be a locking quotation on entry is instead ranked at the locking price and displayed at a price that is one minimum price variation less aggressive than the locking price. *See* EDGX Rule 11.6(l)(B).

[28] *See* EDGX Rule 11.6(l)(1)(B)(v); EDGX Rule 11.10(a)(4)(D).

[29] Pursuant to EDGA Rule 11.9(a)(1), the best-priced orders to buy or sell have priority on the EDGA Book in all cases. Although executable at the midpoint, Orders 1 and 2 are the highest-priced buy orders based on the $10.01 ranked price. As such, the full size of those orders would trade before orders that are both ranked and executable at the midpoint.

[30] *See* EDGX Rule 13.8.

order-by-order or port-by-port basis,[31] thereby giving members flexibility in how they would like their Retail Orders attributed on the Exchange. To support the introduction of retail priority, the Exchange proposes to provide that Retail Priority Orders will always be designated as such on the EDGX Book Feed—*i.e.,* Retail Priority Orders would be identified as having been entered with a priority designation.[32] Retail Orders that are not designated as Retail Priority Orders could continue to be attributed, or not, at the discretion of the RMO entering the order. Although RMOs have the choice to determine which Retail Orders would be marked as retail on market data, the Exchange believes that it is important to ensure that Retail Priority Orders would be attributable as priority eligible. Designating Retail Priority Orders on the EDGX Book Feed will increase transparency by informing market participants when there is priority eligible retail investor interest available to trade on the Exchange, thereby allowing market participants to make informed routing decisions, including the decision to route contra-side interest to trade with such orders. Based on the Exchange's experience with Retail Order attribution, this approach has the potential to increase execution opportunities for Retail Priority Orders (and other non-marketable orders) by encouraging additional order flow to be routed to the Exchange to trade with resting Retail Priority Orders.[33]

In addition, since only Retail Priority Orders would be required to be attributed, RMOs would retain the option of not attributing Retail Orders entered into the EDGX Book. While Retail Orders not entered with the Retail Priority Order designation would not be eligible for priority, they would retain all other benefits associated with Retail Orders today, including the materially enhanced rebates that are made available to such orders.[34] The purpose of requiring attribution of Retail Priority Orders is, first and foremost, to ensure that market participants can ascertain their priority on the order book. Although the Exchange believes that RMOs are comfortable attributing their orders, if a specific RMO would prefer not to have one or more of their orders attributed, the member would be able to choose not to enter such orders as Retail Priority Orders without losing any of the benefits that they are provided today. Customer indicators are widely-used in the options industry, and the Exchange believes that they would be equally appropriate on EDGX with the introduction of retail priority.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[35] in general, and Section 6(b)(5) of the Act,[36] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has consistently emphasized the need to ensure that the U.S. capital markets are structured with the interests of retail investors in mind, and recently highlighted its focus on the ''long-term interest of Main Street Investors'' as the agency's number one strategic goal for fiscal years 2018 to 2022.[37] The Exchange believes that retail priority is consistent with the goals of the Commission to ensure that the equities markets continue to serve the needs of the investing public. Specifically, introducing retail priority would protect investors and the public interest by giving retail investors the tools needed to compete for executions on non-marketable order flow submitted to a national securities exchange. The Exchange is committed to innovation that improves the quality of the equities markets, and believes that retail priority may increase the attractiveness of the Exchange for the execution of orders submitted on behalf of the millions of ordinary investors that rely on these markets for their investment needs.

Although the Commission has approved other allocation methodologies for equities trading,[38] most equities exchanges, including EDGX, continue to determine priority based on a price/display/time allocation model today. This has contributed to deep and liquid markets for equity securities as liquidity providers compete to be the first to establish a particular price. At the same time, ordinary investors may not be able to compete with market makers and other automated liquidity providers to be the first to set a new price. Importantly, retail investors, in contrast to their professional counterparts, tend to have longer investment time horizons and are not in the business of optimizing queue placement under a time based allocation model. Thus, in order to facilitate the needs of these ordinary investors, the Exchange believes that an alternative approach is needed.

The proposed introduction of retail priority is designed, first and foremost, to benefit retail investors by increasing both the likelihood and speed with which their non-marketable orders are executed. Unlike marketable retail order flow that is routinely executed in full on entry at the national best bid or offer or better, non-marketable retail order flow has to compete for execution with orders entered by sophisticated market participants that may be quicker to establish a new price. As shown in the chart below,[39] the Exchange has found that in 2018, of volume executed from retail limit orders, 28.3% joined the national best bid or offer (''NBBO'') on entry, 17.8% were priced better than the inside, and 49.4% were priced worse than the inside.

[31] A Retail Member Organization that instructs the Exchange to identify all its Retail Orders as Retail on a Retail Order Port is able to override such setting and designate any individual Retail Order from that port as Attributable or as Non-Attributable, as set forth in Rule 11.6(a). *See* EDGX Rule 11.21(f).

[32] The retail indicator on the EDGX Book Feed would indicate that the order is a Retail Priority Order and would not provide the market participant identifier (''MPID'') of the entering firm. Members may separately include an Attributable instruction on their orders pursuant to Rule 11.6(a) if they would also like MPID attribution.

[33] Prior to the original introduction of retail attribution, the Exchange conducted a study that found that Retail Orders received an 18% higher execution rate when members used Attributable Orders to include their MPID in the published quote on the EDGX Book Feed. *See* Securities Exchange Act Release No. 72016 (April 24, 2014), 79 FR 24463 (April 30, 2014) (SR–EDGX–2014–13).

[34] The equities industry is highly competitive, and competition for retail order flow is particularly fierce as the equities exchanges compete vigorously with each other, and with wholesale market makers that execute this order flow off-exchange. As a result, the Exchange provides a rebate of $0.0032 per share to all Retail Orders. This rebate applies irrespective of whether the RMO attributes Retail Orders on the EDGX Book Feed.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See* Commission Strategic Plan, supra note 4.

[38] Nasdaq PSX, for example, operates with a price setter pro rata model that rewards liquidity providers that set the best price and then rewards other market participants that enter larger sized orders. *See* Securities Exchange Act Release No. 72250 (May 23, 2014), 79 FR 31147 (May 30, 2014) (SR-Phlx–2014–24).

[39] Based on Retail Orders entered by members that have completed a retail attestation.

Although potentially beneficial for all Retail Priority Orders that do not trade immediately on entry, the Exchange believes that retail priority would be particularly beneficial to Retail Priority Orders that join the NBBO, as there would often already be a queue at this price. Introducing retail priority would thus give retail investors the ability to compete for an execution for these orders, and may therefore improve trading outcomes. As such, the Exchange believes that the proposed rule change is consistent with the goals of the Exchange, and of the Commission, to ensure that market structure evolves in ways that protect ordinary investors that participate in the capital markets. Furthermore, since retail priority is designed to improve trading outcomes for ordinary investors, the Exchange also believes that it may encourage retail brokers to route additional non-marketable retail order flow to the EDGX Book, which may broaden execution opportunities for other market participants. If successful in attracting retail order flow to the Exchange, the proposed rule change would benefit market participants by increasing the diversity of order flow with which they can interact on a national securities exchange, thereby increasing order interaction and contributing to price formation.

Giving queue priority to ordinary investors is not a novel concept in the securities markets. In fact, customer priority has a long tradition in the options market where orders entered on behalf of non-broker dealer public customers have historically been afforded priority over orders submitted by registered broker dealers. Today, most options exchanges, including the Exchange's equity options platform (''EDGX Options''),[40] employ a customer priority execution algorithm where orders submitted by a subset of public customers with more limited trading activity (*i.e.,* ''Priority Customers'') [41] are provided order book priority ahead of orders submitted by broker-dealers or other market professionals at the same price. This allocation model, which was first introduced by the International Securities Exchange LLC (''ISE'') in its current retail focused form a decade ago,[42] ensures that orders from Priority Customers are executed ahead of similarly priced interest from sophisticated market participants. The Exchange believes that the time has come to introduce a similar concept for the equities market in order to facilitate the needs of retail investors that increasingly rely on these markets.

Similar to the options market Priority Customer definition, the Exchange proposes to introduce a new definition of ''Retail Priority Orders'' that would allow the Exchange to differentiate between more and less active retail investors. Although the Exchange currently has a robust regulatory program for Retail Orders that includes a number of safeguards to prevent misuse,[43] some equities market participants have expressed concerns that the current definition of Retail Order could provide market structure advantages to a subset of investors that are more akin to market professionals. The Exchange believes that limiting retail priority to Retail Orders that are entered on behalf of less active investors would alleviate any potential concerns while ensuring that retail investors would be able to reap the proposed priority benefits. As such, Retail Orders entered on the EDGX Book would be priority eligible only if the end investor submits fewer than 390 orders per day on average, or the equivalent of one order per minute during regular trading hours. The Exchange believes that this approach is consistent with the public interest and the protection of investors as an investor that enters more than one order per minute is effectively engaged in active trading activity that is more akin to a professional trader. A similar approach is used to differentiate between Priority and Professional Customers in the options industry today. Thus, identifying Retail Priority Orders based on the average number of orders entered for a beneficial account

[40] *See* EDGX Rule 21.8(d)(1).

[41] The term ''Priority Customer'' refers to any person or entity that is not a broker or dealer in securities and does not otherwise qualify as a ''Professional'' by virtue of placing more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See e.g.,* EDGX Rules 16.1(a)(46),(47).

[42] *See* Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (SR–ISE–2006–26).

[43] The current Retail Order definition is enforced through an established process for approving the RMOs that are permitted to enter Retail Orders; an attestation that such RMOs must provide about the retail quality of their order flow; policies and procedures to ensure the effectiveness of that attestation; surveillance conducted by Exchange staff; and an exam process implemented by the Financial Industry Regulatory Authority.

is both a familiar and appropriately objective approach that would reasonably distinguish between ordinary retail investors from more active traders that may compete with market professionals.

The Commission has approved other equities proposals to introduce meaningful market structure benefits for retail investors in recent years. For example, in 2012, the Commission approved proposals filed by the New York Stock Exchange LLC (''NYSE'') and its affiliate NYSE Amex LLC (''Amex'') to introduce retail price improvement programs.[44] Those programs were designed to provide price improvement opportunities for retail investors on a national securities exchange by allowing liquidity providers to give sub-penny price improvement to their orders pursuant to an exemption granted from Rule 612 of Regulation NMS. Similar programs now exist on a number of exchanges, including the Exchange's affiliate, Cboe BYX Exchange, Inc. (''BYX''),[45] and have provided millions of dollars of price improvement to ordinary investors.[46] When approving such retail price improvement programs on a pilot basis, the Commission consistently found that the pilots were consistent with the Act because they were ''reasonably designed to benefit retail investors'' and could ''promote competition for retail order flow among execution venues.'' The benefits to retail investors in the form of meaningful price improvement opportunities similarly animated the Commission's recent approval of the NYSE retail liquidity program on a permanent basis.[47] Although retail priority is designed to increase fill rates and speed of execution rather than price improvement, the Exchange believes that it could have a similarly meaningful impact on execution quality for ordinary investors that trade in the public market. Furthermore, retail priority would complement existing retail price improvement programs by offering market structure benefits to non-marketable retail order flow that cannot participate in those programs.

