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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 84 Monday,

No. 236 December 9, 2019

Pages 67169–67342

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0668; Product Identifier 2019–NM–108–AD; Amendment 39–19799; AD 2019–23–05]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directives (ADs) 2016–01–16, 2017–19–03, and 2018–19–05, which applied to Dassault Aviation Model MYSTERE–FALCON 900 airplanes. Those ADs require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and/or airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since AD 2018–19–05 was issued, the FAA has determined that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 26, 2018 (83 FR 47813, September 21, 2018).

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0668.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0668; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0132, dated June 11, 2019 (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model MYSTERE–FALCON 900 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0668.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–19–05, Amendment 39–19405 (83 FR 47813, September 21, 2018) (''AD 2018–19–05''). AD 2018–19–05 applied to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes. AD 2018–19–05 specified that accomplishing the actions required by paragraph (g) of that AD terminated the requirements of AD 2016–01–16, Amendment 39–18376 (81 FR 3320, January 21, 2016) (''AD 2016–01–16''); and AD 2017–19–03, Amendment 39–19033 (82 FR 43166, September 14, 2017) (''AD 2017–19–03''). Therefore, this AD also supersedes AD 2016–01–16 and AD 2017–19–03. Additionally, AD 2018–19–05 specified that accomplishing the actions required by paragraph (g) of that AD terminated the requirements of paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), for Dassault Aviation Model MYSTERE–FALCON 900 airplanes, which is specified in paragraph (k) of this AD.

The NPRM published in the **Federal Register** on September 11, 2019 (84 FR 47906). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, Revision 24, dated September 2018, of the Dassault Aviation Falcon 900

Maintenance Manual. This service information describes procedures, maintenance tasks, and airworthiness limitations specified in the Airworthiness Limitations Section (ALS) of the airplane maintenance manual (AMM).

This AD also requires Chapter 5–40, Airworthiness Limitations, Revision 23, dated September 2017, of the Dassault Aviation Falcon 900 Maintenance Manual, which the Director of the Federal Register approved for incorporation by reference as of October 26, 2018 (83 FR 47813, September 21, 2018).

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 134 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2018–19–05 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although 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. The FAA estimates the total cost per operator for the new actions 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 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directives (AD) 2016–01–16, Amendment 39–18376 (81 FR 3320, January 21, 2016); AD 2017–19–03, Amendment 39–19033 (82 FR 43166, September 14, 2017); and AD 2018–19–05, Amendment 39–19405 (83 FR 47813, September 21, 2018); and

■ b. Adding the following new AD:

2019–23–05 Dassault Aviation: Amendment 39–19799; Docket No. FAA–2019–0668; Product Identifier 2019–NM–108–AD.

(a) Effective Date

This AD is effective January 13, 2020.

(b) Affected ADs

(1) This AD replaces AD 2016–01–16, Amendment 39–18376 (81 FR 3320, January 21, 2016); AD 2017–19–03, Amendment 39–19033 (82 FR 43166, September 14, 2017); and AD 2018–19–05, Amendment 39–19405 (83 FR 47813, September 21, 2018) (''AD 2018–19–05'').

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010).

(c) Applicability

This AD applies to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes, certificated in any category.

(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 reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2018–19–05, with no changes. Within 90 days after October 26, 2018 (the effective date of AD 2018–19–05), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, Revision 23, dated September 2017, of the Dassault Aviation Falcon 900 Maintenance Manual. The initial compliance times for doing the tasks are at the times specified in Chapter 5–40, Airworthiness Limitations, Revision 23, dated September 2017, of the Dassault Aviation Falcon 900 Maintenance Manual, or within 90 days after October 26, 2018, whichever occurs later. The term ''LDG'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total airplane landings. The term ''FH'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight hours. The term ''FC'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight cycles. The term ''M'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means months.

(h) Retained Requirement for No Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2018–19–05, with a new exception. Except as required by paragraph (i) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) New Requirement of This AD: Revision of Existing Maintenance or Inspection Program

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 Chapter 5–40, Airworthiness Limitations, Revision 24, dated September 2018, of the Dassault Aviation Falcon 900 Maintenance Manual. The initial compliance times for doing the tasks are at the times specified in Chapter 5–40, Airworthiness Limitations, Revision 24, dated September 2018, of the Dassault Aviation Falcon 900 Maintenance Manual, or within 90 days after the effective date of this AD, whichever occurs later. The term ''LDG'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total airplane landings. The term ''FH'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight hours. The term ''FC'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight cycles. The term ''M'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means months since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness. Doing the revision required by this paragraph terminates the actions required by paragraph (g) of this AD.

(j) No Alternative Actions or Intervals

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

(k) Terminating Actions for Certain Requirements in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model MYSTERE–FALCON 900 airplanes.

(l) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to *9-ANM-116-AMOC–REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2018–19–05 are approved as AMOCs for the corresponding provisions of this AD.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0132, dated June 11, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0668.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 13, 2020.

(i) Chapter 5–40, Airworthiness Limitations, Revision 24, dated September 2018, of the Dassault Aviation Falcon 900 Maintenance Manual.

(ii) [Reserved]

(4) The following service information was approved for IBR on October 26, 2018 (83 FR 47813, September 21, 2018).

(i) Chapter 5–40, Airworthiness Limitations, Revision 23, dated September 2017, of the Dassault Aviation Falcon 900 Maintenance Manual.

(ii) [Reserved]

(5) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com.*

(6) 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.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on November 15, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–26450 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0697; Product Identifier 2019–NM–110–AD; Amendment 39–19796; AD 2019–23–03]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directives (AD) 2017–19–14 and AD 2014–16–27, which apply to certain Dassault Aviation Model FALCON 900EX airplanes. Those ADs require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and/or airworthiness limitations. Since the FAA issued AD 2017–19–14 and AD 2014–16–27, the FAA determined that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 24, 2017 (82 FR 43674, September 19, 2017).

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0697.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0697; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0134, dated June 11, 2019 (''EASA AD 2019–0134'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 900EX airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0697.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–19–14, Amendment 39–19044 (82 FR 43674, September 19, 2017) (''AD 2017–19–14''); and AD 2014–16–27, Amendment 39–17951 (79 FR 51071, August 27, 2014) (''AD 2014–16–27''). AD 2017–19–14 and AD 2014–16–27 applied to certain Dassault Aviation Model FALCON 900EX airplanes. Further, AD 2014–16–27 terminates paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), for certain Dassault Aviation Model FALCON 900EX airplanes, and this terminating provision is included in this AD. The NPRM published in the **Federal Register** on September 13, 2019 (84 FR 48310). The NPRM was prompted by the FAA's determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address, among other things, fatigue cracking and damage in principal structural elements; such fatigue cracking and damage could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, Revision 11, dated September 2018, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual. This service information describes procedures, maintenance tasks, and airworthiness limitations specified in the Airworthiness Limitations section of the airplane maintenance manual.

This AD also requires Chapter 5–40, Airworthiness Limitations, Revision 9, dated November 2015, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual, which the Director of the Federal Register approved for incorporation by reference as of October 24, 2017 (82 FR 43674, September 19, 2017).

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 79 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2017–19–14 to be $7,650 (90 work-hours × $85 per work-hour).

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. The FAA estimates the total cost per operator for the new actions 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 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by

■ a. Removing Airworthiness Directive (AD) 2014–16–27, Amendment 39–17951 (79 FR 51071, August 27, 2014); and AD 2017–19–14, Amendment 39–19044 (82 FR 43674, September 19, 2017); and

■ b. Adding the following new AD:

2019–23–03 Dassault Aviation: Amendment 39–19796; Docket No. FAA–2019–0697; Product Identifier 2019–NM–110–AD.

(a) Effective Date

This AD is effective January 13, 2020.

(b) Affected ADs

(1) This AD replaces AD 2014–16–27, Amendment 39–17951 (79 FR 51071, August 27, 2014) (''AD 2014–16–27''); and AD 2017–19–14, Amendment 39–19044 (82 FR 43674, September 19, 2017) (''AD 2017–19–14'').

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (''AD 2010–26–05'').

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, serial number (S/N) 97 and S/Ns 120 and higher, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before September 1, 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, among other things, fatigue cracking and damage in principal structural elements; such fatigue cracking and damage could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2017–19–14, with no changes. Within 90 days after October 24, 2017 (the effective date of AD 2017–19–14), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, Revision 9, dated November 2015, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual. The initial compliance times for accomplishing the actions specified in Chapter 5–40, Airworthiness Limitations, Revision 9, dated November 2015, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual, is within the applicable times specified in the maintenance manual or 90 days after October 24, 2017, whichever occurs later, except as provided by paragraphs (g)(1) through (4) of this AD.

(1) The term ''LDG'' in the ''First Inspection'' column of any table in the service information means total airplane landings.

(2) The term ''FH'' in the ''First Inspection'' column of any table in the service information means total flight hours.

(3) The term ''FC'' in the ''First Inspection'' column of any table in the service information means total flight cycles.

(4) The term ''M'' in the ''First Inspection'' column of any table in the service information means months.

(h) Retained Requirement for No Alternative Actions and Intervals, With New Exception

This paragraph restates the requirements specified in paragraph (h) of AD 2017–19–14, with a new exception. Except as required by paragraph (i) of this AD, after accomplishing the revision required by paragraph (g) of this AD, no alternative actions (inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) New Requirement of This AD: 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 Chapter 5–40, Airworthiness Limitations, Revision 11, dated September 2018, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual. The initial compliance times for accomplishing the actions are at the times specified in Chapter 5–40, Airworthiness Limitations, Revision 11, dated September 2018, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual, or 90 days after the effective date of this AD, whichever occurs later, except as provided by paragraphs (i)(1) through (4) of this AD.

(1) The term ''LDG'' in the ''First Inspection'' column of any table in the service information means total airplane landings.

(2) The term ''FH'' in the ''First Inspection'' column of any table in the service information means total flight hours.

(3) The term ''FC'' in the ''First Inspection'' column of any table in the service information means total flight cycles.

(4) The term ''M'' in the ''First Inspection'' column of any table in the service information means months since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(j) No Alternative Actions or Intervals

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

(k) Terminating Actions for Certain Actions in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model 900EX airplanes, S/N 97 and S/Ns 120 and higher.

(l) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal

inspector, the manager of the local flight standards district office/certificate holding district office.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0134, dated June 11, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0697.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 13, 2020.

(i) Chapter 5–40, Airworthiness Limitations, Revision 11, dated September 2018, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual.

(ii) [Reserved]

(4) The following service information was approved for IBR on October 24, 2017 (82 FR 43674, September 19, 2017).

(i) Chapter 5–40, Airworthiness Limitations, Revision 9, dated November 2015, of the Dassault Falcon 900EX EASy, Falcon 900LX, and Falcon 900DX Maintenance Manual.

(ii) [Reserved]

(5) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com.*

(6) 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.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on November 14, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–26402 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0671; Product Identifier 2019–NM–080–AD; Amendment 39–19788; AD 2019–22–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This AD was prompted by a report of fatigue cracking in the lug root radius of a main landing gear (MLG) aft hanger link lug fitting. This AD requires repetitive surface high frequency eddy current (HFEC) inspections of the left and right side MLG aft hanger link lug fitting for cracking, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 13, 2020.

ADDRESSES: For service information identified in this final rule, 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0671.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0671; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3529; email: *greg.rutar@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8 airplanes. The NPRM published in the **Federal Register** on September 6, 2019 (84 FR 46898). The NPRM was prompted by a report of fatigue cracking in the lug root radius of an MLG aft hanger link lug fitting. The NPRM proposed to require repetitive surface HFEC inspections of the left and right side MLG aft hanger link lug fitting for cracking, and applicable on-condition actions.

The FAA is issuing this AD to address fatigue cracking in the left and right side MLG aft hanger link lug fittings. This condition, if not addressed, could result in undetected fatigue cracks that can grow and weaken the primary structure such that it cannot sustain limit load, which could adversely affect the structural integrity of the airplane.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comments received.

Support for the NPRM

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

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018. This service information describes procedures for repetitive surface HFEC inspections of the left and right side MLG aft hanger link lug fitting at the lug root radius for cracking, and applicable on-condition actions. On-condition actions include repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 7 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive HFEC inspections	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle	$1,785 per inspection cycle.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–22–09 The Boeing Company: Amendment 39–19788; Docket No. FAA–2019–0671; Product Identifier 2019–NM–080–AD.

(a) Effective Date

This AD is effective January 13, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of fatigue cracking in the lug root radius of a main landing gear (MLG) aft hanger link lug fitting. The FAA is issuing this AD to address fatigue cracking in the left and right side MLG aft hanger link lug fittings. This condition, if not addressed, could result in undetected fatigue cracks that can grow and weaken the primary structure such that it cannot sustain limit load, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service

Bulletin B787–81205–SB530070–00, Issue 001, dated August 31, 2018, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018.

(h) Exceptions to Service Information Specifications

Where Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

For more information about this AD, contact Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3529; email: *greg.rutar@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB530070–00 RB, Issue 001, dated August 31, 2018

(ii) [Reserved]

(3) 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.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on November 12, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–26401 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0440; Product Identifier 2019–NM–032–AD; Amendment 39–19806; AD 2019–23–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–300, –400, and –500 series airplanes. This AD was prompted by fuel system reviews conducted by the manufacturer. This AD requires applying sealant to the fasteners in the fuel tanks, replacing wire bundle clamps external to the fuel tanks, and installing Teflon sleeving under the clamps. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 13, 2020.

ADDRESSES: For service information identified in this final rule, 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0440.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0440; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Serj Harutunian, Aerospace Engineer, Propulsion Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on June 25, 2019 (84 FR 29815). The NPRM was prompted by fuel system reviews conducted by the manufacturer as required by Special Federal Aviation Regulation No. 88 (''SFAR 88'') to 14 CFR part 21, to ensure their fuel tank systems can prevent potential ignition sources. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002), Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83''), and Amendment 21–101 (83 FR 9162, March 5, 2018). The NPRM proposed to require applying sealant to the fasteners in the fuel tanks, replacing wire bundle clamps external to the fuel tanks, and installing Teflon sleeving under the clamps.

The FAA is issuing this AD to address potential ignition sources inside the fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

Comments

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

Support for the NPRM

Boeing concurred with the content of the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01219SE does not affect compliance with the proposed actions.

The FAA agrees with the commenter. Paragraph (c) of the proposed AD has been redesignated as paragraph (c)(1) of this AD, and paragraph (c)(2) has been added to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request To Allow the Use of Later Revisions of Service Information

Commenter John Straiton asked that the FAA include a statement in the compliance requirements of the proposed AD allowing the use of later revisions of Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019. The commenter stated that adding this statement would ensure that operators are promptly in compliance with their obligation to ensure that all maintenance is certified to the latest approved version of the maintenance data. The commenter also stated that adding this statement will also remove the requirement to wait for the AD to be revised to reflect the revision in the service information, and to contact the appropriate original equipment manufacturer or STC holder to issue an AMOC to approve the use of the revised service information. The commenter noted that this would reduce the delay in implementing the revision and would reduce the maintenance costs associated with the issuance of an AMOC. The commenter concluded that the European Union Aviation Safety Agency, which is the Technical Agent for the Member States of the European Union, already incorporates the ''or later revision'' statement in any AD issued by them, so this will demonstrate a further harmonization of regulatory control.