Similarly, in 2017, the Commission approved a proposed rule change by The Nasdaq Stock Market LLC (''Nasdaq'') to introduce the ''Extended Life Priority Order Attribute'' for Retail Orders that were willing to remain on the book unaltered for a period of one second (''Retail Extended Life Order'' or ''Retail ELO'').[48] As proposed, displayed orders entered on Nasdaq with the Retail ELO attribute were to be provided a higher priority than other orders resting on the Nasdaq order book. When the Commission approved this proposed rule change, it opined that the proposal ''should benefit retail investors by providing enhanced order book priority to retail order flow that is not marketable upon entry,'' and that ''[s]uch enhanced order book priority could result in additional or more immediate execution opportunities on the [e]xchange for resting retail orders that otherwise would be farther down in the order book queue, and thereby enhance execution opportunities for retail investors.'' [49] The same is true of the Exchange's retail priority proposal, which would provide similar benefits to retail investors without the additional complexity of requiring that the order be willing to exist unaltered on the order book for a specified period of time. While the Exchange believes that the majority of retail investors have a longer investment time horizon and therefore do not actively manage their trading interest at sub-second time intervals, the Exchange believes that giving retail priority broadly to orders entered on behalf of less active retail investors may be more effective in encouraging retail brokers to route order flow to the Exchange.

The Exchange also believes that it is appropriate and not unfairly discriminatory to provide enhanced priority benefits solely to retail investor orders as the proposal is designed specifically to ensure that retail investors can compete for executions with sophisticated market participants. In today's highly automated and efficient market, retail investors have a more limited opportunity to compete for an execution based purely on the time an order is placed. While sophisticated, latency sensitive market participants can compete to be the first at any particular price, retail investors with longer investment horizons cannot compete in the same fashion. The proposed introduction of retail priority would ensure that non-marketable Retail Priority Orders get filled first when there is available contra-side interest, and thereby improve investment outcomes for ordinary investors. The Commission has consistently held that it is consistent with the Act to offer certain advantages to retail customers,[50] and the proposal follows a line of other initiatives to improve the retail investor experience in the public markets. The Exchange believes that it is an important goal of both the Exchange and the Commission to ensure that our market structure continues to benefit retail investors by providing the tools that they need to invest in the capital markets. Although there are many ways to achieve that goal, the Exchange believes that doing so requires innovation in how retail investor orders are handled on the national securities exchanges in order to attract that order flow back to the displayed market.

The Exchange also believes that it is consistent with the public interest and the protection of investors to provide retail priority exclusively to those orders that contain a Displayed or Reserve instruction. The goals of the proposed rule change are twofold. First, the proposed change is designed to facilitate better trading outcomes for retail investors, which may encourage retail brokers to send additional retail order flow to the Exchange. Second, the proposed change is designed to encourage additional displayed retail liquidity, which could contribute to price discovery and encourage additional order flow and liquidity from other market participants. Although the first purpose could be achieved without limiting retail priority to orders that contain a Displayed component at a particular price, the second is only achieved when such orders are displayed to the broader market. For that reason, recent priority enhancements for retail investors, such as Nasdaq's Retail ELO, have also focused on displayed interest that could improve quote quality and contribute to a vibrant market.

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[44] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR–NYSE–2011–55; SR–NYSEAmex–2011–84).

[45] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR–BYX–2012–019). Nasdaq BX Inc. (''BX'') similarly operates its own retail price improvement program. *See* Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR–BX–2014–048).

[46] *See, e.g.,* Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR–CboeBYX–2018–014).

[47] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28).

[48] *See* Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR–NASDAQ–2016–161) (''Retail ELO Approval''). Nasdaq ultimately decided not to implement Retail ELO following Commission approval, and has since introduced a ''Midpoint Extended Life Order'' that is not limited to retail participation.

[49] *Id.*

[50] Where the interest of long-term investors, such as the retail investors whose experience this filing is attempting to improve, diverges from that of short-term professional traders, the Commission ''repeatedly has emphasized that its duty is to uphold the interests of long-term investors.'' *See* Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3593 (January 21, 2010) (File No. S7–02–10) (''Concept Release on Equity Market Structure'').

Finally, the Exchange believes that it is consistent with just and equitable principles of trade to require that Retail Priority Orders be attributable as this would allow other market participants to gauge the available size in orders that would be eligible for retail priority. Although RMOs would not have the option to submit eligible Retail Priority Orders as non-attributable, the transparency achieved by so designating these orders is important to the proper functioning of a market where such orders would be eligible for priority. As explained in the purpose section of this proposed rule change, RMOs would retain the ability to enter an order without a priority designation, and in doing so would ultimately retain the ability to control which orders are publicly attributed to retail investors. Priority Customer orders entered on the EDGX Options platform are similarly designated as such on the Exchange's market data feeds today, and the Exchange believes that this has contributed positively to the overall market environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase inter-market competition for retail order flow, and intra-market competition for orders as market participants compete to transact with retail investor orders entered on the EDGX Book. The proposed rule change represents an effort by the Exchange to enhance the ability for retail investors to participate effectively on a national securities exchange without unnecessarily burdening competition. Although retail priority would be limited to retail investors, the Exchange does not believe that this produces an unnecessary burden on competition as these changes are necessary to attract retail order flow to a national securities exchange where they may interact with a wide range of market participants. If successful, the Exchange believes that retail priority would enhance competition by encouraging retail brokers to route increased order flow to the public markets, creating a more vibrant and competitive trading environment that benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Proceedings To Determine Whether To Approve or Disapprove SR–CboeEDGX–2019–012 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [51] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[52] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to perfect the operation of a free and open market and a national market system'' and ''protect investors and the public interest,'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,'' [53] and Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].'' [54]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5), 6(b)(8) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[55]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by July 30, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 13, 2019. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 1,[56] in addition to any other comments they may wish to submit about the proposed rule change.

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–CboeEDGX–2019–012 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–CboeEDGX–2019–012. 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

[51] 15 U.S.C. 78s(b)(2)(B).

[52] *Id.*

[53] 15 U.S.C. 78f(b)(5).

[54] 15 U.S.C. 78f(b)(8).

[55] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[56] *See supra* note 6.

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–CboeEDGX–2019–012 and should be submitted on or before July 30, 2019. Rebuttal comments should be submitted by August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14490 Filed 7–8–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86296; File No. SR–OCC–2019–005]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to the Options Clearing Corporation's Vanilla Option Model and Smoothing Algorithm

July 3, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2019, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is filed in connection with proposed changes to formalize and update OCC's models for: (1) Generating theoretical values, implied volatilities and certain risk sensitivities for plain vanilla listed options (''Vanilla Option Model'') and (2) estimating fair or ''smoothed'' prices of plain vanilla listed options based on their bid and ask price quotes (''Smoothing Algorithm''). The proposed changes are discussed in detail in Item II below.

The proposed changes to Chapter 17 (Vanilla Option Model) and Chapter 18 (Smoothing Algorithm) of OCC's Margins Methodology are contained in confidential Exhibits 5A and 5B of the filing. Material proposed to be added is marked by underlining and material proposed to be deleted is marked by strikethrough text. OCC also has included backtesting and impact analysis of the proposed model changes in confidential Exhibit 3.

The proposed rule change is available on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.* All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency'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 introduce enhancements to OCC's Vanilla Option Model, which is used to generate theoretical values, implied volatilities and risk sensitives for plain vanilla listed options, and to the Smoothing Algorithm, which is used to estimate fair prices of listed option contracts cased on their bid and ask price quotes. Specifically, the proposed methodology enhancements to the Vanilla Option Model would include: (1) Replacing use of an interest rate yield curve with constant interest rates; (2) replacing use of the last paid dividends with a schedule of forecasted dividends; (3) using borrowing costs as an input in valuations; (4) replacing the binomial tree used to price American-style options with a binomial tree that has a higher rate of convergence; and (5) using additional ''Greeks'' as inputs in valuations. Proposed enhancements to the Smoothing Algorithm would include: (1) Aligning the binomial tree using in the Vanilla Option Model with the binomial tree used in the Smoothing Algorithm; (2) using basis futures prices which close at the same time as the underlying indices to prevent price discrepancies; (3) capping unacceptably high volatilities in out-of-the-money regions more gradually to make convexity in pricing changes more continuous and eliminate associated arbitrage opportunities; (4) using current market prices of plain vanilla listed options to generate prices for short-dated FLEX options; and (5) using borrowing costs as an independent input in the pricing of plain vanilla listed options.

Background

OCC's margin methodology, the System for Theoretical Analysis and Numerical Simulations (''STANS''), is OCC's proprietary risk management system that calculates Clearing Member margin requirements.[4] STANS utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a Clearing Member's margin requirement.[5] The STANS margin requirement is calculated at the portfolio level of Clearing Member legal entity marginable net positions tier account (tiers can be customer, firm, or market marker) and consists of an estimate of a 99% two-day expected shortfall (''99% Expected Shortfall'') and an add-on for model risk (the concentration/dependence stress test charge). The STANS methodology is used to measure the exposure of portfolios of options and futures cleared by OCC and cash instruments in margin collateral.

STANS margin requirements are comprised of the sum of several components, each reflecting a different

[57] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

[4] *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20). A detailed description of the STANS methodology is available at *http://optionsclearing.com/risk-management/margins/.*

[5] *See* OCC Rule 601.

aspect of risk. The base component of the STANS margin requirement for each account is obtained using a risk measure known as 99% Expected Shortfall. Under the 99% Expected Shortfall calculation, an account has a base margin excess (deficit) if its positions in cleared products, plus all existing collateral—whether of types included in the Monte Carlo simulation or of types subjected to traditional ''haircuts'' —would have a positive (negative) net worth after incurring a loss equal to the average of all losses beyond the 99% value at risk (or ''VaR'') point. This base component is then adjusted by the addition of a stress test component, which is obtained from consideration of the increases in 99% Expected Shortfall that would arise from market movements that are especially large and/or in which various kinds of risk factors exhibit perfect or zero correlations in place of their correlations estimated from historical data, or from extreme adverse idiosyncratic movements in individual risk factors to which the account is particularly exposed.[6]

Two primary components of STANS are the Vanilla Option Model, which is used to generate theoretical values, implied volatilities and certain risk sensitivities for plain vanilla listed options, and the Smoothing Algorithm, which is used to estimate fair prices of listed option contracts based on their bid and ask price quotes. OCC's current Vanilla Option Model and Smoothing Algorithm and proposed changes thereto are discussed in detail below.

Vanilla Option Model

The Vanilla Option Model is OCC's model for generating theoretical values, implied volatilities and certain risk sensitivities for plain vanilla listed options.[7] The theoretical values generated by OCC's Vanilla Option Model are the estimated values (as opposed to current market prices) of plain vanilla options derived from algorithms that use a series of predetermined inputs, such as the price of the stock or index underlying the option, the option's exercise price, the risk-free interest rate, the amount of time until the option's expiration and the volatility of the option. For European options (including FLEX options), the Vanilla Option Model generates theoretical values using a pricing algorithm that is based on the Black-Scholes formula. For American options, the Vanilla Option Model generates theoretical values using a modified Jarrow-Rudd (''JR'') binomial tree.[8]

The implied volatility of an option is a measure of the expected future volatility of the option's underlying security at expiration, which is reflected in the current option premium in the market. The implied volatilities are used in STANS to generate price scenarios for estimating potential losses of clearing members' portfolios. Given the current market price for a plain vanilla option, the aforementioned pricing algorithms for European and American options will generate the implied volatility of the price of the option's underlying asset.

The risk sensitivities calculated by the Vanilla Option Model are certain values—namely, Delta, Gamma and Vega—that measure the risk of a plain vanilla option in relation to underlying variables.[9]

Smoothing Algorithm

In the absence of OCC's Smoothing Algorithm, the end-of-day ''fair price'' of a plain vanilla listed option contract would simply be the closing mid-point price (*i.e.,* the mid-point between the bid and ask prices) for such contract. However, there often is a wide difference between the closing bid and ask price quotes for option contracts, which could result in a closing mid-point price that may contain arbitrage opportunities. Closing bid and ask price quotes also tend to be ''noisy,'' meaning that quotes can fluctuate randomly in a way that is not reflective of the contract's fair value, which similarly could result in a closing mid-point price that may contain arbitrage opportunities. Therefore, OCC uses its Smoothing Algorithm in an attempt to minimize the impact of wide and/or noisy closing price quotes on individual plain vanilla listed option contracts, thereby producing a more fair or ''smoothed'' price. The Smoothing Algorithm works by attempting to simultaneously estimate fair values for put and call prices on all plain vanilla listed options included in the Vanilla Option Model, as well as options on non-equity securities,[10] with the same underlying and expiration date.

The Smoothing Algorithm consists of four steps. The first step is a preprocessing procedure, which is used to filter out ''bad'' price quotes.[11] The second step is an implied forward price calculation, which estimates the forward prices of securities underlying the options by using the prices from the near-the-money options on the same securities at all tenors or expiration dates. The third step [12] performs the smoothing, in which theoretical prices are generated for all plain vanilla listed options at all strikes by using corresponding bid and ask price quotes and forward prices (which were calculated in step two).[13] The fourth step consists of constructing a volatility surface [14] based on linear interpolation [15] of total variance [16] among the smoothed prices and

[6] STANS margins may also include other add on charges, which are considerably smaller than the base and stress test components, and many of which affect only a minority of accounts.

[7] With respect to the Vanilla Option Model, ''plain vanilla listed options'' are (1) all listed vanilla European and American options on equities, exchange traded funds and exchange traded notes (collectively, ''ETPs''), equity indices, futures on equity indices, currencies or commodities, and (2) vanilla flexible exchange options (''vanilla FLEX options''). Collectively, these plain vanilla options account for about 95 percent of the total contracts cleared by OCC.

[8] OCC uses a modified JR binomial tree for American options because the algorithm based on the Black-Scholes formula does not work for valuing American options, due to their early exercise feature.

[9] ''Delta'' measures the change in the option value with respect to a change in the price of an underlying asset. ''Gamma'' measures the change in Delta in response to a 1% change in the price of the underlying asset. ''Vega'' measures the change in the option value corresponding to a 1% change in the underlying asset's volatility.

[10] *E.g.,* the Cboe Volatility (VIX) Index.

[11] The Smoothing Algorithm filters out certain poor-quality price quotes. The price quotes are excluded from the algorithm if they meet one or more of the following conditions: (i) Prices for options that expired or have a remaining maturity of less than a certain number of days, where that number is specified by a control parameter; (ii) prices for options that have only ''one-sided contracts'' (*i.e.,* contracts for which prices exist only for either the call or the put, but not for both); (iii) prices for options whose ask prices are zero; (iv) prices for options with negative bid and ask spreads; or (v) prices for any American options if the ask price is less than the intrinsic value of the option.

[12] The third step as described applies to European options. For American options, the Smoothing Algorithm first extracts the European option prices from the American prices (or ''de-Americanizes'' the prices) using the Vanilla Option Model, then performs smoothing on the resultant European prices, and finally converts the smoothed European prices into American prices (or ''re-Americanizes'' the prices) using the Vanilla Option Model.

[13] The theoretical prices in step three are generated by solving an optimization problem, which ensures that the theoretical prices generated satisfy both arbitrage-free conditions and bid and ask spread constraints.

[14] A ''volatility surface'' is a three-dimensional graph showing the levels of the implied volatilities for all the options listed on the same underlying security with different strikes or maturity dates.

[15] ''Linear interpolation'' is a mathematical method of curve fitting by using linear polynomials to construct new data points within the range of a discrete set of known data points.

[16] The ''total variance'' of a random variable is defined as the sum of the variances over a given period of time. If the variance is a constant, the total variance is a simple product of its value and length of the time period.

performing any necessary post-processing.[17]

OCC's Smoothing Algorithm is intended to ensure that the option prices generated are smooth, free of arbitrage opportunities and within bid and ask price spreads. The fair value prices that result from the Smoothing Algorithm are used by OCC in calculating margin requirements, risk sensitivities, stress testing and calculation of the Clearing Fund. In addition, the end-of-day fair value prices of options contracts produced by the Smoothing Algorithm are published to all Clearing Members, as well as to other market participants.

Proposed Changes

OCC is proposing to enhance its margin methodology by addressing a series of limitations that presently exist in each of the Vanilla Option Model and the Smoothing Algorithm, as described below.

Vanilla Option Model Proposed Changes

The Vanilla Option Model has five limitations that would be addressed by the proposed changes. First, the Vanilla Option Model uses constant interest rates—the published London Inter-bank Offered Rate (''LIBOR'') for maturities up to 12 months and published swap rates from maturities two to ten years—as opposed to an interest rate yield curve.[18] By using constant interest rates, the Vanilla Option Model assumes that interest rates remain constant during the lifetime of an option (*i.e.,* the interest rates remain constant at each time-step or node in the JR binomial tree). To address this limitation, OCC proposes to change the Vanilla Option Model to instead use an interest rate curve generated by using OCC's chosen benchmark rate(s) (currently LIBOR), Eurodollar futures prices and swap rates. The use of an interest rate curve will allow the Vanilla Option Model to assume variable interest rates over the lifetime of an option (*i.e.,* interest rates can vary at each time-step or node in the binomial tree).

Second, the Vanilla Option Model uses either a constant yield (for index options for all tenors) or a constant projection (for single-name stock options for all tenors) determined by the issuer's last paid or announced dividend. However, an issuer's last paid or announced dividend is not always an accurate prediction of an issuer's future dividends, whereas forecasted dividends are the result of a more comprehensive analysis of the issuer's fundamentals, resulting in a dividend projection that is more sensitive to the particular issuer's circumstances. To address this limitation, OCC proposes to change the Vanilla Option Model to use a schedule of forecasted dividends, received from an established industry data service provider, instead of relying on the issuer's last paid or announced dividend.[19]

Third, the Vanilla Option Model currently does not use borrowing costs,[20] which could allow for potential inconsistencies in implied volatilities for calls and puts in options with the same strike and tenor. To address this limitation, OCC proposes to modify the Vanilla Option Model to use borrowing costs as an input in the valuation of plain vanilla options.[21]

Fourth, as stated above, for pricing American options the Vanilla Option Model is based on a 49-step modified JR binomial tree; however, the fixed number of steps is not large enough for accurately evaluating long-dated options (*e.g.,* FLEX options). To address this limitation, OCC proposes that the Vanilla Option Model instead price American options using a variable number of steps [22] that increases linearly with the expiration of the option. In addition, OCC proposes to replace the JR binomial tree with the Leisen-Reimer (''LR'') binomial tree, which has a higher rate of convergence than the JR binomial tree.

Fifth, the Vanilla Option Model only calculates a limited number of risk sensitivities for the price of options (*i.e.,* Delta, Gamma and Vega) with respect to market variables; the model, however, is limited in that it does not calculate Theta and Rho.[23] The proposed enhancements to the Vanilla Option Model would enable the model to calculate Theta and Rho, in addition to Delta, Gamma and Vega.[24]

Smoothing Algorithm Enhancements

Presently, the Smoothing Algorithm has five limitations that would be addressed by the proposed enhancements. First, though the Smoothing Algorithm uses the Vanilla Option Model as a component for generating smoothed prices, the Smoothing Algorithm uses a LR binomial tree, whereas the Vanilla Option Model uses a JR binomial tree. The JR binomial tree used in the current Vanilla Option Model does not account for implied forward prices as generated in the Smoothing Algorithm. This inconsistency in binomial trees allows for unequal put and call volatilities and thus for potential violations of put and call parity in margin calculations. The proposed change to the Vanilla Option Model to use a LR binomial tree, as previously described, would not only enhance the Vanilla Option Model but would eliminate the current inconsistency between the Vanilla Option Model and Smoothing Algorithm by using a LR binomial tree for both models.

Second, the Smoothing Algorithm uses index futures to approximate theoretical spot prices for the plain vanilla listed options on certain indices, but this method suffers from the absence of synchronization between the futures market and the market for the underlying indices.[25] Trading in the underlying indices closes at 3:00 p.m. Central Time, but trading in the index futures and plain vanilla listed options on those indices closes at 3:15 p.m. The

[17] Post-processing addresses contracts that are filtered out of the smoothing process during pre-processing due to either bad or missing price quotes. In post-processing, the theoretical prices for these contracts are approximated from the implied volatility data that are already obtained by the smoothing algorithm.

[18] The ''swap rate'' is the fixed interest rate that a swap counterparty demands in exchange for the uncertainty of having to pay the short-term floating rate over time.

[19] In the event the primary data source for these dividends is unavailable, OCC has a backup data provider for forecasted dividends.

[20] Borrowing costs are the costs that may be incurred by an option buyer or seller to borrow the underlying security of the option.

[21] The borrowing costs used by the Vanilla Option Model would be calculate from market prices of options or futures.

[22] The number of LR tree steps would vary between minimum and maximum parameters, depending on an option's tenor. OCC would initially set these minimum and maximum parameters at 51 and 501, respectively, and they would be subject to change based on OCC's determination. OCC would modify the minimum and maximum parameters to achieve a balance between pricing accuracy and speed of pricing calculations. The larger the number of the steps, the more accurate the pricing, but the longer the calculation time. For example, OCC's initial choice of a maximum 1001 steps did not result in an optimal balance between accuracy and speed; therefore, OCC reduced the maximum number of steps to 501.

[23] ''Theta'' measures the change in the option value for a one day change in the time to expiration of the option. ''Rho'' measures the change in the option value with respect to a 1 basis point change in the interest rate.

The Vanilla Option Model has a further limitation in that it relies on a perturbation method of calculating Delta and Gamma, which is less efficient than calculating Delta and Gamma from the same tree.

[24] The Vanilla Option Model presently calculates Delta and Gamma using the perturbation method. The perturbation method requires the use of two binomial trees, which introduces instability issues. The proposed changes would result in Delta and Gamma being calculated from a single binomial tree, which results in improved stability.

[25] Using the 3:00 p.m. index futures price suffers from another shortcoming in that the 3:00 p.m. price is not an official closing price, but rather it is the last trade price before 3:00 p.m. (as observed in a manual process by OCC employees).

difference in closing times could result in poorly smoothed prices whenever the options trading between 3:00 p.m. and 3:15 p.m. is volatile. Poorly smoothed prices could result in implied volatilities of poorer quality, and this could create problems in OCC's margin and risk calculations. In order to address this limitation, the Smoothing Algorithm would use basis futures on the same indices to approximate theoretical spot prices. Trading in basis futures has the benefit of closing at 3:00 p.m., which would allow OCC to use a reported closing price.[26] Basis futures prices represent the spreads between the futures prices and the underlying price; these spreads are relatively stable throughout the day, including between their closing at 3:00 p.m. and the closing of the index options market at 3:15 p.m., thereby providing a better approximation of the theoretical sport prices in the plain vanilla options at 3:15 p.m.

Third, the Smoothing Algorithm deals with unacceptably high volatilities that are sometimes generated in the out-of-the-money regions by capping these volatilities to a lower value. This leads to a jump in the rate of change of the volatility with respect to the strike and may create negative convexity of the option prices versus strike, *i.e.,* butterfly arbitrage opportunities. The proposed changes to the Smoothing Algorithm would still cap unacceptably high volatilities generated in out-of-the-money regions to a lower value, but the capping would be done in a more gradual manner. By capping unacceptable high volatilities in a more gradual manner, changes in the convexity of prices would not be as discontinuous as in the current Smoothing Algorithm, which would eliminate the opportunities for butterfly arbitrage.