The FAA does not agree with the commenter's request to allow the use of later revisions of the service information. The FAA may not refer to any document that does not yet exist in an AD. In general terms, the FAA is required by Office of the Federal Register (OFR) regulations for approval of materials incorporated by reference, as specified in 1 CFR 51.1(f), to either publish the service document contents as part of the actual AD language; or submit the service documents to the OFR for approval as referenced material, in which case the FAA may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for incorporation by reference. See 1 CFR part 51. To allow operators to use later revisions of the referenced document (issued after publication of the final rule), either the FAA must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC to this AD under the provisions of paragraph (i)(1) of this AD. The FAA has not revised this AD regarding this issue.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019. This service information describes procedures for applying sealant to the fasteners in the fuel tanks at the wing rear spars, front spars, and upper wing rib shear ties. This service information also describes procedures for replacing wire bundle clamps external to the fuel tanks and installing Teflon sleeving under the clamps at locations along the wing rear spars, front spars, forward cargo compartment station 540 bulkhead, and main wheel well station 663 bulkhead. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 268 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Apply sealant, replace clamps, install Teflon sleeving.	Up to 516 work-hours × $85 per hour = $43,860.	Up to $200	Up to $44,060	Up to $11,808,080.

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 AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service,

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

Regulatory Findings

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

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–23–12 The Boeing Company: Amendment 39–19806; Docket No. FAA–2019–0440; Product Identifier 2019–NM–032–AD.

(a) Effective Date

This AD is effective January 13, 2020.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer to ensure their fuel tank systems can prevent potential ignition sources. The FAA is issuing this AD to address potential ignition sources inside the fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

(f) Compliance

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

(g) Apply Sealant, Replace Clamps, and Install Teflon Sleeving

Except as specified in paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, specifies contacting Boeing: This AD requires doing actions using a method approved in accordance with the procedures specified in paragraph (i) 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) 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) Except as specified by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (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

For more information about this AD, contact Serj Harutunian, Aerospace Engineer, Propulsion Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019.

(ii) [Reserved]

(3) 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.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://*

www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued in Des Moines, Washington, on November 18, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–26399 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0437; Product Identifier 2019–NM–074–AD; Amendment 39–19800; AD 2019–23–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200, –200CB, and –300 series airplanes. This AD was prompted by reports of cracks initiating in the fuselage frame web at body station (STA) 1640. This AD requires, depending on configuration, a general visual inspection for any previous repair, such as any reinforcing repair or local frame replacement repair, repetitive open hole high frequency eddy current (HFEC) inspections for any crack of the fuselage frame web fastener holes, on the left and right side of the airplane, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 13, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 13, 2020.

ADDRESSES: For Boeing service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

For Aviation Partners Boeing service information identified in this final rule, contact Aviation Partners Boeing, 2811 South 102nd St., Suite 200, Seattle, WA 98168; phone: 206–830–7699; fax: 206–767–0535; email: *leng@aviationpartners.com;* internet: *http://www.aviationpartnersboeing.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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0437.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0437; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *peter.jarzomb@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200, –200CB, and –300 series airplanes. The NPRM published in the **Federal Register** on June 21, 2019 (84 FR 29102). The NPRM was prompted by reports of cracks initiating in the fuselage frame web at STA 1640. The NPRM proposed to require, depending on configuration, a general visual inspection for any previous repair, such as any reinforcing repair or local frame replacement repair, repetitive open hole HFEC inspections for any crack of the fuselage frame web fastener holes, on the left and right side of the airplane, and applicable on-condition actions.

The FAA is issuing this AD to address cracks initiating in the fuselage frame web at STA 1640, which could result in reduced structural integrity of the airplane.

Comments

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

Support for the NPRM

United Airlines and Aviation Partners Boeing (APB) provided their concurrence with the NPRM.

Request To Clarify Costs of Required Actions

Boeing requested that the FAA clarify the costs of the actions required by the NPRM by separating the access and close-out hours as separate actions, and specifying that the on-condition costs are providing the costs of oversizing fastener holes, if necessary. Boeing pointed out that the costs listed also include the access and close-out hours, which comprise the majority of the hours for each action, causing the required actions to appear overly expensive. Boeing mentioned that operators are expected to do either a one-time general visual inspection, followed by an open hole HFEC inspection, or do an open hole HFEC inspection, depending on the condition and utilization rate of the airplane. Boeing also pointed out that the on-condition costs are not defined in the service information and that the NPRM is unclear if the on-condition costs refer to fastener replacement installations or fastener hole oversizing. Additionally, Boeing mentioned that the costs of fastener re-installation are already included in the costs for an open hole HFEC inspection. However, Boeing stated that the FAA estimate of one work-hour per airplane for on-condition costs of oversizing fastener holes seems reasonable.

The FAA agrees with the request to clarify the costs of the actions required by this AD for the reasons provided. The FAA has revised the cost estimates provided in this AD to clarify the costs of the required actions to include access and close-out hours only as part of the costs for the HFEC inspections, and to revise the work-hours for the general visual inspection to specify only 1 work-hour. We have also revised the cost estimates in this AD to specify that the on-condition costs are the costs of oversizing fastener holes.

Request To Clarify the Unsafe Condition

Boeing requested that the FAA clarify the unsafe condition. Boeing pointed out that the unsafe condition mitigated by the proposed AD is for cracks initiating in the fuselage frame web at STA 1640 in hidden areas that may not be sufficiently detectable by doing the

actions specified in Boeing Alert Service Bulletin 757–53A0108.

The FAA agrees that clarification is necessary and that the actions specified in Boeing Alert Service Bulletin 757–53A0108 are not adequate for reliable detection of cracks that initiate in the fuselage frame web at STA 1640. AD 2018–06–07, Amendment 39–19227 (83 FR 13398, March 29, 2018) (''AD 2018–06–07'') requires inspections in accordance with Boeing Alert Service Bulletin 757–53A0108, dated November 14, 2016. However, the FAA does not agree that referring to hidden areas is clarifying, because the term ''hidden areas'' is vague. The FAA has revised the unsafe condition specified in paragraph (e) of this AD to specify that this AD is addressing cracks initiating in the fuselage frame web at STA 1640, which, if not detected and corrected, could result in reduced structural integrity of the airplane.

Request To Clarify the Types of Winglets Specified in the Proposed ADXXXXXXXXXXXXXXXXXX

Boeing requested that the FAA revise paragraph (g)(2) of the proposed AD to clarify the types of winglets that may be installed on The Boeing Company Model 757 airplanes. Boeing pointed out that the types of winglets described in Supplemental Type Certificate (STC) ST01518SE and in APB's service bulletin AP757–53–002 are specified as ''blended and scimitar blended winglets,'' not ''scimitar winglets.'' Boeing also pointed out that paragraph (g)(2) of the proposed AD referred to ''blended or scimitar winglets.''

The FAA agrees for the reasons provided and has revised paragraph (g)(2) of this AD accordingly.

Request To Specify That Certain Freighter Conversion Airplanes Perform the Actions Specified for Groups 2 and 5

FedEx and VT Mobile Aerospace Engineering (MAE) Inc., requested that the FAA revise the NPRM to specify that Group 1 and 4 airplanes that have been modified to freighter configuration using VT MAE Inc. STC ST03562AT, perform the actions specified for Groups 2 and 5, as specified in Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018. VT MAE Inc. pointed out that at the STA 1640 frame, in the stringer 14 left hand side and right hand side area, the modification to freighter configuration using VT MAE Inc. STC ST03562AT, is identical to that of The Boeing Company Model 757–200 special freighter airplanes identified as Groups 2 and 5 in Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018. FedEx noted that its fleet of The Boeing Company Model 757–200 airplanes were converted to a configuration similar to The Boeing Company Model 757–200 special freighter airplanes, and are no longer configured as passenger airplanes. FedEx pointed out that as written, Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, Groups the FedEx fleet into Groups 1 and 4, and that the inspection areas for those Groups are no longer applicable. FedEx requested that the FAA incorporate its suggested changes into the final rule to avoid the need for an alternative method of compliance (AMOC) after issuance of the final rule.

The FAA agrees with the request for the reasons provided. The FAA has added paragraphs (g)(3) and (g)(4) of this AD to require, for airplanes that have been converted from passenger to freighter configuration using VT MAE Inc. STC ST03562AT, the actions required for Groups 2 and 5, as applicable, as specified in Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

Request To Terminate the Inspection Requirements if a Repair Is Installed for a Crack Finding

FedEx requested that the FAA allow termination of the inspection requirements if a repair is installed for a crack finding. FedEx pointed out that if a repair is installed for a crack finding, the repair instructions obtained from The Boeing Company Organization Designation Authorization (ODA), the STC holder, or the FAA would have repetitive inspection requirements separate from those specified in the NPRM. The FAA infers that FedEx is requesting termination of the inspection requirements to help avoid overlapping inspections in a repaired area.

The FAA disagrees with the request to allow termination of the inspection requirements if a repair is installed for a crack finding. At this time, the service information does not include an approved repair that resolves the unsafe condition addressed by this AD. Inspections for repairs required by FAA regulations address structural failure due to fatigue, corrosion, manufacturing defects, or accidental damage, and do not resolve unsafe conditions that are addressed by an AD. If a repair is required for cracks found during inspections required by this AD, the FAA will consider requests for approval of an AMOC.

Request To Specify That an AMOC for a Certain Other AD Is Necessary

FedEx requested that the FAA include a statement in paragraph (i) of the proposed AD specifying that if a repair is required for a crack found during inspections required by the NPRM, that an AMOC for AD 2018–06–07 is required. FedEx mentioned that it has already experienced a situation that when repairing a crack found using Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, an AMOC to AD 2018–06–07 was required to complete the repair.

The FAA disagrees with the request to include a statement in paragraph (j) of this AD (which was referred to as paragraph (i) of the proposed AD) specifying that if a repair is required for a crack found during inspections required by this AD, that an AMOC for AD 2018–06–07 is required. However, any repair in this area that affects compliance with this AD, with AD 2018–06–07, or with both ADs, will require an AMOC to comply with the requirements of the affected ADs. The FAA has included note 2 to paragraphs (g)(1) through (4) of this AD to denote that certain repairs might affect AD 2018–06–07.

Request To Allow Later Revisions to the Service Information

John Straiton requested that the FAA revise the proposed AD to allow the use of later revisions to the service information. The commenter pointed out that allowing the use of later revisions would make it easier for the operator to ensure compliance and that all maintenance is certified to the latest maintenance data. The commenter also mentioned that allowing the use of later revisions would make it unnecessary for operators to wait for new ADs that include the latest revisions to the service information, or for operators to request an AMOC that allows the use of the latest revisions to the service information. The commenter stated that this would reduce the delay in implementation of the latest revisions to the service information and also reduce the maintenance costs associated with the issuance of AMOCs. The commenter also pointed out that the European Union Aviation Safety Agency (EASA) incorporates similar language in its ADs.

The FAA disagrees with the request to allow later revisions to the service information. The FAA may not refer to any document that does not yet exist in an AD. In general terms, the FAA is required by Office of the Federal Register (OFR) regulations for approval of materials incorporated by reference,

as specified in 1 CFR 51.1(f), to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as referenced material, in which case the FAA may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for incorporation by reference. See 1 CFR part 51.

To allow operators to use later revisions of the referenced document (issued after publication of the AD), either the FAA must revise the AD to reference specific later revisions, or the affected party must request approval to use later revisions as an AMOC with this AD under the provisions of paragraph (j) of this AD.

Request for an Exception to Certain Service Information

American Airlines (AAL) and APB requested that the FAA revise the proposed AD to include a new exception. AAL requested that the FAA include an exception that specifies ''Where APB Alert Service Bulletin AP757–53–002, Revision 2, dated April 11, 2019, uses the phrase the original issue of Service Bulletin AP757–53–001, this AD requires using the original issue, or Revision 1, of Service Bulletin AP757–53–001.'' APB pointed out that the original issue of APB Service Bulletin AP757–53–001, was withdrawn. APB also stated their support for AAL's request.

AAL also pointed out that while APB Alert Service Bulletin AP757–53–002, Revision 2, dated April 11, 2019, specifies the original issue of APB Service Bulletin AP757–53–001, AD 2018–06–07 requires operators to use Revision 1 of APB Service Bulletin AP757–53–001. AAL noted that this creates conflicting verbiage between the NPRM and AD 2018–06–07.

The FAA agrees to clarify. The FAA notes that APB Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, has been issued to correct the reference from the original issue of APB Service Bulletin AP757–53–001 to Revision 1 of APB Service Bulletin AP757–53–001, as it relates to whether inspections have previously been done. No additional work is required for airplanes on which the actions specified in this AD were done using APB Alert Service Bulletin AP757–53–002, Revision 2, dated April 11, 2019. The FAA has revised this final rule to refer to APB Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, as the appropriate source of service information for compliance with this AD, and to provide credit for actions done before the effective date of this AD using APB Alert Service Bulletin AP757–53–002, Revision 2, dated April 11, 2019.

Conclusion

The FAA has reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information.

- Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019.
- Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

This service information describes procedures for, depending on configuration, a general visual inspection for any previous repair, such as any reinforcing repair or local frame replacement repair, repetitive open hole HFEC inspections for any crack of the fuselage frame web fastener holes, on the left and right side of the airplane, and applicable on-condition actions. On-condition actions include installation of fasteners, oversizing of fastener holes, and repair. These documents are distinct since they apply to different airplane models in different configurations.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 475 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General Visual Inspection	1 work-hours × $85 per hour = $85.	$0	$85	$40,375.
Open Hole HFEC Inspection	35 work-hours × $85 per hour = $2,975 per inspection cycle.	0	$2,975 per inspection cycle ...	$1,413,125 per inspection cycle.

The FAA estimates the following costs to do any necessary on-condition installation of fasteners and oversizing of fastener holes that is required. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION INSTALLATION OF FASTENERS AND OVERSIZING OF FASTENER HOLES

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$0	$85

We have received no definitive data that would enable us to provide cost estimates for the on-condition repairs specified in this 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 AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–23–06 The Boeing Company: Amendment 39–19800; Docket No. FAA–2019–0437; Product Identifier 2019–NM–074–AD.

(a) Effective Date

This AD is effective January 13, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200CB, and –300 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracks initiating in the fuselage frame web at body station (STA) 1640. The FAA is issuing this AD to address cracks initiating in the fuselage frame web at STA 1640, which, if not detected and corrected, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all airplanes except those identified in paragraphs (g)(2) through (4) of this AD: Except as specified by paragraph (h) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

Note 1 to paragraphs (g)(1) through (4): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–53A0112, dated November 16, 2018, which is referred to in Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

Note 2 to paragraphs (g)(1) through (4): Accomplishing certain repairs required by this AD might affect AD 2018–06–07, Amendment 39–19227 (83 FR 13398, March 29, 2018) (''AD 2018–06–07''), and necessitate requesting an alternative method of compliance (AMOC) to AD 2018–06–07.