Fourth, to generate prices for short-dated FLEX options, the Smoothing Algorithm combines the prices calculated from the prior day's implied volatilities for all FLEX options with current market prices. By combining the prior day's implied volatilities with current market prices, the Smoothing Algorithm may not generate prices that are consistent with then-current market prices.[27] In order to address this limitation, OCC proposes to change the Smoothing Algorithm to use volatilities implied from current market prices of plain vanilla listed options to price short-dated FLEX options.[28]

Fifth, the Smoothing Algorithm currently does not have the ability to use borrowing costs as an independent input.[29] To address this limitation, OCC proposes to modify the Smoothing Algorithm to provide for the ability to use borrowing costs as an independent input in the pricing of plain vanilla listed options. Under the proposed changes, the borrowing costs for each underlying security would be implied from at-the-money (or near at-the-money) options listed on such security.

Clearing Member Outreach

To inform Clearing Members of the proposed change, OCC has provided overviews of the proposed changes to its Financial Risk Advisory Council [30] and, prior to implementing the proposed rule change, will provide overviews to the OCC Roundtable,[31] as well as through Information Memoranda to all Clearing Members describing the proposed change.

Given that changes in margins are expected,[32] OCC expects to conduct an extended parallel implementation for Clearing Members prior to implementation. Additionally, OCC will perform targeted and direct outreach with Clearing Members that would be most impacted by the proposed change and would work closely with such Clearing Members to coordinate the implementation and associated funding for such Clearing Members resulting from the proposed change.[33]

Implementation Timeframe

OCC expects to implement the proposed changes to the Vanilla Option Model and Smoothing Algorithm no sooner than August 1, 2019 and no later than one hundred eighty (180) days from the date OCC receives all necessary regulatory approvals for the filings. OCC will announce the implementation date of the proposed change by an Information Memo posted to its public website no less than 6 weeks prior to implementation.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A of the Act [34] and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) of Act [35] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The proposed rule change would enhance two of the primary components of OCC's STANS methodology by addressing five limitations of the Vanilla Option Model and five limitations of the Smoothing Algorithm.

With respect to the Vanilla Option Model, the proposed rule change would incorporate interest rate yield curves, forecasted dividends and borrowing costs into the theoretical pricing of plain vanilla listed options. Including these three inputs improves the Vanilla Option Model's theoretical pricing and helps to preserve the consistency between implied call volatility and implied put volatility in options at the same strike price and same maturity. The proposed rule change also would introduce the LR binomial tree to replace the fixed, 49-step JR binomial tree for pricing of American options. The LR binomial tree would use a

[26] By using the reported closing price for basis futures, the proposed changes to the Smoothing Algorithm also would eliminates the algorithm's reliance on a manual process to observe pre-close futures prices.

[27] The reason that the Smoothing Algorithm uses the prior day's implied volatilities is that the implied volatilities are received from a third-party data service provider; the provider's quotes are delayed by one day.

[28] The Smoothing Algorithm for long-dated FLEX options would remain unchanged.

[29] The Smoothing Algorithm currently combines borrowing costs and dividends into a single input, referred to as ''implied dividends,'' which is then used to price plain vanilla listed options. However, the combined ''implied dividends'' input can differ from the actual dividend, and this difference can result in potential mispricing of certain types of options.

[30] The Financial Risk Advisory Council is a working group comprised of exchanges, Clearing Members and indirect participants of OCC.

[31] The OCC Roundtable was established to bring Clearing Members, exchanges and OCC together to discuss industry and operational issues. It is comprised of representatives of the senior OCC staff, participant exchanges and Clearing Members, representing the diversity of OCC's membership in industry segments, OCC-cleared volume, business type, operational structure and geography.

[32] OCC expects that the proposed changes, in aggregate, would reduce total margins by a small amount. In particular, margin reductions are expected for Clearing Members who hold risk offsetting positions. However, the ultimate impact on any particular Clearing Member's margin requirements would necessarily vary based on trading strategies and market conditions. More specifically, backtesting results for the period from March 2018 through February 2019 showed small reductions to total margins, in aggregate, with an average difference of 1.3% between the proposed model and the production model. At the Clearing Member level, the difference in margin requirements between the proposed model and the production model for Clearing Members comprising 99% of OCC's total daily margin (such Clearing Members, the ''top Clearing Members'') on most days of the backtesting period was less than 10%. The largest increase and decrease to daily margin requirements observed within top Clearing Members during the backtesting period was 42% and 30%, respectively. On average, only 5% of the top Clearing Members experienced a daily margin decrease or increase of 10% or greater under the proposed model over the same period.

[33] Specifically, OCC will discuss with those Clearing Members how they plan to satisfy any increase in their margin requirements associated with the proposed change.

[34] 15 U.S.C. 78q–1.

[35] 15 U.S.C. 78q–1(b)(3)(F).

variable number of steps that increases linearly with the expiration of an option, to more accurately price long-dated American options. The LR binomial tree also converges at a considerably higher rate than the JR binomial tree. The proposed rule change would also enable OCC to calculate two additional risk sensitivities—namely, Theta and Rho—for plain vanilla listed options.

With respect to the Smoothing Algorithm, the proposed rule change would improve implied volatility smoothing by eliminating the inconsistency between the binomial trees used by the Vanilla Option Model and the Smoothing Algorithm and by eliminating the synchronization issue from using the 3:00 p.m. index futures price to approximate theoretical spot prices for plain vanilla listed options on certain indices. The proposed rule change also would improve the Smoothing Algorithm by more gradually capping unacceptably high volatilities sometimes generated in the out-of-the-money regions, which would eliminate the opportunities for butterfly arbitrage, and by using borrowing costs in the pricing of plain vanilla listed options.

Each of the aforementioned enhancements is expected to produce margin requirements that are more accurate and commensurate with the risks presented by Clearing Members, thereby improving OCC's margins for plain vanilla listed options. Because OCC uses the margin it collects from a defaulting Clearing Member to protect other Clearing Members from losses resulting from the default, OCC believes the proposed rule changed is designed to assure the safeguarding of securities and funds in its custody or control in accordance with Section 17A(b)(3)(F) of the Act.[36]

Rule 17Ad–22(b)(2)[37] requires, in part, that a registered clearing agency that performs central counterparty services establish, implement, maintain and enforce written policies and procedures reasonably designed use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements. As noted above, OCC uses STANS as its risk-based margin methodology. The proposed rule change would enhance STANS by addressing several limitations in two of the primary components of STANS: The Vanilla Option Model and the Smoothing Algorithm. With respect to the Vanilla Option Model, OCC believes the proposed changes would enable the model to produce more accurate theoretical valuations of plain vanilla listed options, and for American options, would enable the mode to more accurately evaluate long-dates options. With respect to the Smoothing Algorithm, OCC believes the proposed rule change will enhance the model's implied volatility smoothing by improving the approximate theoretical spot prices for plain vanilla listed options on certain indices and by eliminating opportunities for butterfly arbitrage. Accordingly, OCC believes the proposed rule change would improve the methodology used to calculate margin requirements designed to limit OCC's credit exposures to participants under normal market conditions in a manner consistent with Rule 17Ad–22(b)(2).[38]

Rule 17Ad–22(e)(6)(i) and (iii)[39] further requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that: (1) Considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market and (2) calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. As noted above, the proposed rule change would address certain existing limitations in the Vanilla Option Model and the Smoothing Algorithm, each of which is a primary component of OCC's STANS methodology. By addressing the aforementioned limitations of the Vanilla Option Model, OCC believes that the model will produce more accurate theoretical valuations of plain vanilla listed options, including improved theoretical valuations for long-dated American options. By addressing the aforementioned limitations of the Smoothing Algorithm, OCC believes that the proposed rule change will enhance implied volatility smoothing, improve the approximate theoretical spot prices for plain vanilla listed options on certain indices and eliminate opportunities for butterfly arbitrage. Accordingly, OCC believes the proposed changes are consistent with Rule 17Ad–22(e)(6)(i) and (iii).[40]

The proposed rule changes are not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of Act.[41] OCC believes that any competitive impact imposed by the proposed model changes would be necessary and appropriate in furtherance of the purposes of Act.[42] The proposed changes are primarily designed to enhance two primary components of OCC's STANS margin methodology. As described above, the proposed model changes are necessary to produce margin results that are more commensurate with the risks associated with clearing plain vanilla listed options. Therefore, any competitive impact imposed by the changes would be necessary in further of the purposes of the Act.

Furthermore, the proposed enhancements to the margin methodology would apply to all Clearing Members clearing plain vanilla listed options at OCC. The overall impact of the proposed rule change on margins will depend on the composition of the portfolio in question, but any fluctuations in margin requirements would be the same for any Clearing Members with identical portfolios. Similarly, the enhancements to the Smoothing Algorithm would result in improved end-of-day fair value prices of options contracts, which would be published to all Clearing Members, as well as to other market participants. Therefore, OCC does not believe that the proposed rule change would unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user. Accordingly, OCC believes that any competitive impact would be appropriate in furtherance of the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible, and in general, the protection of investors and the public interest; and, therefore, appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not

[36] *Id.*

[37] 17 CFR 240.17Ad–22(b)(2).

[38] *Id.*

[39] 17 CFR 240.17Ad–22(e)(6)(i) and (iii).

[40] *Id.*

[41] 15 U.S.C. 78q–1(b)(3)(I).

[42] *Id.*

intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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–OCC–2019–005 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–OCC–2019–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.*

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–OCC–2019–005 and should be submitted on or before July 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14627 Filed 7–8–19; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 02/02–0664 issued to Medley SBIC, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Dated: July 1, 2019.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2019–14607 Filed 7–8–19; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0274 issued to Prairie Capital III QP, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Dated: July 1, 2019.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2019–14603 Filed 7–8–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0275 issued to Prairie Capital III, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Dated: July 1, 2019.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2019–14602 Filed 7–8–19; 8:45 am]

BILLING CODE P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative (Trade Representative) imposed additional duties on goods of China with an annual trade value of approximately $34 billion (the $34 billion action) as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.

[43] 17 CFR 200.30–3(a)(12).

The Trade Representative's determination included a decision to establish a product exclusion process. The Trade Representative initiated the exclusion process in July 2018, and stakeholders have submitted requests for the exclusion of specific products. In December 2018, March 2019, April 2019, May 2019, and June 2019, the Trade Representative granted exclusion requests. This notice announces the Trade Representative's determination to grant additional exclusion requests, as specified in the Annex to this notice. The Trade Representative will continue to issue decisions on pending requests on a periodic basis.

DATES: The product exclusions announced in this notice will apply as of the July 6, 2018 effective date of the $34 billion action, and will extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), 84 FR 7966 (March 5, 2019), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), and 84 FR 25895 (June 4, 2019).

Effective July 6, 2018, the Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The Trade Representative's determination included a decision to establish a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

Under the July 11 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit subheading covered by the $34 billion action. Requestors also had to provide the 10-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

The July 11 notice stated that the Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the Trade Representative would periodically announce decisions. In December 2018, the Trade Representative granted an initial set of exclusion requests. *See* 83 FR 67463. The Trade Representative granted a second, third, fourth and fifth set of exclusions in March 2019, April 2019, May 2019, and June 2019. *See* 84 FR 11152, 84 FR 16310, 84 FR 21389, and 84 FR 25895. The Office of the United States Trade Representative regularly updates the status of each pending request and posts the status within the web pages for the respective tariff action they apply to at *https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions.*

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the July 11 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The Trade Representative's determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests.

As set out in the Annex to this notice, the exclusions are reflected in 110 specially prepared product descriptions, which cover 362 separate exclusion requests.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

Paragraph A, subparagraphs (3)–(5) are conforming amendments to the HTSUS reflecting the modification made by the Annex to this notice.

Paragraph B of the Annex to this notice modifies U.S. note 20(k)(26) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, as set out in the Annex of the notice published at 84 FR 21389 (May 14, 2019).

In order to clarify the periodic revisions to the HTSUS, paragraph C of the Annex modifies the text to U.S. note 20(m)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, as set out in the Annex of the notice published at 84 FR 25895 (June 4, 2019).

Paragraphs D and E of the Annex to this notice correct a typographical error in U.S. notes 20(m)(53) and 20(m)(54) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, as set out in the Annex of the notice published at 84 FR 25895 (June 4, 2019).

As stated in the July 11 notice, the exclusions will apply as of the July 6, 2018 effective date of the $34 billion action, and extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. By inserting the following new heading 9903.88.11 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1-General'', respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
''9903.88.11	Articles the product of China, as provided for in U.S. note 20(n) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative.	The duty provided in the applicable subheading''.		

2. by inserting the following new U.S. note 20(n) to subchapter III of chapter 99 in numerical sequence:

''(n) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 FR 28710 (June 20, 2018) and 83 FR 32181 (July 11, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) Heat exchangers, the foregoing comprising parts of goods of heading 8402 and each fitted for heat recovery steam generator (described in statistical reporting number 8402.90.0010)
(2) Drums, exhaust stacks, and inlet duct panel assemblies of heat recovery steam generators (described in statistical reporting number 8402.90.0090)
(3) Water tanks for steam or other vapor generating boilers (described in statistical reporting number 8402.90.0090)
(4) Compression-ignition engines with maximum power exceeding 50 kW but not exceeding 120 kW, each valued over $6,000 but not over $9,500 per unit (described in statistical reporting number 8408.90.9010)
(5) Compression-ignition engines, exceeding 149.2 kW but not exceeding 373 kW and valued over $9,800 but not over $12,000 (described in statistical reporting number 8408.90.9020)
(6) Aircraft gas turbine compressor cases of steel and Inconel alloy, each valued over $3,000 but not over $4,000 (described in statistical reporting number 8411.99.9090)
(7) Engine stationary seal air supports of Inconel alloy, each measuring over 35 cm but not over 35.5 cm in outer diameter and over 3.5 cm but not over 4 cm in width (described in statistical reporting number 8411.99.9090)
(8) Direct acting and spring return pneumatic actuators, each rated at a maximum pressure of 10 bar and valued over $68 but not over $72 per unit (described in statistical reporting number 8412.39.0080)
(9) Spring-operated motors, each valued over $3,000 but not over $3,600 (described in statistical reporting number 8412.80.1000)
(10) Gear-type hydraulic fluid power pumps, handheld, battery powered, the foregoing not over 5 cm in width and valued not over $6 per unit (described in statistical reporting number 8413.60.0030)
(11) Centrifugal water pumps incorporating thermal cut-offs, each with discharge outlet 5.08 cm or more in diameter, valued over $66 but not over $72 per unit (described in statistical reporting number 8413.70.2015)
(12) Motor vehicle oil pump housings (described in statistical reporting number 8413.91.9010)
(13) Impellers (described in statistical reporting number 8413.91.9095)
(14) Parts of oil and gas extraction beam pumps, other than hydraulic power pumps (described in statistical reporting number 8413.91.9095)
(15) Pedestals of pump assemblies (described in statistical reporting number 8413.91.9095)
(16) Pump bases, of plastic, designed to protect the pump impellers from obstructions (described in statistical reporting number 8413.91.9095)
(17) Pump casings and bodies (described in statistical reporting number 8413.91.9095)
(18) Pump covers (described in statistical reporting number 8413.91.9095)
(19) Pump expellers (described in statistical reporting number 8413.91.9095)
(20) Pump grease cups and grease cup adapters (described in statistical reporting number 8413.91.9095)
(21) Pump liners (described in statistical reporting number 8413.91.9095)
(22) Pump manifolds (described in statistical reporting number 8413.91.9095)
(23) Pump parts, of plastics, each valued not over $3 (described in statistical reporting number 8413.91.9095)
(24) Pump shaft castings, of steel (described in statistical reporting number 8413.91.9095)
(25) Pump throatbushes (described in statistical reporting number 8413.91.9095)
(26) Pump volutes (described in statistical reporting number 8413.91.9095)
(27) Structural pump bases, of stainless steel (described in statistical reporting number 8413.91.9095)
(28) Compressors, other than screw type, used in air conditioning equipment in motor vehicles, each valued over $88 but not over $92 per unit (described in statistical reporting number 8414.30.8030)
(29) Compressors, other than screw type, of a kind used in household

refrigerators, air conditioners and heat pumps, rated at more than ¼ horsepower but not more than 1 horsepower, each valued not over $150 (described in statistical reporting number 8414.30.8050)

(30) Fork-lift trucks, propane gas powered, having a rated lift capacity over 9.5 metric tons but not exceeding 33 metric tons (described in statistical reporting number 8427.20.8090)

(31) Motor grader weighing more than 14 metric tons but not over 21 metric tons (described in statistical reporting number 8429.20.0000)

(32) Self-propelled pneumatic compactors, each weighing over 14 metric tons but not over 28 metric tons (described in statistical reporting number 8429.40.0040)

(33) New articulated shovel loaders, wheeled, each with 4-wheel drive, rear mounted engine and a bucket capacity of under 1.5 m^3, rated at not over 26 horsepower (described in statistical reporting number 8429.51.1015)

(34) Integrated tractor shovel loaders, each with 4 wheel drive, a bucket capacity of at least 3.8 m^3 but less than 5.2 m^3 and an operating weight of 17.5 metric tons or more but not over 20 metric tons (described in statistical reporting number 8429.51.1040)

(35) Shovel loaders with an operating weight of from 30 metric tons to 36 metric tons (described in statistical reporting number 8429.51.1045)

(36) Shovel loaders with an operating weight of from 30 metric tons to 36 metric tons (described in statistical reporting number 8429.51.1050)

(37) Rubber track shovel loaders having a lift capacity not over 375 kg (described in statistical reporting number 8429.51.5010)

(38) Grooved wire rope drum valued over $350 (described in statistical reporting number 8431.10.0010)

(39) Escalator drive assemblies consisting of a motor, planetary gear and gearbox (described in statistical reporting number 8431.31.0040)

(40) Escalator steps (described in statistical reporting number 8431.31.0040)

(41) Parts of passenger or freight elevators consisting of any of the following: Elevator emergency brake and speed governor apparatus, scissor lift assemblies, telescoping boom lift assemblies or articulating boom lift assemblies (described in statistical reporting number 8431.31.0060)

(42) Counterweights for log handling equipment (described in statistical reporting number 8431.39.0070)

(43) Backhoe counterweights each weighing more than 400 kg but not more than 600 kg (described in statistical reporting number 8431.49.9044)

(44) Excavator crawler shoes (described in statistical reporting number 8431.49.9044)

(45) Seeder or spreader baffle and baffle assemblies (described in statistical reporting number 8432.90.0060)

(46) Seeder or spreader frames (described in statistical reporting number 8432.90.0060)

(47) Seeder or spreader handles (described in statistical reporting number 8432.90.0060)

(48) Seeder or spreader hopper assemblies (described in statistical reporting number 8432.90.0060)

(49) Seeder or spreader hopper grates (described in statistical reporting number 8432.90.0060)

(50) Seeder or spreader impellers (described in statistical reporting number 8432.90.0060)

(51) Chipper/shredder machines, electrically powered (described in statistical reporting number 8436.80.0090)

(52) Chipper/shredder machines, gasoline powered, valued less than $250 per unit (described in statistical reporting number 8436.80.0090)

(53) Malt production equipment (described in statistical reporting number 8436.80.0090)

(54) Horizontal lathes, electrically powered not over 1.5 horsepower (described in statistical reporting number 8458.19.0020)

(55) Feeder and vibratory flow equipment and parts thereof designed for use in screening or sorting machines; housings and noise reduction enclosures; the foregoing described in statistical reporting number 8474.90.0010)

(56) Press machines for bamboo or other materials of a woody nature (described in statistical reporting number 8479.30.0000)

(57) Electric wire coil-winder machines (described in statistical reporting number 8479.81.0000)

(58) Insulated mixing chambers of stainless steel, each having a capacity of 5 m^3 to 25 cubic meters (described in statistical reporting number 8479.82.0040)

(59) Check valves of steel having an internal diameter not less than 4.8 cm or exceeding 62.5 cm (described in statistical reporting number 8481.30.2090)

(60) Bodies of pressure-reducing valves other than hand-operated or check valves and valves classified in 8481.20, such bodies of brass (described in statistical reporting number 8481.90.9060)

(61) Bodies of valves other than hand-operated or check valves and valves classified in 8481.20, such bodies measuring over 18 cm but not exceeding 19 cm in length, valued over $55 but not over $65 per unit (described in statistical reporting number 8481.90.9060)

(62) Flanged wheel hub bearing units with ball bearings, each having an inner diameter exceeding 2.2 cm but not exceeding 2.8 cm (described in statistical reporting number 8482.10.5016)

(63) Wheel hub angular contact bearing units, not flanged, valued over $2 but not over $10 per unit (described in statistical reporting number 8482.10.5024)

(64) Inner bearing rings (described in statistical reporting number 8482.99.0500)

(65) Non-toothed gears for office printers, each valued not over $7 (described in statistical reporting number 8483.40.9000)

(66) Non-grooved pulleys, each incorporating a deep groove roller bearing (described in statistical reporting number 8483.50.9080)

(67) Non-grooved pulleys, zinc plated, each valued not over $3 (described in statistical reporting number 8483.50.9080)

(68) Hubs for conveyor pulleys with an outside diameter of more than 5 cm but not more than 56 cm (described in statistical reporting number 8483.90.8080)

(69) Handles for machinery (described in statistical reporting number 8487.90.0080)

(70) Electric motors of a width exceeding 7.5 cm but not exceeding 7.8 cm (described in statistical reporting number 8501.10.4060)

(71) DC motors, each valued over $125, with attached stranded copper cord (described in statistical reporting number 8501.31.2000)

(72) AC motors, multi-phase, each of an output exceeding 75 kW but less than 149.2 kW (described in statistical reporting number 8501.53.4080)

(73) AC generators, each weighing over 250 kg but not more than 1 metric ton and valued not over $2,400 (described in statistical reporting number 8501.62.0000)