(2) For airplanes on which Aviation Partners Boeing (APB) blended or scimitar blended winglets are installed in accordance with Supplemental Type Certificate (STC) ST01518SE: Except as specified by paragraph (h) of this AD, at the applicable times specified in paragraph 1.E., ''Compliance'' of APB Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

(3) Except as specified by paragraph (h) of this AD: For Group 1 airplanes that have been converted from a passenger to freighter configuration using VT Mobile Aerospace Engineering (MAE) Inc. STC ST03562AT, at the applicable times specified for Group 2 airplanes in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, do all applicable Group 2 actions, as identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

(4) Except as specified by paragraph (h) of this AD: For Group 4 airplanes that have been converted from a passenger to freighter configuration using VT MAE Inc. STC ST03562AT, at the applicable times specified for Group 5 airplanes in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, do all applicable Group 5 actions as identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, uses the phrase ''the original issue date of Requirements Bulletin 757–53A0112 RB,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, uses the phrase ''the original issue date of Requirements Bulletin 757–53A0112 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(3) Where Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD,'' except where Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, uses the phrase ''the original issue date of this Service Bulletin'' in a note or flag note.

(4) Where Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 3, dated August 14, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 2, dated April 11, 2019.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(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) Except as specified by paragraph (h) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (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.

(k) Related Information

(1) For more information about this AD, contact Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *peter.jarzomb@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) through (5) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Aviation Partners Boeing Alert Service Bulletin AP757–53–002, Revision 3 dated August 14, 2019.

(ii) Boeing Alert Requirements Bulletin 757–53A0112 RB, dated November 16, 2018.

(3) For Boeing 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; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

(4) For Aviation Partners Boeing service information identified in this AD, contact Aviation Partners Boeing, 2811 South 102nd St., Suite 200, Seattle, WA 98168; phone: 206–830–7699; fax: 206–767–0535; email: *leng@aviationpartners.com;* internet: *http://www.aviationpartnersboeing.com.*

(5) 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.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on November 18, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–26400 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 191203–0100]

RIN 0648–BI53

Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Deck Sorting Monitoring Requirements for Trawl Catcher/Processors Operating in Non-Pollock Groundfish Fisheries Off Alaska; Correction

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

ACTION: Final rule; correcting amendments; stay of effectiveness.

SUMMARY: NMFS is correcting a final rule that published on October 15, 2019, issuing regulations to implement catch handling and monitoring requirements to allow Pacific halibut (halibut) bycatch to be sorted on the deck of trawl catcher/processors (C/Ps) and motherships participating in the non-pollock groundfish fisheries off Alaska. The final rule incorrectly stated that the collection-of-information requirements subject to the Paperwork Reduction Act (PRA) had been approved by the Office of Management and Business (OMB) at the time the final rule was published. The final rule also inadvertently omitted amendatory language to remove a now obsolete and unnecessary regulation. The intent of this final rule is to make corrections and to stay the effectiveness of associated collection-of-information requirements.

DATES: This rule is effective December 9, 2019. Effective December 9, 2019, 50 CFR 679.28(d)(9) and (10) and (l) and § 679.120(b), (c), (d), and (e) are stayed indefinitely.

FOR FURTHER INFORMATION CONTACT: Joseph Krieger, 907–586–7228 or *joseph.krieger@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

NMFS published the final rule issuing regulations to implement catch handling and monitoring requirements to allow halibut bycatch to be sorted on the deck of trawl C/Ps and motherships participating in the non-pollock groundfish fisheries off Alaska in the **Federal Register** on October 15, 2019 (84 FR 55044). The final rule incorrectly stated that the collection-of-information

requirements subject to the PRA had been approved by the OMB under Control Number 0648–0318 (North Pacific Observer Program) and Control Number 0648–0330 (Alaska Region, Scale and Catch Weighing Requirements) at the time the final rule was published. The effective date for the final rule's collection of information requirements is delayed. When OMB approval is received, NOAA will publish a document in the **Federal Register** announcing the effective date for these information collection requirements.

Although the proposed and final rule preambles explained that certain obsolete and unnecessary regulations would be removed, the final rule inadvertently omitted amendatory language to remove a now obsolete and unnecessary regulation. This rule corrects this error.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is unnecessary and contrary to the public interest. With respect to the final rule's inadvertent omission of amendatory text that would remove the obsolete and unnecessary regulation, the public was already provided with notice and opportunity to comment via electronic submission (*www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0122*) and by mail during the proposed rule public comment period which began on April 16, 2019 and ended on May 16, 2019. Further delay would result in public confusion with respect to the effectiveness of the remaining regulations established by the final rule.

For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this rule effective immediately upon publication.

Correction to Final Rule

In final rule FR Doc. 2019–22198, published on October 15, 2019 (84 FR 55044), the following corrections are made:

1. On page 55044, in the second column, under ''National Oceanic and Atmospheric Administration'', ''15 CFR 902.1'' is removed and ''15 CFR part 902'' added in its place.

2. On page 55050, second column, the heading ''OMB Revisions to PRA References in 15 CFR 902.1(b)'' and corresponding paragraph are removed.

3. On page 55051, first column, the first sentence of the last paragraph is corrected to read as follows:

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval under Control Number 0648–0318 (North Pacific Observer Program) and Control Number 0648–0330 (Alaska Region, Scale and Catch Weighing Requirements). When approval is received, NMFS will announce in the **Federal Register** the effective date for these information collection requirements.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Pacific halibut, Recordkeeping and reporting requirements.

Dated: December 3, 2019.

Samuel D. Rauch III,

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

Accordingly, 15 CFR part 902 and 50 CFR part 679 are corrected by making the following correcting amendments:

Title 15—Commerce and Foreign Trade

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

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

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

§ 902.1 [Amended]

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', remove the entries for ''679.28(l)'', ''679.120(b)'', and ''679.120(c), (d), and (e)''.

* * * * *

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 679 continues to read as follows:

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

§ 679.28 [Amended]

■ 4. Amend § 679.28 by removing paragraphs (i)(1)(iii) and (iv).

[FR Doc. 2019–26433 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice: 10921]

RIN 1400–AE90

Passports; Clarification of Previous Rule Relating to Treatment of Serious Tax Debt

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This final rule provides a clarification regarding situations in which a passport applicant is certified by the Secretary of the Treasury as having a seriously delinquent tax debt. In this rule, the Department clarifies that in such situations, the Department may issue a limited validity passport for direct return to the United States or when emergency circumstances or humanitarian reasons exist.

DATES: The effective date of this regulation is December 9, 2019.

FOR FURTHER INFORMATION CONTACT: Stephanie Traub, Office of Legal Affairs, Passport Services, (202) 485–6500. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On September 2, 2016, the Department published a final rule that implemented the Fixing America's Surface Transportation Act (FAST Act), codified at 22 U.S.C. 2714a (the 2016 Final Rule). See 81 FR 60608.[1]

The rulemaking incorporated statutory passport denial and revocation requirements for certain individuals who have been certified by the Secretary of the Treasury as having seriously delinquent tax debt or who submit passport applications without correct and valid Social Security numbers.

Why is this rule necessary?

The 2016 Final Rule, as codified at 22 CFR 51.60(a)(3), led to an unintended result. That rule provided that applicants for a passport who are certified by the Secretary of the Treasury as having a seriously

[1] *See also* a correction rule published on September 27, 2016, at 81 FR 66184.

delinquent tax debt as described in 26 U.S.C. 7345 may not be issued a passport, except a passport for direct return to the United States. This is a too-narrow implementation of the law, since 22 U.S.C. 2714a(e)(1)(B) provides that not only may the Department issue a certified individual a passport valid for direct return to the United States, but the Department also has the discretion to issue passports without geographical limitation to such applicants if the Department finds that emergency circumstances or humanitarian reasons exist.

With respect to the current text of § 51.60, the modification in the rulemaking will remove the text of paragraph (a)(3) of § 51.60, and add it to a new paragraph (h)(2) of § 51.60, since paragraph (h) applies to situations where the Department must generally deny passport applications except for passports valid for direct return to the United States, but can exercise discretion to issue passports where it determines that emergency circumstances or humanitarian reasons exist. Paragraph (a)(3) is reserved. The chapeau of § 51.60(h), regarding notification by the Attorney General of violations of 18 U.S.C. 2423, is moved to a new paragraph (h)(1).

Regulatory Findings

Administrative Procedure Act

The Administrative Procedure Act (APA) provides that an agency is not required to conduct notice and comment rulemaking when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). There is good cause here because this amendment simply aligns 22 CFR 51.60 with current law. It does not establish any substantive policy. Since this change is implementing current law, public comment on this change is unnecessary and contrary to the public interest. The APA also generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because this final rule aligns the Department's rules with federal law, there is good cause to make it effective on the day it is published.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign based companies in domestic and import markets.

Executive Orders 12866 and 13563

The Department of State does not consider this rule to be an economically significant regulatory action under Executive Order 12866, Regulatory Planning and Review. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in both Executive Order 12866 and Executive Order 13563, and certifies that the benefits of this regulation outweigh any cost to the public, which the Department assesses to be *de minimis*.

Executive Order 13132

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Executive Order 13175

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

Executive Order 13771

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

Paperwork Reduction Act

This rule does not impose any new reporting or record keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons set forth in the preamble, the Department amends 22 CFR part 51 as follows:

PART 51—PASSPORTS

■ 1. The authority citation for part 51 is revised to read as follows:

Authority: 8 U.S.C. 1504; 18 U.S.C. 1621; 22 U.S.C. 211a, 212, 212b, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2714a, 2721, & 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of Pub. L. 103–317, 108 Stat. 1760]; E.O. 11295, Aug. 6, 1966, FR 10603, 3 CFR, 1966–1970 Comp., p. 570; Pub. L. 114–119, 130 Stat. 15; Sec. 1 of Pub. L. 109–210, 120 Stat. 319; Sec. 2 of Pub. L. 109–167, 119 Stat. 3578; Sec. 5 of Pub. L. 109–472, 120 Stat. 3554; Pub. L. 108–447, Div. B, Title IV, Dec. 8, 2004, 118 Stat. 2809; Pub. L. 108–458, 118 Stat. 3638, 3823 (Dec. 17, 2004).

■ 2. Amend § 51.60 by removing and reserving paragraph (a)(3) and revising paragraph (h).

The revision reads as follows:

§ 51.60 Denial and restriction of passports.

* * * * *

(h) The Department may not issue a passport, except a limited validity passport for direct return to the United States or in instances where the Department finds that emergency circumstances or humanitarian reasons exist, in any case in which:

(1) The Department is notified by the Attorney General that, during the covered period as defined by 22 U.S.C. 212a:

(i) The applicant was convicted of a violation of 18 U.S.C. 2423, and

(ii) The individual used a passport or passport card or otherwise crossed an international border in committing the underlying offense.

(2) The applicant is certified by the Secretary of the Treasury as having a

seriously delinquent tax debt as described in 26 U.S.C. 7345.

* * * * *

Carl C. Risch,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2019–26393 Filed 12–6–19; 8:45 am]

BILLING CODE 4710–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2020. This table is needed to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

DATES: This rule is effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400, ext. 3829. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 3829.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach ''unreduced retirement age'' (*i.e.,* the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by PBGC to reflect changes in the cost of living, etc.

Tables II–A, II–B, and II–C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I–19 with Table I–20 to provide an updated correlation, appropriate for calendar year 2020, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I–20 will be used to value benefits in plans with valuation dates during calendar year 2020.

PBGC has determined that notice of, and public comment on, this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2020, the plan administrator needs the updated table being promulgated in this rule. Accordingly, PBGC finds that the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, and that good cause exists for making the table set forth in this amendment effective less than 30 days after publication to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2020.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866 and Executive Order 13771.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I–19 and adding in its place Table I–20 to read as follows:

Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age

TABLE I–20—SELECTION OF RETIREMENT RATE CATEGORY

[For valuation dates in 2020 [1]]

If participant reaches URA in year—	Participant's retirement rate category is—			
	Low [2] if monthly benefit at URA is less than—	Medium [3] if monthly benefit at URA is—		High [4] if monthly benefit at URA is greater than—
		From—	To—	
2021	672	672	2,839	2,839
2022	688	688	2,905	2,905
2023	704	704	2,971	2,971
2024	720	720	3,040	3,040
2025	736	736	3,110	3,110
2026	753	753	3,181	3,181
2027	771	771	3,254	3,254
2028	788	788	3,329	3,329
2029	806	806	3,406	3,406
2030 or later	825	825	3,484	3,484

[1] Applicable tables for valuation dates before 2020 are available on PBGC's website (*www.pbgc.gov*).
[2] Table II–A.
[3] Table II–B.
[4] Table II–C.

* * * * *

Issued in Washington, DC, by:

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–26456 Filed 12–6–19; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0906]

Safety Zones; Fireworks Displays in the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Penn's Landing, Delaware River, Philadelphia, PA, safety zone from 5:45 p.m. through 6:30 p.m. on December 31, 2019, and from 11:45 p.m. on December 31, 2019, through 12:30 a.m. on January 1, 2020. This is to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays in the Fifth Coast Guard District identifies the area for this event at Penn's Landing in Philadelphia, PA. During the enforcement periods vessels may not enter, remain in, or transit through the safety zones unless authorized by the Captain of the Port or on scene designated Coast Guard patrol personnel.

DATES: The regulations in the table to 33 CFR 165.506 at (a)(16) will be enforced from 5:45 p.m. through 6:30 p.m. on December 31, 2019, and from 11:45 p.m. on December 31, 2019, through 12:30 a.m. on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, you may call or email Petty Officer Thomas Welker, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Thomas.J.Welker@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in the Table to 33 CFR 165.506, entry (a)(16), for the Delaware River Waterfront Corporation New Year's Eve Fireworks displays. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays within the Fifth Coast Guard District, table to § 165.506, entry (a)(16) specifies the location of the regulated area as all waters of Delaware River, adjacent to Penn's Landing, Philadelphia, PA, within 500 yards of a fireworks barge at approximate position latitude 39°56′49″ N, longitude 075°08′11″ W. During the enforcement periods, as reflected in § 165.506(d), vessels may not enter, remain in, or transit through the safety zones unless authorized by the Captain of the Port or on scene designated Coast Guard patrol personnel.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via broadcast notice to mariners.

Dated: November 29, 2019.

Scott E. Anderson,

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

[FR Doc. 2019–26471 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0486]

RIN 1625–AA00

Safety Zone; Ohio River, Brookport, IL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on a portion of the Ohio River in Brookport, IL. This action is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the demolition of Lock and Dam 52 involving explosives. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or a designated representative.

DATES: This rule is effective without actual notice from December 9, 2019 through December 1, 2020. For the purposes of enforcement, actual notice will be used from December 3, 2019 through December 9, 2019

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

0486 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2, Dylan Caikowski, MSU Paducah, U.S. Coast Guard; telephone 270–442–1621 ext. 2120, email *STL-SMB-MSUPaducah-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The purpose of this rule is to ensure the safety of vessels on the navigable waters of the Ohio River during the demolition of Lock and Dam 52. During this time, a temporary safety zone on the Ohio River would be necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with the demolition of Lock and Dam 52. In response, on July 8, 2019, the Coast Guard published an interim final rule titled *Safety Zone; Ohio River, Brookport, IL* (84 FR 34299). There we stated why we issued the interim final rule, and invited comments on our regulatory action related to the demolition of the Lock and Dam 52 on the Ohio River. During the comment period that ended August 19, 2019, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with demolition of Lock and Dam 52 involving explosives will be a safety concern for anyone on the Ohio River from mile marker (MM) 937 to MM 941. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the demolition of Lock and Dam 52 involving explosives.