(74) Transformers designed to control horizontal motion of electron beams in cathode-ray tubes (described in

statistical reporting number 8504.33.0020)
(75) Static converter covers, bases and housings (described in statistical reporting number 8504.90.9650)
(76) Furnace casings (described in statistical reporting number 8514.90.8000)
(77) Structural components for industrial furnaces (described in statistical reporting number 8514.90.8000)
(78) Manually operated rework stations, including soldering/desoldering stations (described in statistical reporting number 8515.19.0000)
(79) Machines and apparatus for arc (including plasma arc) welding, each valued not over $500 (described in statistical reporting number 8515.39.0020)
(80) Hand-held transceivers (except Citizen's Band and except low-power radiotelephonic operating on frequencies from 49.82 MHz to 49.90 MHz), valued not over $70 each (described in statistical reporting number 8525.60.1030)
(81) Fixed capacitors valued not over $4 per unit (described in statistical reporting number 8532.10.0000)
(82) Fixed oil-filled capacitors rated at 1 kV to 25 kV (described in statistical reporting number 8532.10.0000)
(83) Tantalum capacitors having a conductive polymer cathode, valued not over $4 per unit (described in statistical reporting number 8532.21.0050)
(84) Tantalum capacitors, each measuring 7.3 mm by 4.3 mm by 1.9 mm and valued not over $4 (described in statistical reporting number 8532.21.0050)
(85) Aluminum electrolytic capacitors, each valued not over $2.50 (described in statistical reporting number 8532.22.0085)
(86) Contactors, for a voltage not exceeding 60 V and with contacts rated at or more than 10 A, each valued not over $18 (described in statistical reporting number 8536.41.0045)
(87) Rotary switches, rated at over 5 A, measuring not more than 5.5 cm by 5.0 cm by 3.4 cm, each with 2 to 8 spade terminals and an actuator shaft with D-shaped cross section (described in statistical reporting number 8536.50.9025)
(88) Rotary switches, single pole, single throw (SPST), rated at over 5 A, each measuring not more than 14.6 cm by 8.9 cm by 14.1 cm (described in statistical reporting number 8536.50.9025)
(89) Momentary contact switches rated at or under 5 A, each designed for use as a motor vehicle overdrive switch (described in statistical reporting number 8536.50.9031)
(90) Momentary contact switches rated at or under 5 A, valued not over $4 per unit (described in statistical reporting number 8536.50.9031)
(91) Rocker switches, for a voltage not exceeding 1,000 V, designed for use in motor vehicles (described in statistical reporting number 8536.50.9065)
(92) Molded buttons (described in statistical reporting number 8538.90.6000)
(93) Molded housings and covers (described in statistical reporting number 8538.90.6000)
(94) Tanks for dead tank circuit breakers, of aluminum (described in statistical reporting number 8538.90.8120)
(95) Aluminum anodes for use with machines and apparatus for electroplating, electrolysis or electrophoresis (described in statistical reporting number 8543.30.9080)
(96) Chlorine generator chambers containing titanium plates for use with machines and apparatus for electroplating, electrolysis or electrophoresis (described in statistical reporting number 8543.30.9080)
(97) Zinc anodes for use with machines and apparatus for electroplating, electrolysis or electrophoresis (described in statistical reporting number 8543.30.9080)
(98) Weather station sets, each consisting of a monitoring display and outdoor weather sensors, having a transmission range of not over 140 m and valued not over $50 per set (described in statistical reporting number 9015.80.8080)
(99) Veterinary ultrasound device with black-and-white image quality used as a medical diagnostic tool (described in statistical reporting number 9018.12.0000)
(100) Microwave ablation antennas, whether or not with attached controls, as parts of ablation systems used to ablate live tumors (described in statistical reporting number 9018.90.6000)
(101) Parts and accessories of electro-surgical instruments and appliances, other than extracorporeal shock wave lithotripters (described in statistical reporting number 9018.90.6000)
(102) Smoke evacuation pencils with accompanying tubing and hoses designed to integrate smoke evacuation into electrosurgery by combining both features into a single handpiece, which is designed to apply mono-polar electrosurgical energy to target tissue in a surgical setting while simultaneously evacuating smoke from the surgical site (described in statistical reporting number 9018.90.6000)
(103) Suction coagulators, consisting of a hand-piece with mechanical and/or electrical controls and a disposable shaft, used for the coagulation of tissue and aspiration of fluids during surgical procedures (described in statistical reporting number 9018.90.6000)
(104) Vessel sealing and dividing devices that use electrical energy to separate and seal tissue during open or laparoscopic surgical procedures, consisting of a handpiece with mechanical and/or electrical controls, and a bipolar electrode intended to deliver electrosurgical current from a system generator directly to tissues for cutting/coagulation/ablation (described in statistical reporting number 9018.90.6000)
(105) Dental X-ray alignment and positioning apparatus, each valued over $5,000 (described in statistical reporting number 9022.90.6000)
(106) Multi-leaf collimators of radiotherapy systems based on the use of X-ray (described in statistical reporting number 9022.90.6000)
(107) Overhead tube suspension used to hold and position X-ray generating equipment (described in statistical reporting number 9022.90.6000)
(108) Instruments and apparatus that chemically analyze food to detect the presence of gluten or peanuts, valued at less than $55 per unit (described in statistical reporting number 9027.80.4530)
(109) Picoammeters with recording devices (described in statistical reporting number 9030.39.0100)
(110) Humidistats, each with outdoor sensor, such humidistats valued not over $40 each (described in statistical reporting number 9032.89.6070)''

3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:

a. Deleting the word ''or'' where it appears after the phrase ''U.S. note 20(k) to subchapter III of chapter 99;''; and

b. inserting ''; or (6) heading 9903.88.11 and U.S. note 20(n) to subchapter III of chapter 99'' after the phrase ''U.S. note 20(m) to subchapter III of chapter 99'', where it appears at the end of the sentence.

4. by amending the first sentence of U.S. note 20(b) to subchapter III of chapter 99 by:

a. Deleting the word ''or'' where it appears after the phrase ''U.S. note 20(k) to subchapter III of chapter 99;''; and

b. inserting ''; or (6) heading 9903.88.11 and U.S. note 20(n) to subchapter III of chapter 99'' after the phrase ''U.S. note 20(m) to subchapter III of chapter 99'', where it appears at the end of the sentence.

5. by amending the Article Description of heading 9903.88.01:

a. by deleting ''9903.88.08 or'';

b. by inserting in lieu thereof ''9903.88.08, ''; and

c. by inserting ''or 9903.88.11,'' after ''9903.88.10,''.

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, U.S. note 20(k)(26) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''DC electric motors, of an output of less than 18.65 W, valued over $4, other than brushless (described in statistical reporting number 8501.10.4060)'' and inserting ''Electric motors of a width exceeding 7.5 mm but not exceeding 43 mm (described in statistical reporting number 8501.10.4060)'' in lieu thereof.

C. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, U.S. note 20(m)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8427.10.8090'' and inserting ''8427.10.8070 and 8427.10.8095'' in lieu thereof.

D. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, U.S. note 20(m)(53) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8404.40.4000'' and inserting ''8504.40.4000'' in lieu thereof.

E. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, U.S. note 20(m)(54) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8504.40.0000'' and inserting ''8504.40.4000'' in lieu thereof.

[FR Doc. 2019–14562 Filed 7–8–19; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Finding of No Significant Impact/Record of Decision and Adoption of the United States Air Force Supplemental Environmental Analysis for the Establishment of the Playas Temporary Military Operating Area

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of availability of Finding of No Significant Impact/Record of Decision.

SUMMARY: The Federal Aviation Administration (FAA) announces its decision to adopt the United States Air Force (USAF) Playas Military Operating Area and Red Flag Rescue Supplemental Environmental Analysis (SEA) for the establishment of a Temporary Military Operating Area (TMOA) in Playas, New Mexico. This notice announces that based on its independent review and evaluation of the SEA and supporting documentation, the FAA is adopting the SEA and issuing a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) for the establishment of the Playas TMOA.

FOR FURTHER INFORMATION CONTACT: Paula Miller, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–7378.

SUPPLEMENTARY INFORMATION:

Background

The USAF has established Red Flag-Rescue as an USAF level combat search and rescue exercise that is conducted twice a year using the Playas Training and Research Center located in Grant and Hidalgo Counties in southwest New Mexico. The Red Flag-Rescue training exercise is designed to provide personnel recovery training for U.S. combat aircrews, para-rescue teams, survival specialists, intelligence personnel, air battle managers, and personnel from the Joint Personnel Recovery Center. A TMOA is required for military aircraft that support the exercise.

In accordance with Section 102 of the National Environmental Policy Act of 1969 (''NEPA''), the Council on Environmental Quality's (''CEQ'') regulations implementing NEPA (40 CFR parts 1500–1508), and other applicable authorities, including the FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 8–2, and FAA Order JO 7400.2M, ''Procedures for Handling Airspace Matters,'' paragraph 32–2–3, the FAA has conducted an independent review and evaluation of the USAF's SEA, dated February 2018, and its supporting documents. As a cooperating agency with responsibility for approving special use airspace (SUA) under 49 U.S.C. 40103(b)(3)(A), the FAA provided subject matter expertise and coordinated with the USAF during the environmental review process.

Implementation

After evaluating the aeronautical study and the SEA, the FAA has issued a FONSI/ROD to establish the Playas TMOA for a period not to exceed five days during an 18-day window from August 10–24, 2019. The Playas TMOA will be activated by publishing a Notice to Airman two cycles (56 days) prior to the exercise in the Notices to Airman Publication.

FAA circularized the proposed action from February 23, 2109 through April 1, 2019 in the areas required by JO 7400.2M, which resulted in zero public comments. The circularization referenced two events, a USAF exercise in May 2019 and another in August 2019. The May 2019 event was canceled, but the August 2019 event is the proposed action. The FONSI/ROD and SEA are available upon request by contacting Paula Miller at: Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–7378.

Issued in Des Moines, WA, on June 24, 2019.

Shawn Kozica,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2019–14470 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0396]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Application for Employment With the Federal Aviation Administration Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: This notice is a Correction to the notice published on May 14, 2019, due to invalid Form Number and omission of the website's URL.

In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves an automated application process for employment with the Federal Aviation Administration by way of the Office of Personnel Management's (OPM) USAJOBS website: *www.usajobs.gov.* The Applicants begin the application process by building an account on USAJOBS website and; thereafter, they are passed into the FAA Automated Vacancy Information Access Tool for Online Referral (AVIATOR) to answer specific questions related to FAA job vacancy of interest. This pass through is a direct USAJOBS interface with AVIATOR and; hence, there is no standalone link to be used by the applicants.

The information collected is necessary to determine basic eligibility for employment and potential eligibility for Veteran's Preference, Veteran's Readjustment Act, and People with Disability appointments. In addition, there are specific occupation questions that assist the FAA Office of Human Resource Management (AHR) in determining candidates' qualifications in order that the best-qualified candidates are hired for the many FAA occupations.

DATES: Written comments should be submitted by September 9, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Toni Main-Valentin, FAA Mike Monroney Aeronautical Center, Office of Human Resource Management, P.O. Box 25082, Headquarters Bldg1, Oklahoma City, OK 73125.

By fax: 405–954–5766.

FOR FURTHER INFORMATION CONTACT: Toni Main-Valentin by email at: *toni.main-valentin@faa.gov;* phone: 405–954–0870.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0597.

Title: Application for Employment with the Federal Aviation Administration.

Online website: www.usajobs.gov.

Type of Review: Renewal of an information collection.

Background: Under the provisions of Public Law 104–50, the Federal Aviation Administration (FAA) was given the authority and the responsibility for developing and implementing its own personnel system without regard to most of the provisions of Title 5, United States Code, exceptions being those concerning veteran's preference and various benefits.

The OPM developed a suite of forms for use in automated employment processes: All under a single OMB approval. The FAA AHR has the same OMB approval for its automated application for employment. By automating processes for employment application and the evaluation of candidates, AHR has markedly improved the service it provides to the public as well as its ability to locate and hire the best-qualified applicants. Lastly, via this process, applicants are provided on-line results immediately upon submitting their application questionnaires.

The Agency is requesting certain information necessary to determine basic eligibility for employment and potential eligibility for Veteran's Preference, Veteran's Readjustment Act, and People with Disability appointments. In addition, occupation specific questions assist AHR in determining candidates' qualifications in order that the best-qualified candidates are hired for the many FAA occupations. The system currently in use for this collection is the Automated Vacancy Information Access Tool for Online Referral (AVIATOR). This system cannot be directly accessed. Applicants are transferred to the AVIATOR system from OPM's USAJOBS website during the application process.

Respondents: Over 180,000 U.S. citizens identified as applicants for employment with the Federal Aviation Administration.

Frequency: On occasion/as interested.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 180,000 hours.

Approximately 180,000 respondents will complete an application form on as needed basis. Based on this sample size, it will take the average applicant approximately 1 hour to read the instructions and complete the form. The estimated total burden is 180,000 hours annually.

Issued in Washington, DC, on May 16, 2019.

Alpha Woodson-Smith,

Information Technology Project Manager, Finance and Management (AFN), Information and Technology Services (AIT), Enterprise Program Management Service (AEM–320).

[FR Doc. 2019–14555 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0113]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 29, 2019.

DATES: Comments must be submitted on or before August 8, 2019.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Albert Bratton, Office of Financial Approvals, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–5769.

SUPPLEMENTARY INFORMATION:

Title: Determination of Fair and Reasonable Rates for the Carriage of Agricultural Cargoes on U.S. Commercial Vessels—46 CFR.

OMB Control Number: 2133–0514.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: This collection of information requires U.S.-flag operators

to submit annual vessel operating costs and capital costs data to Maritime Administration officials. The information is used by the Maritime Administration in determining fair and reasonable guideline rates for the carriage of preference cargoes on U.S.-flag vessels. In addition, U.S.-flag vessel operators are required to submit Post Voyage Reports to the Maritime Administration after completion of a cargo preference voyage.

Respondents: U.S. citizens who own and operate U.S.-flag vessels.

Affected Public: Business or other for profit.

Total Estimated Number of Responses: 68.

Frequency of Collection: Annually.

Estimated Time per Respondent: 1–4 hours.

Total Estimated Number of Annual Burden Hours: 176.

Public Comments Invited: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

Dated: July 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–14503 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0110]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LUCHADORA (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0110 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0110 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0010, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LUCHADORA is:

—*Intended Commercial Use of Vessel:* ''We will be using our vessel for a two-hour sunset cruises''

—*Geographic Region Including Base of Operations:* ''New York (excluding New York Harbor)'' (Base of Operations: Greenport, NY)

—*Vessel Length and Type:* 43′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0110 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0110 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible,

a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

Dated: July 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–14506 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0112]

Request for Comments on the Approval of a New Proposed Information Collection: Exercise Breakout 2019 Survey

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to of a new information collection. The information that will be collected from this survey pertains to merchant mariners training and familiarity with Naval systems and procedures. This survey also gauges the willingness of merchant mariners to sail into harm's way in time of national need. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before September 9, 2019.

ADDRESSES: You may submit comments [identified by Docket No. MARAD–2019–0028] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Thanos Perlegas, 202–366–0772, Office of Federal Sealift, Division of Sealift Operation and Emergency Response, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *thanos.perlegas@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title: Exercise Breakout 2019 Survey.

OMB Control Number: 2133–NEW.

Type of Request: Approval of a new Information Collection.

Abstract: This survey will be conducted on a voluntary basis and is intended to provide vital information to the Ready Reserve Force Program. This exercise is designed to test MARAD's internal administrative procedures, as well as the coordination necessary for a complete activation of MARAD's Ready Reserve Force (RRF) and the Military Sealift Command (MSC) Surge Sealift Fleet to meet strategic sealift requirements. Periodic testing is necessary in view of the dynamics that affect the RRF program, which include changes in RRF fleet composition, readiness status, ship location as well as changes to the seafaring manpower base. The mariner survey is an integral part of the Breakout Exercise. This survey will be used to measure mariner availability, training and experience.

Respondents: This survey is restricted to Merchant Mariners.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 575.

Estimated Number of Responses: 200.

Estimated Hours per Response: .05.

Annual Estimated Total Annual Burden Hours: 10.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

* * * * *

Dated: July 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–14504 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0111]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LADY ARLENE (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0111 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0111 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–1019–0111, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you

include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LADY ARLENE is:

—*Intended Commercial use of Vessel:* ''The intended commercial use will be mainly one day charters, typically from 9:00 a.m. to 8:00 p.m. The Charters will be sightseeing and on Board entertaining with 6 to 12 guests.''

—*Geographic Region Including Base of Operations:* ''Florida and New York (excluding New York Harbor)'' (Base of Operations: Port Washington, Long Island)

—*Vessel Length and Type:* 105′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0111 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0111 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

Dated: July 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–14505 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0006; Notice 1]

Volkswagen Group of America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Volkswagen Group of America, Inc. (Volkswagen), has determined that certain Model year (MY) 2015–2016 Audi A3 and Audi S3 motor vehicles do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Volkswagen filed a noncompliance report dated January 28, 2019, and also petitioned NHTSA on January 28, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Volkswagen's petition.

DATES: Send comments on or before August 8, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

• *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Volkswagen has determined that certain MY 2015–2016 Audi A3, S3 Sedan, and A3 Cabriolet motor vehicles do not comply with paragraph S9.3.6. of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). Volkswagen filed a noncompliance report dated January 28, 2019, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on January 28, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 81,831 MY 2015–2016 Audi A3, S3 Sedan and A3 Cabriolet motor vehicles, manufactured between November 28, 2013, and July 28, 2016, are potentially involved.

III. Noncompliance: Volkswagen explains that the noncompliance is that the subject vehicles are equipped with turn signal pilot indicators that do not meet the flashing rate as required by paragraph S9.3.6 of FMVSS No. 108. Specifically, the left turn signal indicator, does not have a significant change in the flashing rate when the left rear turn signal LED array becomes inoperative.

IV. Rule Requirements: Paragraph S9.3.6 of FMVSS No. 108 provides the requirements relevant to this petition. Failure of one or more turn signal lamps, such that the minimum photometric performance specified in Tables VI or VII of FMVSS No. 108 is not being met, must be indicated by the turn signal pilot indicator by a ''steady on,'' ''steady off,'' or by a significant change in the flashing rate.

V. Summary of Petition: Volkswagen described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Volkswagen submitted the following reasoning:

1. The driver receives two different indicator warnings in the instrument cluster immediately upon error. The brake light and indicator light/turn signal are combined and the referenced tail lamp assembly subject to FMVSS No. 108 is the outboard lighting assembly. The subject condition is limited to the outermost left rear lamp assembly only.

2. In the case of bulb failure, both lights (brake light and indicator light/turn signal are combined) become inoperative, including the turn signal. Should the LED left turn signal become inoperative, the external indicator lights that signal left turns, which are located on the trunk and on the left side view mirror of the vehicle, are still operational.

3. Additionally, the reverse lamp in the left rear tail lamp assembly, the left brake light in the trunk lid assembly, and the center high mount stop lamp, will remain operational.

Volkswagen concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–14484 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0100]

Hazardous Materials: Notice of Availability of the Draft Environmental Assessment for a Special Permit Request for Liquefied Natural Gas by Rail

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; comment period extension.

SUMMARY: PHMSA is extending the comment period for the notice announcing the availability for public review of and comment on the draft environmental assessment for a special permit request to transport ''Methane, Refrigerated Liquid'' (*i.e.,* liquefied natural gas) by rail tank car.

DATES: The comment period for the notice published June 6, 2019, at 84 FR 26507, is extended. Comments should

be received on or before August 7, 2019. To the extent possible, PHMSA will consider late-filed comments.

ADDRESSES: Comments should reference the Docket number for this notice and may be submitted in the following ways:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2019–0100) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: For access to the dockets to read associated documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its process. DOT posts these comments, without change, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ryan Paquet by telephone at 202–366–4511, or email at *specialpermits@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 6, 2019, PHMSA published a notice announcing the availability of a draft environmental assessment for public review. Specifically, PHMSA received a request for a special permit from Energy Transport Solutions, LLC seeking authorization to transport ''Methane, Refrigerated Liquid'' (UN1972), commonly known and liquefied natural gas (LNG), in a rail tank car. The request is to authorize shipment of LNG in a DOT specification 113C120W tank car subject to certain operational conditions. We invited interested persons to review and provide comment on the ''draft environmental assessment'' for this special permit request; and to include relevant information on potential safety, environmental, and any additional impacts that should be considered. PHMSA has also included the draft special permit in the docket for this notice as further reference material. The notice, draft environmental assessment, and draft special permit are available for review at *http://www.regulations.gov* under Docket number PHMSA–2019–0100.

II. Comment Period Extension

PHMSA is granting a request to extend the comment period. The request was received from two members of Congress.[1] PHMSA initially provided a 30-day comment period to the notice, which ends on July 8, 2019. The comment period is being extended 30 days. The comment period will now close on August 7, 2019. This will allow PHMSA to seek additional review and public input on this issue.

III. Additional Docket Materials

PHMSA is also using this comment period extension notice to make the public aware of additional documents submitted to the docket and available for public review:

1. An updated draft Environmental Assessment.

2. The Energy Transport Solutions, LLC Quantitative Risk Assessment (QRA).

3. The Energy Transport Solutions, LLC special permit application (in redacted form).

Issued in Washington, DC, on July 3, 2019, under authority delegated in 49 CFR part 1.97.

Drue Pearce,

Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2019–14532 Filed 7–8–19; 8:45 am]

BILLING CODE 4910–60–P

[1] See June 28, 2019, letter from Representative Peter A. DeFazio, Chairman, Committee on Transportation and Infrastructure and Representative Tom Malinowski, which has been added to the docket at *www.regulations.gov.*

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Disclosure and Reporting of CRA-Related Agreements

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning its information collection titled ''Disclosure and Reporting of CRA-Related Agreements.'' The OCC also is giving notice that the collection has been sent to OMB for review.

DATES: Comments must be received by August 8, 2019.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0219, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0219'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0219, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov.*

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-day comment period for this notice by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0219'' or ''Disclosure and Reporting of CRA-Related Agreements.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB extend its approval of this collection.

Title: Disclosure and Reporting of CRA-Related Agreements.

OMB Control No.: 1557–0219.

Description: National banks, federal savings associations, and their affiliates occasionally enter into agreements with nongovernmental entities or persons (NGEPs) that are related to their Community Reinvestment Act (CRA) responsibilities. Section 48 of the Federal Deposit Insurance Act (FDI Act) [2] requires disclosure of certain of these agreements and imposes related reporting requirements on insured depository institutions (IDIs), their affiliates, and NGEPs. As mandated by the FDI Act, the OCC, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System issued regulations to implement these disclosure and reporting requirements. The disclosure and reporting provisions of these regulations constitute collections of information under the PRA. The regulation issued by the OCC is codified at 12 CFR 35 and is known as the ''CRA Sunshine'' regulation.

Section 48 of the FDI Act applies to written agreements that: (1) Are made in fulfillment of the CRA; (2) involve funds or other resources of an IDI or affiliate with an aggregate value of more than $10,000 in a year or loans with an aggregate principal value of more than $50,000 in a year; [3] and (3) are entered into by an IDI or affiliate and an NGEP.[4]

Under section 48, the parties to a covered agreement must make the agreement available to the public and the appropriate agency.[5] This section also requires the parties to file a report annually with the appropriate agency concerning the disbursement, receipt, and use of funds or other resources under the agreement.[6] The collections of information in CRA Sunshine regulation implement these statutorily mandated disclosure and reporting requirements. The parties to the agreement may request confidential treatment of proprietary and confidential information in an agreement or annual report and may withhold from public disclosure confidential or proprietary information in an agreement.[7]

The information collections are found in 12 CFR 35.4(b); 35.6; and 35.7 and they require:

- IDIs or affiliates to notify NGEPs that are parties to certain agreements that these are agreements with a CRA affiliate;
- NGEPs and IDIs or their affiliates to make a copy of a covered agreement available to any individual or entity upon request;
- NGEPs to provide a copy of the covered agreement within 30 days of receiving a request from the relevant supervisory agency;
- Each IDI and affiliate to provide each relevant supervisory agency with a copy of each covered agreement or a list of all covered agreements entered into during the calendar quarter, within 60 days of the end of each calendar quarter; [8] and
- Annual reporting.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 13 (7 IDIs; 6 NGEPs).