IV. Discussion of Comments, Changes, and the Rule

This rule establishes a temporary safety zone that covers all navigable waters of the Ohio River from MM 937 to MM 941. This rule will be enforced every day at midday from December 3, 2019 through December 1, 2020 as necessary to facilitate safe demolition of Lock and Dam 52. A Broadcast Notices to Mariners (BNMs) will be issued six hours prior to the start of blasting to notify the public that the safety zone is being enforced. Vessels will be able to transit the safety zone when explosives are not being detonated. This safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the detonation of explosives for the demolition. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative during demolition operations involving explosives. The text of the rule remains unchanged, but the effective period is extended to facilitate safe demolition through the anticipated completion of the operations.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone will only be enforced between MM 937 to MM 941 for a short period of time each day and will only impact a small portion of the Ohio River. Additionally, this safety zone will only be enforced in daytime hours during the demolition operations of the Lock and Dam 52.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone for the demolition of Lock and Dam 52 involving explosives on the Ohio River in Brookport, IL. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0486 to read as follows:

§ 165.T08–0486 Safety Zone; Ohio River, Brookport, IL.

(a) *Location.* The safety zone will cover all navigable waters of the Ohio River from mile marker (MM) 937 to MM 941.

(b) *Effective period.* This section is effective without actual notice from December 9, 2019 through December 1, 2020. For the purposes of enforcement, actual notice will be used from December 3, 2019 through December 9, 2019

(c) *Enforcement period.* This section will be enforced at midday each day from December 3, 2019 through December 1, 2020, as necessary to facilitate safe demolition operations.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or designated representative. A *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

(2) Vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: December 3, 2019.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2019–26472 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0403; FRL–10002–75–Region 10]

Air Plan Approval; ID; Update to CRB Fee Billing Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve state implementation plan (SIP) revisions submitted by the State of Idaho's Department of Environmental Quality on June 5, 2019. The revisions implement changes to the timing of when fees for open burning of crop residue are paid. The changes provide Idaho Department of Environmental Quality a more streamlined administrative process and were based on recommendations from Idaho's Crop Residue Advisory Committee.

DATES: This rule is effective on January 8, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2019–0403. All documents in the docket are listed on *https://www.regulations.gov* website. Publicly available docket materials are available either 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: Randall Ruddick at (206) 553–1999, or *ruddick.randall@epa.gov,* Environmental Protection Agency, Region 10, Air Planning Section, Air and Radiation Division, 1200 Sixth Avenue, Suite 155–15–H13, Seattle, Washington 98101–3188.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background
II. Response to Comment
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background

On June 5, 2019, Idaho submitted a SIP revision request to the EPA. The SIP submittal contains two revisions to the federally-approved crop residue burning (CRB) rules. Specifically, fee due dates in IDAPA 58.01.01.620.01 were changed from ''at least seven (7) days prior to the proposed burn date'' to ''within thirty (30) days following the receipt of the annual burn fee invoice.'' This revision does not change the burn fee amounts, rather it only changes when the fee is due. Idaho revised IDAPA 58.01.01.620.02 to clarify that IDEQ will not accept or process registration for a permit by rule to burn from any person with delinquent burn fees, in full or in part. Idaho Code 39–114 (codification of Idaho Senate Bill 1024, Section 4) was revised by removing the requirement that payment be made prior to burning to align with revisions to IDAPA 58.01.01.620.01.

These revisions do not change fee structure amounts and do not change the timing of the fee payment for spot and bale burn permits required under IDAPA 58.01.01.624.02.a. All other CRB requirements remain unchanged.

EPA published a direct final rule on September 3, 2019 (84 FR 45918), approving Idaho's requested revisions to the SIP, along with a proposed rule (84 FR 45930) that provided a 30-day public comment period. EPA received one anonymous comment during the public comment period. Consequently, the direct final rule on this approval was withdrawn on October 21, 2019 (84 FR 56121). After consideration of the comment, we do not believe any changes in the rationale or conclusions in the proposed approval are appropriate. A summary of the comment as well as EPA's response is described below.

II. Response to Comment

Comment: The EPA received one comment. The commenter acknowledged that the EPA's action only addressed the timing of CRB fees payment, but stated that the commenter is ''concerned as to whether or not the environment is being fully considered.'' The commenter's main concerns relate to failure to pay and that the proposed change ''may also provide incentive for future fee evasion.'' The commenter states paying fees prior to burning ensures fees are paid while allowing payment after the burn does not ensure payment; and asserts that ''Ensuring payment should precede streamlining payment processes.''

Response: We disagree with the commenter's assertions IDEQ's revisions to the CRB rules provide an incentive for fee evasion and promote environmental degradation. First, the substantive requirements for conducting open burning in Idaho have not changed. IDAPA 58.01.01.622 General Provisions states ''All persons intending to dispose of crop residue through burning shall abide by the following provisions.'' The provisions include a requirement that IDEQ has designated that day as a burn day based on meteorological and ambient air conditions and that the permittee has received an individual approval specifying the conditions under which the burn may be conducted. In addition, IDAPA 58.01.01.622.01.f requires anyone intending to burn crop residue to attend a crop residue burning training session. Second, the rules contain significant disincentives to evade or fail to pay fees after receiving permission to burn. IDAPA 58.01.01.620.02 provides that IDEQ will not accept or process a registration for a permit for any person having delinquent fees, in full or part. In addition, anyone burning in violation of the CRB rules is subject to a fine of up to $10,000 for each violation under Idaho Statute 39–108(5). We, therefore, have not made any changes to the rationale or conclusions in the proposed approval based on the comment received.

III. Final Action

The EPA is approving, and incorporating by reference in Idaho's SIP, revisions to Idaho's CRB fee regulations as requested by Idaho on June 5, 2019 to the following provisions:

- IDAPA 58.01.01.620 (Burn Fee, state effective April 11, 2019); and
- Idaho Code 39–114 (Open Burning of Crop Residue, state effective February 26, 2019).

We have determined that the submitted SIP revisions are consistent with section 110 of the Clean Air Act (CAA).

IV. Incorporation by Reference

In this rule, the EPA is approving regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are incorporating by reference the provisions described above in Section III. Final Action. The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

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

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 7, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

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

Dated: November 14, 2019.

Chris Hladick,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 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 N—Idaho

■ 2. Amend§ 52.670, in the table in paragraph (c) by:

■ a. Revising entry for ''620''; and

■ b. Under the heading ''State Statutes'':

■ i. Removing the entry for ''Section 3 of Senate Bill 1009, codified at Idaho Code Section 39–114''; and

■ ii. Adding an entry for ''Section 4 of Senate Bill 1024, codified at Idaho Code Section 39–114''.

The revisions and addition read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IDAHO REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Idaho Administrative Procedures Act (IDAPA) 58.01.01—Rules for the Control of Air Pollution in Idaho				
* * *		*	* * *	*
620	Burn Fee	4/11/2019	12/09/2019, [Insert **Federal Register** citation].	
* * *		*	* * *	*
State Statutes				
Section 4 of Senate Bill 1024, codified at Idaho Code Section 39–114.	Open Burning of Crop Residue	2/26/2019	12/09/2019, [Insert **Federal Register** citation].	

* * * * *

[FR Doc. 2019–26397 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0072; FRL–10002–81-Region 5]

Air Plan Approval; Illinois; Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Illinois Environmental Protection Agency (IEPA) on February 6, 2018, to revise the Illinois State Implementation Plan (SIP) under the Clean Air Act (CAA) for the 2010 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). IEPA specifically requested EPA approval to amend the Illinois SIP for the 2010 1-hour SO_2 NAAQS to account for two variances granted by the Illinois Pollution Control Board (IPCB) to Calpine Corporation (Calpine) and Exelon Generation, LLC (Exelon). EPA

proposed to approve the state's submittal on June 12, 2019.

DATES: This final rule is effective on January 8, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0072. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' is used, we mean EPA.

I. What is being addressed by this document?

In conjunction with Illinois' adoption of SO_2 emission limits for major sources, the state adopted rule revisions (Sulfur Content Rule) to limit the sulfur content of distillate and residual fuel oil combusted at stationary sources throughout the state. See 35 Ill. Adm. Code 214.161(b)(2) and 214.305(a)(2). The Sulfur Content Rule specifically requires that the sulfur content of distillate fuel oil combusted on or after January 1, 2017, not exceed 15 parts per million (ppm). The rule applies to owners and operators of existing fuel combustion emission and process emission sources that burn liquid fuel.

Illinois' Sulfur Content Rule, containing 35 Ill. Adm. Code 214.161(b)(2) and 214.305(a)(2), was submitted to EPA as a SIP revision on March 2, 2016, and EPA issued an approval in the **Federal Register** on February 1, 2018 (83 FR 4591) and May 29, 2018 (83 FR 24406).

On May 18, 2016, pursuant to Section 35(a) of the Illinois Environmental Protection Act, 415 ILCS 5/34(a), and Part 104 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 104.100, Exelon filed a Petition for Variance with the IPCB regarding its Byron (Ogle County), Clinton (DeWitt County), Dresden (Grundy County), and LaSalle (LaSalle County) nuclear generation stations. See Exelon Generation, LLC v. Illinois Environmental Protection Agency, PCB 16–106. Section 35 of the Illinois Environmental Protection Act provides that the IPCB, under state law, ''may grant individual variances . . . whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation . . . would impose an arbitrary or unreasonable hardship.'' (IPCB's granting of such a variance under state law, however, does not automatically revise what is federally enforceable under the SIP; only if Illinois submits and EPA approves a SIP revision reflecting the granting of the variance can the federally enforceable SIP be revised.) Exelon requested temporary relief from the 15 ppm sulfur content limitation for distillate fuel oil set forth in 35 Ill. Adm. Code 214.161(b)(2). On September 8, 2016, the IPCB granted the variance subject to a number of conditions.

On June 16, 2016, Calpine also filed a Petition for Variance with the IPCB regarding the Zion Energy Center. See Calpine Corporation (Zion Energy Center) v. Illinois Environmental Protection Agency, PCB 16–112. On August 8, 2016, Calpine filed an Amended Petition for Variance with the IPCB, requesting temporary relief from the 15 ppm sulfur content limitation for distillate fuel oil set forth in 35 Ill. Adm. Code 214.161(b)(2). On November 17, 2016, the IPCB granted the variance from January 1, 2017, to December 31, 2021, subject to several conditions. IPCB also granted the motion on August 17, 2017, amending its order to correct the errors.

The Petition for Variance sought relief from provisions that were approved into the Illinois SIP. Those SIP provisions remain in effect and enforceable unless and until EPA revises the SIP to incorporate the variances. Thus, following the decision by IEPA to approve the variances, IEPA submitted them to EPA for approval as SIP revisions.

On February 6, 2018, IEPA formally submitted a request for EPA approval to amend the Illinois SIP for the 2010 1-hour SO_2 NAAQS to account for two variances granted by the IPCB to Calpine and Exelon. The submittal included an analysis of the potential impact of the variances on air quality, specifically with respect to the 2010 1-hour SO_2 NAAQS. This analysis was part of the variance applications submitted by Calpine and Exelon to the IPCB.

On June 12, 2019, at 84 FR 27212, EPA proposed to approve IEPA's request to amend the Illinois SIP to reflect the variances granted by the IPCB for Calpine and Exelon.

II. What comments did we receive on the proposed SIP revision?

Our June 12, 2019 proposed rule provided a 30-day comment period. The comment period closed on July 12, 2019. EPA received comments from one party during the public comment period. In this section we are responding to the comments received.

Comment. The commenter generally states that EPA should not approve the variances addressed in the proposal. The commenter specifically notes that the sources' claim that they are economically burdened by the imposition of the state's rule requiring compliance with sulfur limits of no greater than 15 ppm is factually incorrect. In addition, the commenter asserts that the facilities should not be allowed to dilute the 15 ppm fuel with any remaining high sulfur fuel and that they should immediately sell any remaining non-compliant fuel and stop burning diluted fuel with non-compliant sulfur limits.

Response. As discussed in more detail in the June 12, 2019 proposed approval, both Exelon and Calpine considered several potential options to comply with the Sulfur Content Rule as of January 1, 2017. Such options included combusting all the non-compliant fuel; continuing to dilute the fuel's sulfur content concentrations with ultra-low sulfur diesel (ULSD); draining all the storage tanks and refilling them with ULSD. According to the IPCB, both companies demonstrated that none of the compliance alternatives evaluated were practicable for meeting the 15 ppm sulfur limit by January 1, 2017 and presented a substantial hardship to the companies. EPA agrees with IPCB's evaluation that substantial hardship exists based on review of support documentation provided to the IPCB and included as part of the SIP revision submitted to EPA. Exelon's plan for complying with the Sulfur Content Rule by the end of the variance period outlined by the IPCB calls for continuing to replenish the lower sulfur tanks with ULSD; and, as part of a coordinated program, emptying the higher sulfur tanks and refilling them with ULSD. Under Calpine's compliance plan, the facility would comply with the Sulfur Content Rule by January 1, 2022 by continuing to purchase only fuel with sulfur content

below 15 ppm. This ensures that the sulfur content of the fuel used at the facility will continue to decrease. During the variance period, the sulfur content of all distillate oil combusted by Calpine must not exceed 115 ppm sulfur content. EPA believes that both compliance plans provide enough flexibility to allow Exelon and Calpine to address their hardship concerns while also requiring full compliance with the Sulfur Content Rule at the end of the variance period. The commenter did not submit any specific information for EPA review to substantiate its claim that the companies' hardship concerns were factually incorrect.

In addition, while hardship is a prerequisite for state variance issuance in this case, hardship is not a prerequisite for Federal approval. The state regulation under which it grants variances is not part of the SIP. Hardship is a defensible criterion for the state to use in allocating air quality resources, but it is not a criterion under the CAA, nor is EPA obliged in this case to judge whether it would have made the same determination as the state. EPA here needs only to judge whether the approval of these variances into the SIP interferes with attainment and reasonable further progress or any other applicable CAA requirement.

Comment. The commenter raises concerns that the state did not perform an appropriate CAA section 110(l) analysis to determine what effect these units would have on the 2010 1-hour SO_2 NAAQS. Further, the commenter states that EPA should evaluate situations when all the engines are being used at the same time since they appear to be emergency units that would likely be turned on at the same time.

Response. Both Exelon and Calpine submitted an analysis of the potential impact of their respective variances on air quality, specifically with regard to the 2010 1-hour SO_2 NAAQS. These analyses were part of the variance applications submitted to the IPCB. In addition, IEPA and EPA independently evaluated the impact of both variances and concluded that the facilities would not contribute to current SO_2 nonattainment areas, and that they would not cause any current attainment area to violate the SO_2 NAAQS. In addition, EPA concluded that the impact of these variances with regards to section 110(l) do not result in emissions increases above the levels of emissions that were in place when EPA designated these counties as attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS, but rather result in deferred emission reductions during the variance period (unachieved emissions reductions). While these variances delay the emission reductions provided by the approved state rule, these reductions are not necessary to achieve attainment in these areas, since EPA concluded that these areas were attaining the standard even before the reductions required by Illinois' rule were to commence. Specifically, as discussed in more detail in the June 12, 2019 proposed approval, EPA designated all of these counties as attainment/unclassifiable on January 9, 2018, based on monitoring data from 2014 to 2016 and emissions information that predated the January 1, 2017 compliance date of Illinois' fuel sulfur regulation.