Number of Agreements: 237.

Number of Annual Reports: 9.

Estimated Total Annual Burden: 527.

On March 29, 2019, the OCC issued a notice for 60-day of comment concerning this collection, 84 FR 12032. The OCC received one comment from a trade association. The commenter first urged a repeal of section 48 of the FDI Act (12 U.S.C. 1831y), arguing that the statute imposes a burdensome and costly reporting regime that inhibits IDIs interested in working with NGEPs. The commenter cited a Federal Financial Institutions Examination Council (FFIEC) report to Congress, which stated that section 48's reporting requirements are unduly burdensome.[9] The commenter also noted that examination teams rarely request information related to covered agreements, despite the resources required to properly report them.

The commenter also requested two revisions to the OCC's regulation. First, the commenter requested that the OCC eliminate the quarterly reporting requirement, which the commenter believes is more burdensome than the annual reporting required by the statute. The commenter stated that the FFIEC

[1] On March 29, 2019, the OCC published a 60-day notice for this information collection, 84 FR 12032.

[2] 12 U.S.C. 1831y.

[3] The definition includes groups of substantially related agreements that satisfy these amounts in the aggregate.

[4] 12 U.S.C. 1831y(e).

[5] 12 U.S.C. 1831y(a).

[6] 12 U.S.C. 1831y(b)–(c).

[7] 12 CFR 35.6(b)(2), 35.8; *see* 12 U.S.C. 1831y(h)(2)(A).

[8] If providing a list of covered agreements, the IDI or affiliate must provide a copy and public version of any agreement referenced in the list to any relevant supervisory agency within seven calendar days of receiving a request from the agency.

[9] FFIEC *Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act,* 53–54, *available at https://www.occ.gov/news-issuances/news-releases/2017/nr-ia-2017-33a.pdf.*

had considered eliminating the quarterly reporting requirement, citing the same FFIEC report to Congress. Second, the commenter recommended that the OCC limit the regulation's applicability to legally binding, written contracts, rather than applying it to agreements that reflect a mutual understanding and some oral communications. The commenter argued that the existing approach increases burden and obstructs activity in low- and moderate-income communities.

The OCC appreciates the information provided by the commenter. However, to the extent the commenter disagrees with the scope or requirements of section 48 or the OCC's implementing regulation, the OCC cannot repeal the statute, nor can it revise the regulation through the PRA renewal process.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 2, 2019.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019–14543 Filed 7–8–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Margin and Capital Requirements for Covered Swap Entities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury. ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on the renewal of an information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Margin and Capital Requirements for Covered Swap Entities.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before August 8, 2019.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0251, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0251'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0251, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov.*

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-day comment period for this notice by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0251'' or ''Margin and Capital Requirements for Covered Swap Entities.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend its emergency approval of the interim final rule described in this notice to the customary three years.

Title: Margin and Capital Requirements for Covered Swap Entities.

OMB Control No.: 1557–0251.

Description: On March 19, 2019,[2] the OCC, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency

[1] On March 29, 2019, the OCC published a 60-day notice for this information collection, 84 FR 12031.

[2] 84 FR 9940.

(agencies) issued an interim final rule amending the agencies' regulations that require swap dealers and security based swap dealers (Swap Margin Rule) under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared. Swaps entered into before the effective dates of the Swap Margin Rule are grandfathered by the Swap Margin Rule until they expire according to their terms. There are currently financial services firms in the United Kingdom (U.K.) that conduct swap dealing activities subject to the Swap Margin Rule. If the U.K. withdraws from the European Union (E.U.) without a negotiated agreement between the U.K. and E.U., entities located in the U.K. may not be authorized to provide full-scope financial services to swap counterparties located in the E.U. The agencies are addressing a scenario whereby entities located in the U.K. might transfer their existing swap portfolios that face counterparties located in the E.U. over to an affiliate or other related establishment located within the E.U. or the United States (U.S.). These transfers, if carried out in accordance with the conditions of the interim final rule, will not trigger the application of the Swap Margin Rule to grandfathered swaps that were entered into before the Swap Margin Rule's compliance dates.

The interim final rule distinguishes transfers initiated by the financial entity standing as the covered swap entity at the completion of the transaction from a transfer initiated by the covered swap entity's counterparty. In the case of transfers initiated by the covered swap entity's counterparty, the counterparty must make a representation to the covered swap entity that the counterparty carried out the swap in accordance with both elements of the purpose test.[3] Twelve CFR 45.1(h) specifies that transfers of legacy swaps initiated by a covered swap entity's counterparty require a representation to the covered swap entity that the counterparty carried out the swap in accordance with both elements of the purpose test in order to remain outside the scope of the Swap Margin. This requirement constitutes a third party disclosure under the PRA.

Estimated Number of Respondents: 10.

Estimated Burden per Response: 1 hour.

Total Estimated Burden: 10 hours.

Type of Review: Regular.

Affected Public: Individuals; Businesses or other for-profit.

Frequency of Response: On occasion.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 2, 2019.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019–14544 Filed 7–8–19; 8:45 am]

BILLING CODE 4810–33–P

[3] The purpose test requires that the financial entity located in the U.K. arrange to make the amendments to the non- cleared swap solely for the purpose of transferring the non-cleared swap to an affiliate or other related establishment that is located in an E.U. Member State or the United States. This purpose test also contains a requirement that the transfer be made in connection with the U.K. entity's planning for the possibility that the U.K. might exit the E.U. without a negotiated agreement, or the U.K. entity's response to such an event.

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2019, and ending on September 30, 2019, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 2.37 per centum per annum.

DATES: Rates are applicable July 1, 2019 to September 30, 2019.

ADDRESSES: Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328.

You can download this notice at the following internet addresses: *http://www.treasury.gov* or *http://www.federalregister.gov.*

FOR FURTHER INFORMATION CONTACT: Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 261006–1328, (304) 480–5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.'' 8 U.S.C. 1363(a). Related Federal regulations state that ''Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero.'' 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015–18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect website.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2019–14497 Filed 7–8–19; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nomination for Appointment to the Advisory Committee on the Readjustment of Veterans

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Readjustment Counseling Service (RCS), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on the Readjustment of Veterans (''the Committee'') for the 2019 membership cycle.

DATES: Nominations for membership on the Committee must be received by August 15, 2019, no later than 4:00 p.m., eastern standard time. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nomination packages should be sent to the VA Readjustment Counseling Service, by email (recommended) or mail. Please see contact information below: VA Readjustment Counseling Service (10RCS), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, *VHA10RCSAction@va.gov.*

FOR FURTHER INFORMATION CONTACT: Sherry Moravy and/or Richard Barbato, Readjustment Counseling Service (10RCS), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, Telephone (734) 222–4319.

SUPPLEMENTARY INFORMATION: In carrying out the duties set forth, the Committee responsibilities include, but are not limited to providing a Congressionally-mandated report to the Secretary each year, which includes:

(1) An assessment of the needs of Veterans with respect to readjustment to civilian life;

(2) A review of the programs and activities of the Department designed to meet such needs; and

(3) Such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate. Management and support services for the Committee are provided by the VA Readjustment Counseling Service (RCS).

Authority: The Committee was established in accordance with 38 U.S.C. 545 and operates under the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2. In accordance with 38 U.S.C. 545, the Committee advises the Secretary on the provision by VA of benefits and services to assist Veterans in the readjustment to civilian life. In carrying out this duty, the Committee shall take into special account the needs of Veterans who served in combat theaters of operation. In accordance with the Statute and the Committee's current charter, the majority of the membership ship consist on non-Federal employees appointed by the Secretary from the general public, serving as special government employees.

The Secretary appoints Committee members, and determines the length of terms in which the Committee members serve. A term of service for any member may not exceed 2 years. However, the Secretary can reappoint members for additional terms. Each year, there are several vacancies on the Committee, as members' terms expire.

Membership Criteria: The Committee is currently composed of 12 members. By statute, Committee consists of members appointed by the Secretary from the general public, including individuals who have demonstrated civic or professional achievement; and have experience with the provision of Veterans benefits and services by VA.

The membership will include: (1) Individuals from a wide variety of geographic areas and ethnic backgrounds; (2) individuals from Veterans service organizations; (3) individuals with combat experience; and (4) women.

In addition to the criteria above, VA seeks—

(1) diversity in professional and personal qualifications;

(2) experience in military service and military deployments (please identify Branch of Service and Rank);

(3) current work with Veterans;

(4) committee subject matter expertise; and

(5) experience working in large and complex organizations.

The Committee meets at least two times annually, which may include a site visit to a VA field location. In accordance with Federal Travel Regulation, VA will cover travel expenses—to include per diem—for all members of the Committee, for any travel associated with official Committee duties. A copy of the Committee's most resent charter and a list of the current membership can be found at *https://www.va.gov/ADVISORY/Advisory_Committee_on_the_Readjusment_of_Veterans_Statutory.asp.*

In accordance with recently revised guidance regarding the ban on lobbyists serving as members of advisory boards and commissions, Federally-registered lobbyists are prohibited from serving on Federal advisory committees in an individual capacity. Additional information regarding this issue can be found at *www.federalregister.gov/articles/2014/08/13/2014-19140/revised-guidance-on-appointment-of-lobbyists-to-federal-advisory-committees-boardsand-commissions.*

Requirements for Nomination Submission: Nomination packages (one nomination per nominator) must be typed (12-point font) and include: (1) A cover letter from the nominee, and (2) a current resume that is *no more than four pages in length.* The cover letter must summarize: The nominees' interest in serving on the committee and contributions she/he can make to the work of the committee; any relevant Veterans service activities she/he is currently engaged in; the military branch affiliation and timeframe of military service (if applicable). To promote inclusion and demographic balance of membership, please include as much information related to the nominee's race, national origin, disability status, or any other factors that may give the individual a diverse perspective on Veteran readjustment Veterans. Finally, the cover letter *must* include the nominee's complete contact information (name, address, email address, and phone number); and a statement confirming that she/he is not a Federally-registered lobbyist. The resume should show professional and/or work experience, and Veterans service involvement—especially service that involves combat Veterans' and Active Duty service members' issues. Self-nominations are acceptable. Any letters of nomination from organizations or other individuals must accompany the package, when it is submitted. Letters of nomination submitted without a complete nomination package *will not* be considered. Do not submit a package, without the nominee's consent or awareness.

The Department makes every effort to ensure that the membership of its advisory committees is fairly balanced, in terms of points of view represented. In the review process, consideration is given to nominees' potential to address the Committee's demographic needs (regional representation, race/ethnicity representation, professional expertise, war era service, gender, former enlisted or officer status, branch of service, etc.). Other considerations to promote a

balanced membership include longevity of military service, significant deployment experience, ability to handle complex issues, experience running large organizations, and ability to contribute to the gender-specific health care and benefits needs of combat Veterans and Active Duty service members.

Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: July 3, 2019.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–14584 Filed 7–8–19; 8:45 am]

BILLING CODE P

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H.R. 2940/P.L. 116–27

To extend the program of block grants to States for temporary assistance for needy families and related programs through September 30, 2019. (July 5, 2019; 133 Stat. 1028)

H.J. Res. 60/P.L. 116–28

Requesting the Secretary of the Interior to authorize unique and one-time arrangements for displays on the National Mall and the Washington Monument during the period beginning on July 16, 2019 and ending on July 20, 2019. (July 5, 2019; 133 Stat. 1029)

S. 2047/P.L. 116–29

To provide for a 2-week extension of the Medicaid community mental health services demonstration program, and for other purposes. (July 5, 2019; 133 Stat. 1031)

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