The information submitted by the state was sufficient to assess whether the requirements of section 110(l) were met. For the Exelon variance, the potentially affected geographic areas include portions of the four counties in which the Exelon facilities are located. Each of these counties is designated as attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS. This includes Ogle County for Byron Station, LaSalle County for LaSalle Station, Grundy County for Dresden Station and DeWitt County for Clinton Station. The combined backup diesel storage capacity for the four Exelon stations which are part of this variance is 782,668 gallons. Using the maximum capacity of diesel fuel with a worst case 250 ppm sulfur content would result in 1.7 tons of combined unachieved emissions reductions during the variance period (0.443 tons at the Byron station; 0.238 tons at the Clinton station; 0.343 tons at the Dresden station; and 0.342 tons at the LaSalle station). A calculation of expected unachieved emissions reductions based on a more realistic projection, which uses a five-year average annual fuel usage at each station and current sulfur concentrations of the fuel in the pertinent tanks (based on the highest measure sulfur content fuel in the largest tanks at the Byron, Clinton, and Dresden stations and an average at the LaSalle station), would result in unachieved emissions reductions on a yearly basis during the variance period totaling less than one-tenth of one ton for all the stations combined.

The 2010 1-hour SO_2 NAAQS (or standard) is 75 parts per billion (ppb) based on the ''design value'' (the three-year average of annual 99th percentile daily maximum 1-hour average concentrations). IEPA maintains fifteen (15) SO_2 air monitors throughout the state. While these monitors are at a substantial distance from the sources that were granted variances, none of the monitors closest to the sources recorded any exceedances of the 75 ppb standard between 2014–2016, the design value timeframe immediately before Illinois implemented its statewide Sulfur Content Rule requirement. The highest 1-hour design value (2014–2016) for the nearest SO_2 monitoring sites to the Exelon sources ranged from 11 ppb to 44 ppb. Also, as stated above, EPA concluded that the impact of this variance with regards to section 110(l) does not result in emissions increases above the levels of emissions that were in place when these counties were designated as attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS, but rather result in unachieved emission reductions that are deferred during the variance period.

For the Calpine variance, the backup distillate oil in the tank at the Zion Energy Center would allow for approximately 68.6 hours of turbine operation or approximately 22.8 hours for each of the three combustion turbines at the facility. Using the remaining distillate oil with 115 ppm sulfur content would result in actual unachieved emissions of 0.77 tons of SO_2 over the five-year term of the variance, or 0.15 tons per year. The modeling conducted for this variance to demonstrate the environmental impact of using distillate oil with 115 ppm sulfur content shows that the air quality in potentially impacted areas will remain far below the 2010 1-hour SO_2 NAAQS, and the facility will not cause a modeled NAAQS exceedance.

The nearest SO_2 monitoring sites to Calpine did not record any exceedances in 2013 (IEPA 2013) when Calpine had a permitted sulfur limit of 480 ppm. The highest 1-hour monitored value in 2013 for those sites are 14 ppb and 10 ppb (36.7 ug/m^3 and 26.2 ug/m^3). Calpine is also approximately 90 kilometers from the nearest nonattainment area for the 2010 1-hour SO_2 NAAQS, Lemont (AQS ID 17–031–16010). Based on available air quality modeling results, Calpine is not contributing to these monitors.

The commenter is concerned about the possibility that all of the backup generators being granted variances might operate simultaneously. Given the distances between the different affected facilities, air quality near any one of these facilities would not reflect any detectable impact from any level of operation of pertinent SO_2 sources at any of the other affected facilities. The more germane question is whether full simultaneous usage of the variance by the affected units at any one of these facilities would cause air quality concerns. The available information demonstrates that these areas are

attaining by sufficient margin and the impact of these variances is sufficiently small that these variances would not interfere with attainment or any other CAA requirement.

Comment. The commenter does not believe the variances should be approved because the Round 3 SO_2 designations did not account for these units burning non-compliant sulfur fuel. The commenter believes that if these units were to turn on all at the same time near a Round 3 or Round 4 SO_2 designation source, the 2010 1-hour SO_2 NAAQS could be violated. EPA must affirmatively determine whether this is a possibility and whether the sources could contribute to a violation of a 2010 1-hour SO_2 NAAQS.

Response. In fact, the Round 3 SO_2 designations did account for these emissions. These designations were based on actual emissions in these areas. While the variances authorize the affected sources to defer any decrease in emissions as soon as would otherwise be required, the designation reflects available evidence indicating that the areas were attaining the standard even before the emission reductions from Illinois' low sulfur fuel oil rule took effect in these areas.

All the facilities that received these variances from IPCB are located in separate counties that were designated by EPA as attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS during the Round 3 SO_2 designations process. As part of its evaluation of the variances, IEPA examined the locations of the affected facilities in comparison to areas that were investigated and modeled for future area designation recommendations (Round 2 and Round 3 SO_2 designations process), and found that there was no overlap; IEPA determined, and EPA concurs, that it did not believe that the facilities associated with these variances would impact potential future nonattainment areas or change the designation for any of the counties where the facilities are located. Because of their relatively low SO_2 contribution levels, none of the facilities were required by EPA's SO_2 Data Requirement Rule (DRR) to be discretely modeled during the Round 3 SO_2 designations process. However, EPA designated the pertinent counties as attainment unclassifiable on the basis of 2014 to 2016 monitored air quality data and emissions information, reflecting air quality before the January 1, 2017 compliance date for Illinois' fuel sulfur regulation. The variances do not change this assessment because their impact does not result in emissions increases above the levels of emissions that were in place during the Round 3 designations process, but rather result in unachieved emission reductions that are deferred during the variance period. As outlined earlier, the design value for the closest monitors to the facilities are sufficiently below the 2010 1-hour SO_2 NAAQS and even assuming that the combined deferred emissions reduction of 2.47 tons were to be considered an emission increase and were to occur at one time, it would not trigger a violation of the 2010 1-hour SO_2 NAAQS. In addition, the impact of these variances is minimized by the fact the all the facilities are located outside of each other facility's reasonable modeling domain and would not have the potential to cause any significant concentration gradients within an area of analysis.

Regarding Round 4 SO_2 designations, Illinois installed and began operation of a new monitoring network near a pair of DRR sources in Macon County by January 1, 2017. Under a court-ordered designation schedule, EPA is required by December 31, 2020, to designate this area (Macon County) using three years (2017–2019) of quality-assured data to be collected from this network. None of the Exelon and Calpine units that are part of this variance request are in Macon County or are within the reasonable modeling domain and would not have the potential to cause any significant concentration gradients within the area of analysis.

Comment. The commenter states that even if EPA believes the variance is appropriate, EPA should instead require the affected facilities to utilize the non-compliant fuel first using a ''first in, first out'' method, so that the non-compliant fuel is used up faster, thereby reducing the time it takes for the facilities to come into compliance with the state rule and the SIP. The commenter further states that EPA should require the facilities to use up any non-compliant fuel first without dilution so that the time in non-compliance is limited and any violation of the SIP and state law is limited to a short time period.

Response. Requiring the affected facilities to utilize non-compliant fuel using a ''first in, first out'' method is not practicable in this situation because of the number of tanks that are affected; the location of these tanks in the facilities; and because of the legal and contractual restrictions that require both companies to maintain a specified volume of fuel on hand. In Exelon's case, the Nuclear Regulatory Commission regulations require that the facilities store and maintain on-site enough fuel to power the emergency equipment for up to seven days and ensure nuclear safety. As the fuel is depleted, Exelon is obligated to replenish the tanks to maintain the required seven-day supply, which would result in burning compliant fuel, as well as non-compliant fuel. In addition, Exelon indicates that the Federally Enforceable State Operating Permits for the facilities restrict the usage of, and emissions from, the emergency equipment. Similarly, some of the equipment is subject to Federal New Source Performance Standards for ''Stationary Compression Ignition Internal Combustion Engines'' (40 CFR part 60, subpart IIII) and the National Emission Standards for Hazardous Air Pollutants for ''Stationary Reciprocating Internal Combustion Engines'' (40 CFR part 63, subpart ZZZZ), which also restrict the amount of time the emergency equipment can be operated.

In Calpine's case, the company is contractually obligated to maintain 12 hours of backup fuel in case of emergency, so draining the tanks would violate this obligation and risk public safety. In its hardship assessment, Calpine argued that it cannot combust all its distillate oil without violating its Clean Air Act Permit Program permit that was reissued on October 16, 2014 (ID NO. 097200ABB, Application No. 99110042). Under its permit, the facility may only combust distillate oil for limited purposes including when natural gas is unavailable or for shakedown, evaluation, and testing of the turbines. Therefore, the facility's permit and economic conditions prevented burning the entire supply of the distillate oil supply before January 1, 2017. Additionally, Calpine argues that draining the storage tanks would impose a substantial hardship. Draining the tanks would entail purchasing and installing new equipment and revising facility plans that safeguard fuel spills at a substantial cost. As part of their variance agreement, both Exelon and Calpine are required to fully comply with the Sulfur Content Rule and will incur the costs necessary to achieve compliance. The companies only seek additional time to comply with the requirements of the Sulfur Content Rule within their current regulatory and contractual framework.

III. What action is EPA taking?

EPA is approving the revision to the Illinois SIP submitted by the IEPA on February 6, 2018, because the variances granted by the IPCB for Calpine and Exelon meet all applicable requirements and would not interfere with attainment of the 2010 1-hour SO_2 NAAQS.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the IPCB Opinion and Orders of the Board described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 7, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides.

Dated: November 20, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

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.*

■ 2. In § 52.720 the table in paragraph (d) is amended by adding entries in alphabetical order for ''Calpine Corporation (Zion Energy Center)'' and ''Exelon Generation, LLC'' to read as follows:

§ 52.720 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED ILLINOIS SOURCE-SPECIFIC REQUIREMENTS

Name of source	Order/permit No.	State effective date	EPA approval date	Comments
*	*	*	*	*
Calpine Corporation (Zion Energy Center).	PCB 16–112	12/19/2016	12/09/2019, [insert **Federal Register** citation].	As amended on 8/17/2017.

[1] 62 FR 27968 (May 22, 1997).

EPA-APPROVED ILLINOIS SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Comments
*	*	*	*	*
Exelon Generation, LLC	PCB 16–106	9/13/2016	12/09/2019, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2019–26295 Filed 12–6–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0277; FRL–10002–86–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Source-Specific Reasonably Available Control Technology Determinations for 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving three state implementation plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions address reasonably available control technology (RACT) requirements under the 2008 ozone national ambient air quality standard (NAAQS) for three facilities in Northern Virginia through source-specific determinations. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on January 8, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0277. 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: Emlyn Vélez-Rosa, 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) 814–2038. Ms. Vélez-Rosa can also be reached via electronic mail at *velez-rosa.emlyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 2019 (84 FR 37607), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Virginia. In the NPRM, EPA proposed approval of three separate SIP revisions from Virginia addressing RACT under the CAA for the 2008 ozone NAAQS for three facilities in Northern Virginia. The formal SIP revisions were submitted by the Virginia Department of Environmental Quality (VADEQ) on February 1, 14, and 15, 2019 and address the following facilities: Possum Point Power Station, Covanta Fairfax, and Covanta Alexandria/Arlington.

RACT is important for reducing oxides of nitrogen (NO_X) and volatile organic compounds (VOC) emissions from major stationary sources within areas not meeting the ozone NAAQS. Since the 1970's, EPA has consistently defined ''RACT'' as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.[1] RACT is applicable to ozone nonattainment areas which are classified as moderate or above, or any areas located within the Ozone Transport Region (OTR). General RACT requirements are set forth in section 172(c)(1) of the CAA, while ozone specific requirements are found in sections 182 and 184 of the CAA.

On March 12, 2008, EPA revised the 8-hour ozone standards, by lowering the standard to 0.075 parts per million (ppm) averaged over an 8-hour period (2008 ozone NAAQS). *See* 73 FR 16436. Under the 2008 ozone NAAQS, only the Northern portion of Virginia is subject to RACT due to its location in the OTR, as there are no moderate nonattainment areas in Virginia under the standard. The OTR portion of Virginia consists of the Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, and Strafford County. The three facilities which are the subject of this rulemaking action are located in Northern Virginia.

II. Summary of SIP Revision and EPA Analysis

Virginia's February 1, 14, and 15, 2019 SIP revisions address NO_X and/or VOC RACT for the following facilities: Virginia Electric and Power Company—Possum Point Power Station, Covanta Alexandria/Arlington, Inc., and Covanta Fairfax, Inc. VADEQ is adopting as part of these SIP revisions additional NO_X control requirements for these three facilities to meet RACT under the 2008 ozone NAAQS, all of which are implemented via federally enforceable permits issued by VADEQ. These RACT permits, as listed on Table 1, have been submitted as part of each SIP revision for EPA's approval into the Virginia SIP under 40 CFR 52.2420(d).

Virginia's source specific RACT determinations include an evaluation of NO_X and/or VOC controls that are reasonably available for the affected emissions units at each facility and its determination of which control requirements satisfy RACT. VADEQ submitted federally enforceable permits with the purpose of implementing the requirements of 9VAC5, Chapter 40 (9VAC5–40), sections 7400, 7420, and 7430.

[1] See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, ''Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,'' and also 44 FR 53762; September 17, 1979.

TABLE 1—FACILITIES WITH PROPOSED SOURCE-SPECIFIC RACT DETERMINATIONS

Facility name	Source type	Facility ID	RACT permit (effective date)	SIP submittal date
Virginia Electric and Power Company—Possum Point Power Station.	Electric generation utility	Registration No. 70225	Permit to Operate (1/31/19) ...	2/1/19
Covanta Fairfax, Inc	Municipal waste combustor ...	Registration No. 71920	Permit to Operate (2/8/19)	2/14/19
Covanta Alexandria/Arlington, Inc.	Municipal waste combustor ...	Registration No. 71895	Permit to Operate (2/8/19)	2/15/19

As part of the February 1, 2019 SIP revision, VADEQ is addressing RACT for the Possum Point Power Station, an electrical generation utility (EGU) facility located in Prince William County owned and operated by Virginia Electric and Power Company. This EGU facility is considered a major source of NO_X and VOC. VADEQ has adopted additional NO_X RACT requirements for Possum Point Power Station's electric generating boiler ES–5 as part of the facility's Permit to Operate issued on January 31, 2019 and included for approval into the SIP. Given the potential retirement of boiler ES–5, VADEQ determined RACT for boiler ES–5 based on the two possible operating scenarios: (1) The installation and operation of selective non-catalytic reduction (SNCR) by June 1, 2019, in the scenario that the unit remains operational after such date; or (2) the retirement of the unit by June 1, 2021, in the scenario that the unit is or will be retired.

As part of the February 1, 2019 SIP revision, VADEQ also recertified applicable NO_X and VOC controls for the other two electric generating boilers (ES–3 and ES–4) at Possum Point Power Station as well as VOC controls for boiler ES–5, all of which were previously approved as RACT on a source-specific basis. VADEQ also determined that additional VOC controls are not economic or technically feasible for this facility, given the size and VOC emissions from individual emissions units.

As part of the February 14, 2019 and February 15, 2019 SIP revisions, VADEQ is addressing NO_X RACT for two municipal waste combustion (MWC) facilities with energy recovery: Covanta Fairfax, Inc. (Covanta Fairfax) and Covanta Alexandria/Arlington, Inc. (Covanta Alexandria/Arlington). These MWC facilities are located in Lorton, in Fairfax County and the City of Alexandria, respectively, and are considered major sources of NO_X. VADEQ determined the following control measures as NO_X RACT for each MWC unit at Covanta Fairfax and Covanta Alexandria/Arlington: the installation and operation of Covanta's proprietary low NO_X combustion system, the operation (and optimization as needed) of the existing SNCR, a daily NO_X average limit of 110 parts per million, volumetric dry (ppmvd) corrected at 7% oxygen (O_2), and an annual NO_X average limit of 90 ppmvd at 7% O_2. The NO_X RACT control requirements for the four MWC units at Covanta Fairfax have been adopted as part of the facility's Permit to Operate issued on February 8, 2019; while those for the three MWC units at Covanta Alexandria/Arlington have been adopted as part of the facility's Permit to Operate issued by on February 8, 2019.

EPA believes that VADEQ has considered and adopted reasonably available NO_X and/or VOC controls for each of these facilities. EPA finds that the additional NO_X control requirements adopted by VADEQ in the respective federally enforceable permits are adequate to meet RACT for these sources. EPA also finds that re-certification of existing source-specific requirements for Possum Point Station is adequate to meet RACT. Further, EPA determines that the additional NO_X RACT control requirements adopted for each facility are more stringent than the applicable SIP-approved NO_X RACT requirements, so that approval of these permits into the SIP would be consistent with section 110(l) of the CAA. Other specific requirements of VADEQ's source-specific determinations and the rationale for EPA's proposed action are explained in the NPRM and the related Technical Support Document (TSD) and will not be stated here.

III. Public Comments and EPA Response

EPA received three comments on the August 1, 2019 NPRM. One comment EPA considers to not be adverse to this action and does not require a response. The other two comments each contend that EPA should not approve Virginia's RACT SIP, alleging effects of this rulemaking action on nuclear power facilities. A summary of the comments and EPA's response is discussed in this Section. A copy of the comments can be found in the docket for this rulemaking action.

Comment: The first commenter claims that EPA should not approve Virginia's RACT SIP determinations because it would make the State's nuclear power plants too expensive and prevent the development of the State's commercial nuclear program.

EPA Response: The commenter did not indicate how the imposition of RACT controls on the three facilities that are the subject of this rulemaking would negatively affect Virginia's nuclear power program. EPA finds that the subject of the effects of these SIP revisions on Virginia-based nuclear power is irrelevant to this rulemaking action. The SIP revisions addressed in this rulemaking evaluate air pollution controls for NO_X and VOC at three facilities in Northern Virginia, none of which are nuclear power plants.

Comment: The second commenter claims that Virginia's RACT determination for Possum Point lacks adequate information and that EPA's rulemaking action is unsupported, because EPA ''ignored the fact that at least a dozen other large power plants including those of the coal-dependent Appalachian states of Virginia, West Virginia, and Kentucky, have similar nuclear waste storage capacity.'' The commenter also argues that EPA needs to evaluate ''the cost of other utilities and other power generating utilities when forcing costly controls on plants such as this'' as well as ''the increased cost of ratepayers when forcing states to evaluate expensive controls on publicly owned utilities like in Virginia.''

EPA Response: The commenter does not explain how power plants with nuclear storage capacity are related to this rulemaking action, nor identify any facilities of concern to allow EPA to further assess this claim. As indicated earlier, the SIP revisions addressed in this rulemaking evaluate air pollution controls for NO_X and VOC at three facilities in Northern Virginia, none of

which are nuclear power plants. In particular, Possum Point Power Station is a thermal power plant in which electricity is produced by converting heat energy to electrical power through the combustion of natural gas in turbines and boilers. In addition to the topic of nuclear power being irrelevant, EPA also notes that the commenter does not provide in its comment which costs EPA should have evaluated as part of this rulemaking action and for which ''utilities'' this was needed.

EPA disagrees with the assertions that Virginia's RACT determination for Possum Point lacks adequate information and that EPA's proposed rulemaking action to approve this determination is unsupported. The commenter provided no new or additional data for EPA to evaluate in support of its allegations and does not explain how ''increased cost to the rate payer'' should be evaluated as a factor beyond the statutory and regulatory factors EPA cited in the TSD for establishing RACT. EPA continues to rely upon the data cited in the NPRM and in the statutory and regulatory factors established for evaluating RACT. See, *e.g., International Fabricare Institute* v. *E.P.A.,* 972 F.2d 384 (D.C. Cir. 1992). (The Administrative Procedures Act does not require that EPA change its decision based on ''comments consisting of little more than assertions that in the opinions of the commenters the agency got it wrong,'' when submitted with no accompanying data.) As set forth in the NPRM, EPA has determined that the February 1, 2019 SIP revision includes adequate information to support Virginia's RACT determination for this facility. As part of the February 1, 2019 SIP revision, the Commonwealth of Virginia evaluated the technical and economic feasibility of installing and operating additional air pollution control devices of NO_X and/or VOC for each emissions unit at Possum Point. EPA believes that the Commonwealth provided sufficient assurances as part of the February 1, 2019 SIP revision to support its source-specific RACT determination for Possum Point.

EPA's evaluation of Virginia's February 1, 2019 SIP revision and the rationale for taking rulemaking action on this submission was discussed in detail in the NPRM and accompanying TSD. EPA's decision to approve the RACT determination for Possum Point based on that information is not changed by these unsupported comments.

IV. Final Action

EPA finds that Virginia's SIP revisions submitted on February 1, 14, and 15, 2019 addressing source-specific RACT for Possum Point Power Station, Covanta Fairfax, and Covanta Alexandria/Arlington, are adequate to meet RACT requirements set forth under the CAA for the 2008 ozone NAAQS. EPA is approving the February 1, 14, and 15, 2019 submittals as revisions to the Commonwealth of Virginia SIP to satisfy sections 172(c)(1), 182(b)(2)(C), 182(f), and 184(b)(1)(B) for implementation of the 2008 ozone NAAQS.

V. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VI. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of three federally enforceable permits, each addressing NO_X and/or VOC RACT under the 2008 ozone NAAQS for a major NO_X and/or VOC source as discussed in section II of this preamble. EPA has made, and will continue to make, these materials

generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

VII. 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).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 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).

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

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 February 7, 2020. 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 addressing source-specific RACT under the 2008 ozone NAAQS for three facilities in Northern Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 20, 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 VV—Virginia

■ 2. In § 52.2420, the table in paragraph (d) is amended by adding entries for ''Virginia Electric and Power Company (VEPCO)—Possum Point Power Station'', ''Covanta Alexandria/Arlington, Inc.'', and ''Covanta Fairfax, Inc.'' at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(d) * * *

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

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration No.	State effective date	EPA approval date	40 CFR part 52 citation
*	* *	*	*	* *
Virginia Electric and Power Company (VEPCO)—Possum Point Power Station.	Registration No. 70225	01/31/19	12/09/19, [*Insert* ***Federal Register*** *citation*].	§ 52.2420(d); RACT for 2008 ozone NAAQS.
Covanta Alexandria/Arlington, Inc.	Registration No. 71920	02/14/19	12/09/19, [*Insert* ***Federal Register*** *citation*].	§ 52.2420(d); RACT for 2008 ozone NAAQS.
Covanta Fairfax, Inc	Registration No. 71895	02/08/19	12/09/19, [*Insert* ***Federal Register*** *citation*].	§ 52.2420(d); RACT for 2008 ozone NAAQS.

* * * * *

[FR Doc. 2019–26403 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R05–OAR–2018–0285; FRL–10002–80–Region 5]

Air Plan Approval; Wisconsin; Title V Operation Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving updates and revisions to the Wisconsin title V Operation Permit Program, submitted by Wisconsin pursuant to subchapter V of the Clean Air Act (Act). The revisions were submitted to update the title V program since the final approval of the program in 2001 and to change the permit fee schedule for subject facilities. The revisions consist of amendments to Department of Natural Resources NR Chapter 407 Wisconsin Administrative Code, operation permits, Chapter NR 410 Wisconsin Administrative Code, permit fees, and Wisconsin statute 285.69, fee structure. This approval action will help ensure that Wisconsin properly implements the requirements of title V of the Act.

DATES: This final rule is effective on January 8, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0285. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Susan Kraj, Environmental Engineer, at (312) 353–2654 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Susan Kraj, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–2654, *kraj.susan@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Review of Wisconsin's Submittal
II. What is our response to comments received on the proposed rulemaking?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. Review of Wisconsin's Submittal

This final rulemaking addresses the request EPA received on March 8, 2017, from the Wisconsin Department of Natural Resources (WDNR) for approval of revisions and updates to Wisconsin's title V operating permit program. Pursuant to subchapter V of the Act, generally known as title V, and the implementing regulations, at 40 Code of Federal Regulations (CFR) part 70, states developed and submitted to EPA for approval, programs for issuing operation permits to all major stationary sources. EPA promulgated interim approval of Wisconsin's title V operating permit program on March 6, 1995 (60 FR 12128). In 2001, WDNR submitted corrections to the interim approval issues identified in the 1995 interim approval action as well as additional program revisions and updates. EPA took action to approve the corrections to the interim approval issues and promulgated final approval of the Wisconsin title V program on December 4, 2001 (66 FR 62951).

Wisconsin is seeking approval of changes and updates made to its title V program since the 1995 and 2001 approvals. EPA received WDNR's submittal updating its title V operating permit program on March 8, 2017, and supplemental information on January 26, 2018 (submittal). WDNR's submittal contains two sections, Part 1 and Part 2.

Part 1 contains previously approved program elements which are included for informational purposes, as well as minor clarifications and corrections, which were included in WDNR's 2001 submittal, but which EPA did not act on or approve in the 2001 approval.

Part 2 contains title V program revisions and updates since Wisconsin's program was approved in 2001. Part 2 of the submittal contains section I—Additional State Rule Changes and Updates to the Regulations, and section II—Permit Fee Demonstration.

EPA is addressing the changes and updates in WDNR's submittal that have not been previously approved by EPA. This includes the changes in Part 1, Section IX (Other Changes—Minor Clarifications and Corrections), as well as the changes in Part 2, both sections I and II, of WDNR's submittal that relate to the Federal title V program at 40 CFR part 70. EPA finds that the program revisions and updates in WDNR's submittal have satisfactorily addressed the requirements of part 70, and EPA is therefore approving this submittal.

II. What is our response to comments received on the proposed rulemaking?

EPA published a direct final rule approving Wisconsin's submittal on July 31, 2019 (84 FR 37104) along with a proposed rule that was also published on July 31, 2019 (84 FR 37194). In this proposed rule we stated that if we

receive adverse comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the direct final action. In the proposal, we also stated that all public comments received will then be addressed in a subsequent final rule and that EPA will not institute a second comment period.

EPA received a comment from one commenter during the public comment process. The comment from the anonymous commenter was received on August 30, 2019. Consequently, the direct final rule for this approval was withdrawn and this withdrawal of the direct final rule was published on September 25, 2019 (84 FR 50307). The comment received and EPA's response follows:

Comment 1: ''Did EPA even do a financial analysis of Wisconsin's Permit Fee Demonstration? Fixed fee programs are gradually becoming insolvent across the country as emissions decrease over time. Slowly states are beginning to understand that billable hours model permit programs are the only way to sustain adequate permit reviews and writing permits for these sources with extensive requirements. EPA must perform a financial analysis of the Department's fee demonstration and audit the department's finances to determine what level of fees is adequate to sustain the permit review and issuance process.''

EPA Response: WDNR submitted a fee demonstration as part of its submittal because 40 CFR 70.9(c) requires a demonstration. 40 CFR 70.9(a) provides that a state program must require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs. 40 CFR 70.9(b) provides that a state shall collect fees that cover the actual permit program costs and 40 CFR 70.9(b)(2) establishes a presumptive fee level such that a state fee schedule that collects at or above that presumptive level will be presumed valid.

Permitting authorities have the option of submitting a fee demonstration based on the presumptive fee test or submitting a detailed fee demonstration if they collect less than the presumptive fee. EPA considers the total program revenue to be presumptively adequate if fees are collected at or above the presumptive minimum level, and if presumptively adequate, EPA does not require a detailed fee analysis. Because Wisconsin has shown that the actual revenues collected under its fee structure exceed what would be collected using the presumptive minimum fee schedule, WDNR has demonstrated that the level of fees collected is sufficient.

WDNR describes in its submittal the rule changes related to fees that have occurred since 2001, including changes that revised the operation permit fee structure. WDNR's current title V fee structure requires sources that must obtain a Federal operation permit to pay an annual air emissions tonnage fee, but sources also pay an additional annual flat fee, based on the tons of actual billable emissions. In addition, sources also pay an additional annual flat fee if the source is subject to other requirements, such as if maximum achievable control technology standards apply to the source, if one or more Federal New Source Performance Standards apply to the source, if Federal Prevention of Significant Deterioration permitting requirements apply to the source, or if the source is a privately-owned coal-fired electric utility with an electric generating unit, among other flat fees.

The submittal provides tables showing the fee rate per ton of billable pollutants, the billable tons, and the total fees assessed for various years. The submittal also provides details on WDNR's revenue, work planning, and expenditures. In addition, WDNR has several mechanisms in place to ensure that fees collected from title V sources are used solely for funding title V permit activities as required by 40 CFR 70.9(a). *See also* 40 CFR 70.9(d). In the submittal, WDNR compares the actual revenues collected under its fee structure to an estimate of what would be collected using the presumptive minimum fee schedule, and WDNR's actual revenues collected exceed the presumptive minimum projections. WDNR's submittal demonstrates that the level of fees it collects from federally-regulated sources is sufficient for the WDNR to adequately administer and enforce the required minimum elements of the title V permit program required in Section 502(b) of the Act.

EPA evaluated the fee information in WDNR's submittal and has found that WDNR has demonstrated that it has adequate funding levels to support its title V program. Accordingly, Wisconsin has adequately demonstrated that the revised fee schedule has resulted in the collection of fees in an amount sufficient to cover its actual program costs, as required by 40 CFR 70.9 and the Act.

Note that this is not the first time that EPA has conducted an analysis of WDNR's title V fees. On March 4, 2004, EPA published a Notice of Deficiency (NOD) for the title V Operating Permit Program in Wisconsin. See 69 FR 10167. The NOD was based upon EPA's findings that the State's title V program did not comply with the requirements of the Act or with the implementing regulations at 40 CFR part 70 in part because (1) Wisconsin had failed to demonstrate that its title V program required owners or operators of part 70 sources to pay fees sufficient to cover the costs of the State's title V program in contravention of the requirements of 40 CFR part 70 and the Act; and (2) Wisconsin was not adequately ensuring that its title V program funds were used solely for title V permit program costs and, thus, was not conducting its title V program in accordance with the requirements of 40 CFR 70.9 and the Act.

On August 18, 2005, WDNR submitted to EPA its response to the March 4, 2004 NOD '' (NOD Response). The NOD Response is available to view in the docket, Docket ID No. WI–118–2. In the NOD Response, and its accompanying attachments, WDNR explained and documented how each of the deficiencies identified in the NOD had been, or were being, addressed. The NOD Response contains documented internal operational changes within WDNR, a copy of the fee structure included in Wisconsin's 2005–07 biennial budget bill enacted into law as 2005 Wisconsin Act 25 (published July 26, 2005), and numerous attachments describing WDNR's permit program, program costs, fee structure, and workload.

In an action dated February 27, 2006, EPA determined that Wisconsin had demonstrated that it has resolved each of the issues listed in the March 4, 2004, NOD. *See* 71 FR 9720 for the analysis of WDNR's submittal and EPA's approval.

III. What action is EPA taking?

EPA is approving the requested revisions and updates to WDNR's title V operation permit program.

IV. Statutory and Executive Order Reviews

Executive Orders 12866 and 13563: Regulatory Planning and Review

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a ''significant regulatory action'' and, therefore, is not subject to review by the Office of Management and Budget.

Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is an Executive Order 13771 (82 FR 9339, January 30, 2017) regulatory action because this action is not significant under Executive Order 12866.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this state operating permit program will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state operating permit program, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In addition, the state operating permit program 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 state operating permit program 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).

Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

This action also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it proposes to approve a state operating permit program.

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898: Federal Actions to Address Environmental

Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 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.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing state operating permit program submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Act. Accordingly, this action merely approves certain state requirements and will not in-and-of itself create any new requirements. Accordingly, it 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operation permits, Reporting and recordkeeping requirements.

Dated: November 19, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

40 CFR part 70 is amended as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Amend appendix A to part 70 by adding paragraph (d) under Wisconsin to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Wisconsin

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(d) Department of Natural Resources: Title V operating permit program revisions and updates received on March 8, 2017. Wisconsin's Title V program is hereby updated to include these requested changes.

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[FR Doc. 2019–26296 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264, 265, 268, 270, and 273

[EPA–HQ–OLEM–2017–0463; FRL–10002–49–OLEM]

RIN 2050–AG92

Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is adding hazardous waste aerosol cans to the universal waste program under the Federal Resource Conservation and Recovery Act (RCRA) regulations. This change will benefit the wide variety of establishments generating and managing hazardous waste aerosol cans, including the retail sector, by providing a clear, protective system for managing discarded aerosol cans. The streamlined universal waste regulations are expected to ease regulatory burdens on retail stores and others that discard hazardous waste aerosol cans; promote the collection and recycling of these cans; and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

DATES: This final rule is effective on February 7, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–RCRA–2017–0463. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

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SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This final rule will affect persons who generate, transport, treat, recycle, or dispose of hazardous waste aerosol cans, herein referred to as aerosol cans, unless those persons are households or very small quantity generators (VSQGs). Entities potentially affected by this action include over 25,000 industrial facilities in 20 different industries (at the 2-digit North American Industry Classification System (NAICS) code level). An estimated 7,483 of these facilities are large quantity generators (LQG). Most of these industries have relatively few entities that are potentially affected. The two top economic sectors (at the 2-digit NAICS code level) with the largest percentage of potentially affected entities are the retail trade industry (NAICS code 44–45), representing 69% of the affected LQG universe, and manufacturing (NAICS code 31–33), representing 17% of the affected LQG universe. Potentially affected categories and entities include, but are not necessarily limited to:

2 Digit NAICS code	Primary NAICS description	Total affected large quantity generators	Generated tons
44–45	Retail Trade	5,194	303
31–33	Manufacturing	1,238	7,771
48–49	Transportation and Warehousing	168	1,033
62	Health Care and Social Assistance	184	13
81	Other Services (except Public Administration)	169	4
92	Public Administration	113	190
61	Educational Services	116	32
54	Professional, Scientific, and Technical Services	89	16
42	Wholesale Trade	75	511
22	Utilities	40	14
56	Administrative and Support and Waste Management and Remediation Services	51	1,906
	All Other NAICS Codes	46	49
Total		7,483	11,843

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in section V of this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the agency taking?

The Environmental Protection Agency (EPA) is adding hazardous waste aerosol cans to the list of universal wastes regulated under the RCRA regulations. This revision will benefit the wide variety of establishments generating and managing aerosol cans, including the retail sector, by providing a clear, practical system for handling discarded aerosol cans.

C. What is the agency's authority for taking this action?

These regulations are promulgated under the authority of sections 2002(a), 3001, 3002, 3004, and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments (HSWA), 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

D. What are the incremental costs and benefits of this action?

This final action is estimated to result in an annual cost savings of $5.3 million to $47.8 million. Information on the estimated economic impacts of this action is presented in section VIII of this document, as well as in the Regulatory Impact Analysis (RIA) available in the docket for this final action. In addition to cost savings, EPA's analysis shows qualitative benefits to adding aerosol cans to the universal waste program, including improved implementation of and compliance with the hazardous waste program and increased recovery and recycling of aerosol cans.

II. List of Acronyms

CFR Code of Federal Regulations

DOT Department of Transportation
EPA Environmental Protection Agency
E.O. Executive Order
FR Federal Register
LQG Large Quantity Generator
LQHUW Large Quantity Handler of Universal Waste
NAICS North American Industry Classification System
NODA Notice of Data Availability
OMB Office of Management and Budget
RCRA Resource Conservation and Recovery Act
SQG Small Quantity Generator
SQHUW Small Quantity Handler of Universal Waste
TSDF Treatment, Storage and Disposal Facility
VSQG Very Small Quantity Generator

III. Background

A. Summary of Proposal

On March 16, 2018, EPA published the proposal to add aerosol cans to the Federal universal waste program (83 FR 11654). EPA's proposal recognized that inclusion of this common waste stream as universal waste could better ensure that aerosol cans are managed appropriately at the end of their lives, remove these wastes from the municipal waste stream, potentially encourage recycling, and reduce unnecessary burden for generators.

In its proposal, EPA analyzed the factors for inclusion of a waste stream in the universal waste program and took public comment on its conclusions. In addition, EPA defined what materials would qualify as aerosol cans for the purposes of management as universal waste. EPA proposed management standards for handlers of these materials and took public comment on the proposed standards.

In addition to the universal waste management standards that apply to all universal waste handlers, such as labeling and marking, accumulation time limits, employee training, responses to releases, export requirements, and, for large quantity handlers of universal waste, notification and tracking, EPA proposed specific standards that relate to the puncturing and draining of aerosol cans.

EPA proposed that puncturing and draining of aerosol cans be conducted by a commercial device specifically designed to safely puncture aerosol cans and effectively contain the residual contents as well as any emissions from the puncturing and draining activities. In addition, EPA proposed that handlers establish written procedures for safely puncturing and draining universal waste aerosol cans and ensure that employees operating the device be trained in the proper procedures. EPA proposed that puncturing of aerosol cans be done in a manner designed to prevent fires and releases and that any residuals from puncturing cans be transferred to a tank or container, at which point the handler must make a hazardous waste determination on the residuals, as required in 40 CFR 262.11. The proposal also included that written procedures be in place in the event of a spill or release, that a spill clean-up kit be provided, and that any spills or leaks be cleaned up promptly.

In addition to these proposed standards, EPA analyzed the existing state universal waste programs that include aerosol cans and requested comment on including further limitations on puncturing and draining of cans that might contain materials that pose an incompatibility hazard with other materials or establishing further limits on which types of handlers are allowed to puncture and drain aerosol cans within the universal waste program.

EPA has analyzed all the comments received in response to its proposed rule and responds to those comments in this final rule or in the Response to Comment document available in the docket for this rulemaking.

B. Description of Aerosol Cans

Aerosol cans are widely used for dispensing a broad range of products including paints, solvents, pesticides, food and personal care products, and many others. The Household and Commercial Products Association estimates that 3.75 billion aerosol cans were filled in the United States in 2016 for use by commercial and industrial facilities as well as by households.[1]

A typical aerosol can consists of several components, including (but not limited to) the following: (1) The can or container storing both propellant and the product; (2) an actuator or button at the top of the can that is pressed to deliver the product; (3) a valve, which controls delivery or flow of the product; (4) the propellant (a compressed gas or liquefied gas), which provides the pressure in the container to expel or release the product when the actuator is pressed to open the valve; (5) the product itself; and (6) a dip tube, which is connected to the valve to bring the product up through the can to be released when the actuator is pressed.[2]

The can itself is typically a small steel or aluminum container, designed to be hand-held, which is sealed with its contents under pressure. The can's design is intended to prevent unwanted releases of the contents to the environment under normal handling and storage conditions. However, when aerosol cans are mismanaged, particularly when exposed to excessive heat, the resulting increase in internal pressure can reach a point beyond the design strength of the can, thereby causing it to burst and release its contents. At the point of bursting, the contents of the can have been heated to a temperature and pressure far above ambient environmental conditions, causing the contents to rapidly vaporize and be forcefully released. If the propellant or product is ignitable, the contents of the can may readily catch fire as they are released and exposed to atmospheric oxygen, creating a rapidly burning vapor ''fireball.'' In addition, the bottom of the can may detach as a result of a manufacturing defect or an external force, potentially causing the upper part of the can to become a projectile.

Aerosol cans frequently contain flammable propellants such as propane or butane which can cause the aerosol can to demonstrate the hazardous characteristic for ignitability (40 CFR 261.21).[3] In addition, the aerosol can may also be a hazardous waste for other reasons when discarded. More specifically, an aerosol can may contain materials that exhibit hazardous characteristics per 40 CFR part 261, subpart C. Similarly, a discarded aerosol can may also be a P- or U-listed hazardous waste if it contains a commercial chemical product found at 40 CFR 261.33(e) or (f).

C. Current Federal Regulation of Aerosol Cans

1. Regulation of Aerosol Cans Under RCRA

Any person who generates a solid waste, as defined in 40 CFR 261.2, must determine whether the solid waste qualifies as hazardous waste. The waste may be hazardous either because it is listed as a hazardous waste in subpart D of 40 CFR part 261 or because it exhibits one or more of the characteristics of hazardous waste, as provided in subpart C of 40 CFR part 261. As discussed above, aerosol cans are frequently hazardous due to the ignitability characteristic and in some cases may also contain listed waste or

[1] Household and Commercial Products Association, Aerosol Products Survey Shows Strong, Stable Industry, May 2017. *https://www.thehcpa.org/aerosol-products-survey-shows-strong-stable-industry/* retrieved October 21, 2019.

[2] National Aerosol Association, *History of the Aerosol, http://www.nationalaerosol.com/history-of-the-aerosol/,* retrieved December 11, 2017.

[3] University of Vermont, *Paint and Aerosol Safety, http://www.uvm.edu/safety/art/paint-aerosol-safety,* retrieved December 11, 2017.

exhibit other hazardous waste characteristics.[4]

Until this rulemaking goes into effect, many, but not all, generators of aerosol cans identified or listed as a hazardous waste have been subject to the full RCRA Subtitle C hazardous waste management requirements, including all applicable requirements of 40 CFR parts 260 through 268. Depending on their activities, some generators have only to meet the requirements of part 262, including on-site management, pre-transport, and manifesting. Under 40 CFR 262.14, VSQGs, defined as facilities that generate less than or equal to 100 kilograms of hazardous waste in a calendar month, are not subject to the RCRA Subtitle C hazardous waste management standards, provided they send their waste to a municipal solid waste landfill or non-municipal nonhazardous waste facility approved by the state for the management of VSQG wastes and meet other conditions. In addition, households that generate waste aerosol cans are exempt from the Federal hazardous waste management requirements under the household hazardous waste exemption in 40 CFR 261.4(b)(1).[5]

Facilities that treat, store, and/or dispose of hazardous waste aerosol cans are subject to the requirements of 40 CFR part 264 (for permitted facilities) or the requirements of 40 CFR part 265 (for interim status facilities). However, when hazardous waste aerosol cans are recycled, the recycling process itself is not subject to regulation, except as indicated in 40 CFR 261.6(d). EPA has interpreted the current hazardous waste regulations to mean that puncturing and draining an aerosol can, if performed for the purpose of recycling (*e.g.,* for scrap metal recycling), is considered part of the recycling process and is exempt from RCRA permitting requirements under 40 CFR 261.6(c).[6] However, until this rulemaking goes into effect, facilities receiving hazardous waste aerosol cans from off site would require a RCRA permit for storage prior to the recycling activity and the recycling process would be subject to subparts AA and BB of 40 CFR part 264 or 265, or subject to part 267.

2. Regulation Under the Federal Insecticide, Fungicide, and Rodenticide Act

Hazardous waste aerosol cans that contain pesticides are also subject to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), including compliance with the instructions on the label. In general, the statement on aerosol pesticide product FIFRA labels prohibits the puncturing of the cans. However, in April 2004, EPA issued a determination that puncturing aerosol pesticide containers in the process of recycling aerosol cans is consistent with the purposes of FIFRA. The purpose of the label prohibiting puncturing of pesticide-containing aerosol cans is to protect the ordinary users of pesticides from the hazards of pressurized containers. The hazards associated with recycling aerosol pesticide containers are adequately, and more appropriately, addressed under Federal, state and local laws concerning solid and hazardous wastes and occupational safety and health. Such puncturing is therefore lawful pursuant to FIFRA section 2(ee)(6) provided that the following conditions are met:

- The puncturing of the container is performed by a person who, as a general part of his or her profession, performs recycling and/or disposal activities;
- The puncturing is conducted using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof; and
- The puncturing, waste collection, and disposal, are conducted in compliance with all applicable Federal, state, and local waste (solid and hazardous waste) and occupational safety and health laws and regulations.[7]

D. Retail Strategy and Aerosol Cans

The retail sector as a whole handles a very large number of diverse products, which change over time and may, in many instances, become regulated as hazardous waste under RCRA when discarded. As a result, retailers are required to make hazardous waste determinations for a variety of products being discarded at stores located across the country.

In 2014, EPA published a Notice of Data Availability (NODA) for the Retail Sector as part of the Agency's continuing efforts to better understand concerns from all stakeholders regarding RCRA's applicability to the retail sector, as well as to obtain information and feedback on issues affecting the retail sector (79 FR 8926, February 14, 2014). In the NODA, EPA requested comment on a series of topics related to retail operations, waste management practices, and management of materials that may become hazardous waste when discarded. This specifically included requests for information regarding aerosol cans (*e.g.,* quantity generated, classification, and management options, including handling them as universal waste), since aerosol cans comprise a large percentage of the retail sector's hazardous waste stream. Approximately 35% of NODA commenters specifically suggested that discarded aerosol cans be managed as universal waste.

In response to comments on the Retail Sector NODA, the Agency published the *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework,* which lays out a cohesive plan to address the unique challenges faced by the retail sector in complying with RCRA regulations while reducing burden and protecting human health and the environment.[8] One of the action items under the Retail Strategy is to explore adding hazardous waste aerosol cans to the Universal Waste Rule. This final rule, which adds aerosol cans to the Federal universal waste program, completes EPA's commitment in the Retail Strategy to explore this option. Further, with this action, EPA has completed all commitments made in the Retail Strategy.

E. Universal Waste Rule

In 1995, EPA promulgated the Universal Waste Rule (60 FR 25492, May 11, 1995) to establish a streamlined hazardous waste management system for widely generated hazardous wastes as a way to encourage environmentally sound collection and proper management of the wastes within the system. Hazardous waste batteries, certain hazardous waste pesticides, mercury-containing equipment, and hazardous waste lamps are already included on the Federal list of universal wastes. The universal waste regulations in 40 CFR part 273 are a set of alternative hazardous waste management standards that operate in lieu of regulation under 40 CFR parts

[4] Aerosol cans that have not been discarded are not solid or hazardous wastes.

[5] Under 40 CFR 261.4(b)(1), ''household waste'' means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas).

[6] EPA first explained this interpretation in 1993. *See* U.S. EPA *1993 Regulatory Status of Used Residential And Commercial/Industrial Aerosol Cans,* Memo from Jeff Denit, Acting Director, Office of Solid Waste to John DiFazio, Chemical Specialties Manufacturers Association, October 7, 1993. RO# 11780.

[7] 2004 U.S. EPA *Puncturing of Aerosol Pesticide Products Under FIFRA for the Purpose of Recycling,* Letter from Lois Rossi and William Diamond, Office of Pollution Prevention and Toxic Substances, U.S. EPA, to John A. Wildie, Randolph Air Force Base, April 30, 2004, Docket ID# EPA–HQ–OLEM–2017–0463–0007.

[8] EPA 2016. *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework.* September 12, 2016. *https://www.epa.gov/hwgenerators/strategy-addressing-retail-sector-under-resource-conservation-and-recovery-acts,* retrieved on January 24, 2018.

260 through 272 for specified hazardous wastes.

Handlers and transporters who generate or manage items designated as a universal waste are subject to the management standards under 40 CFR part 273, rather than the full RCRA Subtitle C regulations. Handlers include both facilities that generate universal waste and facilities that receive universal waste from other universal waste handlers, accumulate the universal waste, and then send the universal waste to another handler, a destination facility, or a foreign destination. Handlers do not include facilities that treat, dispose of, or recycle universal waste except as provided in the universal waste regulations. The regulations distinguish between ''large quantity handlers of universal waste'' (those who handle more than 5,000 kilograms of total universal waste at one time) and ''small quantity handlers of universal waste'' (those who handle 5,000 kilograms or less of universal waste at one time). The 5,000-kilogram accumulation limit applies to the quantity of all universal wastes accumulated. The streamlined standards include requirements for storage, labeling and marking, preparing the waste for shipment off site, employee training, response to releases, and, in the case of large quantity handlers, notification and tracking of universal waste shipments. Transporters of universal waste are also subject to less stringent requirements than the full Subtitle C hazardous waste transportation regulations.

Under the Universal Waste Rule, destination facilities are those facilities that treat, store, dispose, or recycle universal wastes. Universal waste destination facilities are subject to all currently applicable requirements for hazardous waste treatment, storage, and disposal facilities (TSDFs) and must receive a RCRA permit for such activities. Destination facilities that recycle universal waste and that do not store that universal waste prior to recycling in accordance with 40 CFR 261.6(c)(2) may be exempt from permitting under the Federal regulations (see 40 CFR 273.60(b)). Finally, states implementing the universal waste program are authorized to add wastes that are not Federal universal wastes to their lists of universal wastes. Therefore, in some states, aerosol cans are already regulated as a universal waste.

F. State Universal Waste Programs That Include Aerosol Cans

Five states—California, Colorado, New Mexico, Ohio, and Utah—already have universal waste aerosol can programs in place, and Minnesota plans to propose to add aerosol cans to their universal waste regulations in 2019.[9] The universal waste programs in all these states include streamlined management standards similar to 40 CFR part 273 for small and large quantity handlers of universal waste and a one-year accumulation time limit for the aerosol cans. In addition, the five current state universal waste programs set standards for puncturing and draining of aerosol cans by universal waste handlers.

The aerosol can universal waste programs in California, Colorado, New Mexico, Ohio, and Utah allow for puncturing and draining of aerosol cans by universal waste handlers, as long as specific management standards and waste characterization requirements are met. In addition, California does not allow off-site commercial processors[10] to puncture and drain aerosol cans without a permit and requires those handlers that do puncture and drain cans to submit a notification. Guidance in effect in Minnesota at the time of publication of this final rule also allows handlers to puncture and drain their aerosol cans.

IV. Rationale for Including Aerosol Cans in the Universal Waste Rule

A. Factors for Inclusion in the Universal Waste Rule

EPA is adding aerosol cans to the list of universal wastes because this waste meets the factors found at 40 CFR 273.81 that describe hazardous waste appropriate for management under the streamlined universal waste system. Adding aerosol cans to the Universal Waste Rule simplifies handling and disposal of the wastes for generators, while ensuring that universal waste aerosol cans are sent to the appropriate destination facilities, where they will be managed as a hazardous waste with all applicable Subtitle C requirements to ensure protection of human health and the environment. Management as universal waste under the final requirements is also expected to facilitate environmentally sound recycling of the metal used to make the cans.

The universal waste regulations include eight factors to consider in evaluating whether a waste is appropriate for including in the regulations as a universal waste. These factors, codified at 40 CFR 273.81, are to be used to determine whether regulating a particular hazardous waste under the streamlined standards would improve overall management of the waste, and, therefore, whether the waste is a good candidate to be a universal waste. As the Agency noted in the preamble to the final Universal Waste Rule (60 FR 25513), not every factor must be met for a waste to be appropriately regulated under the universal waste system. However, consideration of the weight of evidence should result in a conclusion that regulating a particular hazardous waste under 40 CFR part 273 will improve waste management.

EPA has examined information on aerosol cans, including information submitted in the public comments on the proposed rule and the public comments on the 2014 Retail NODA using the criteria in 40 CFR 273.81.[11] In light of its evaluation of this information, the Agency has determined that on balance, hazardous waste aerosol cans meet the factors in 40 CFR 273.81 warranting inclusion on the Federal list of universal wastes for management under part 273. EPA received numerous comments on the proposed rule agreeing that aerosol cans are appropriate for inclusion in the Universal Waste Rule. EPA believes that adding aerosol cans to the list of universal wastes will make collection and transportation of this waste to an appropriate facility easier, and therefore will help facilitate recycling and reduce the amount of aerosol cans disposed of in municipal landfills. A summary of how the criteria in 40 CFR 273.81 apply to aerosol cans is described below.

1. The Waste, as Generated by a Wide Variety of Generators, Should Be a Listed or Characteristic Hazardous Waste (40 CFR 273.81)(a))

As discussed in section III, aerosol cans frequently demonstrate the hazardous characteristic for ignitability (40 CFR 261.21) due to the nature of the propellant used. In addition, the contents (propellant or product) may also exhibit another hazardous characteristic per 40 CFR part 261, subpart C, and may also be a P- or U-

[9] See supporting document number 0004 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463). See also Minnesota Pollution Control Agency 2016, *Public Rulemaking Docket, https://www.pca.state.mn.us/sites/default/files/mm-rule1-00.pdf,* retrieved August 21, 2019.

[10] According to California's guidance for their regulations, a ''commercial processor'' is any person that processes aerosol cans in exchange for compensation. Some examples include individuals from another generator's site, registered hazardous waste transporters, operators of hazardous waste treatment, storage and/or disposal facilities, and operators of transportable treatment units.

[11] Public comments on the 2014 Retail NODA can be found in docket number EPA–HQ–RCRA–2012–0426.

listed hazardous waste found at 40 CFR 261.33(e) or (f).

2. The Waste, or Category of Waste, Should Not Be Exclusive to a Particular Industry or Group of Industries, But Generated by a Wide Variety of Establishments (40 CFR 273.81(b))

EPA has documented in the RIA for this final rule that large and small quantity generators managing hazardous waste aerosol cans can be found in 20 different industries (at the 2-digit NAICS code level). Thus, aerosol cans are commonly generated by a wide variety of types of establishments, including retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities.

3. The Waste Should Be Generated by a Large Number of Generators and Frequently Generated in Relatively Small Quantities (40 CFR 273.81(c))

As documented in the RIA, more than 25,000 large and small quantity generators manage hazardous waste aerosol cans. Quantities generated vary depending on the type of generator and the situations associated with generation. For example, a retail store may determine that large quantities of aerosol cans that can no longer be sold or donated must be discarded as hazardous waste. On the other hand, entities that use aerosol cans in their day-to-day operations may generate small quantities of partially-used hazardous waste aerosol cans on a sporadic basis. Data from the RIA demonstrate that in 2017, LQGs generated an average of 1.6 tons per year each (approximately 3,600 cans).

4. Systems to Be Used for Collecting the Waste (Including Packaging, Marking, and Labeling Practices) Would Ensure Close Stewardship of the Waste (40 CFR 273.81(d))

The baseline universal waste requirements of notification, labeling, training, and response to releases found in 40 CFR part 273, subparts B and C, and the final specific requirements for management of aerosol cans in 40 CFR 273.13 and 40 CFR 273.33, discussed in section V, are designed to ensure close stewardship of the hazardous waste aerosol cans.

5. Risks Posed by the Waste During Accumulation and Transport Should Be Relatively Low Compared to the Risks Posed by Other Hazardous Waste, and Specific Management Standards Would Be Protective of Human Health and the Environment During Accumulation and Transport (40 CFR 273.81(e))

Aerosol cans are designed to contain the products they hold during periods of storage and transportation as they move from the manufacturer to the retailer, and ultimately to the final customer. Because of their design, hazardous waste aerosol cans present a relatively low risk compared to other types of hazardous waste that are not contained as-generated under normal management conditions and the risk posed by intact waste aerosol cans during storage and transport is similar to the risk posed by intact product aerosol cans. Retail and other entities that generate waste aerosol cans are accustomed to safely handling aerosol can products. In addition, the ignitability risk posed during accumulation and transport is addressed by standards set by local fire codes, the Office of Safety and Health Administration, and the Department of Transportation (DOT).[12] These standards include requirements for outer packaging, can design, and general pressure conditions.

Finally, the Agency has determined that the requirements of the universal waste program are effective in mitigating risks posed by hazardous waste aerosol cans. Specifically, the requirements for handlers to accumulate aerosol cans in a container that is structurally sound and compatible with the contents of the aerosol cans will ensure safe management and transport. In addition, the universal waste program requires proper training for employees when handling universal waste, responding to releases, and shipment in accordance with DOT regulations. These requirements will make the risks posed during accumulation and transport low. Additionally, the final specific requirements for management of aerosol cans that are punctured and drained at the handler, described in section V, address the ignitability risk and are designed to help prevent releases. Thus, the specific aerosol can universal waste management standards address the risks posed by hazardous waste aerosol cans.

[12] For example, DOT—49 CFR 173.306 for Shipping of Limited Quantities, Aerosol Cans and 49 CFR 173.115 for Flammable Gas, OSHA—29 CFR 1910.106(d)(6), Flammable Liquids, 2015 NFPA—Chapter 30, Flammable and Combustible Liquids Code, and Chapter 30B, Code for the Manufacture and Storage of Aerosol Products.

6. Regulation of the Waste Under 40 CFR Part 273 Will Increase the Likelihood That the Waste Will Be Diverted From Non-Hazardous Waste Management Systems (*e.g.,* the Municipal Solid Waste Stream) to Recycling, Treatment, or Disposal in Compliance With Subtitle C of RCRA (40 CFR 273.81(f))

Managing hazardous waste aerosol cans under the universal waste program is expected to increase the number of these items collected and to increase the number of aerosol cans being diverted from the non-hazardous waste stream into the hazardous waste stream because it would allow generators, especially those that generate this waste sporadically, to send it to a central consolidation point. Under the Universal Waste Rule, a handler of universal waste can send the universal waste to another handler, where it can be consolidated into a larger shipment for transport to a destination facility. Therefore, under the final rule it will be more economical to send hazardous waste aerosol cans for recycling for recovery of metal values. The final rule will advance the RCRA goal of increased resource conservation and increase proper disposal of hazardous waste, making it less likely that aerosol cans will be sent for improper disposal in municipal landfills or municipal incinerators. In addition, because the streamlined structure of the universal waste regulations makes aerosol can collection programs more economical, hazardous waste aerosol cans that might otherwise be sent to a municipal landfill under a VSQG or household hazardous waste exemption will be more easily collected and consolidated for hazardous waste disposal. This waste will be diverted from the municipal solid waste stream to universal waste management.

7. Regulation of the Waste Under 40 CFR Part 273 Will Improve the Implementation of and Compliance With the Hazardous Waste Regulatory Program (40 CFR 273.81(g))

The structure and requirements of the Universal Waste Rule are well suited to the circumstances of handlers of hazardous waste aerosol cans and their inclusion in the universal waste program will improve compliance with the hazardous waste regulations. In particular, handlers of hazardous waste aerosol cans who are infrequent generators of hazardous waste and who might otherwise be unfamiliar with the more complex Subtitle C management structure, but who generate hazardous waste aerosol cans, will be able to more

easily send this waste for proper management. Therefore, adding aerosol cans to the list of universal wastes would offer a protective hazardous waste management system that is likely to be more accessible, particularly for the retail sector, which can face unique compliance challenges as compared to manufacturing and other ''traditional'' RCRA-regulated sectors.[13]

8. Additional Factor (40 CFR 273.81(h)): States' Experience Under Existing State Universal Waste Programs Indicates That Regulation Under 40 CFR Part 273 Will Improve Management of Aerosol Cans

The factors included in 40 CFR 273.81 are designed to determine whether regulating a particular hazardous waste under the streamlined standards for universal waste would improve the overall management of the waste; 40 CFR 273.81(h) includes other factors as may be appropriate. Under 40 CFR 273.81(h), EPA considered states' experience of already managing aerosol cans under state universal waste programs. As discussed in section III, five states have added aerosol cans to their universal waste programs, and those states' experiences with management of aerosol cans under their respective universal waste programs provides a useful source of information to inform EPA's judgment on whether to add aerosol cans to the national universal waste program.

Information supplied to EPA from officials in those five states indicates that their programs improve the implementation of the hazardous waste program. Specifically, waste management officials from the four states whose programs were operating at the time of the proposed rule have represented to EPA that these programs have been operating well and achieving their objective of facilitating safe management of hazardous waste aerosol cans.[14] In particular, State officials from both California and Colorado stated to EPA that their respective aerosol can universal waste programs have been in effect since 2002 and they have not identified any problems with enforcing compliance with the standards. Accordingly, this information weighs in favor of concluding that management of aerosol cans under the Federal universal waste regulations is likely to be successful.

B. Expected Changes in Management of Aerosol Cans

EPA expects that under this final rule, the number of aerosol cans that are diverted from municipal solid waste landfills and incinerators to recycling or disposal in Subtitle C facilities will increase. Small and large quantity generators are already required to manage their hazardous waste aerosol cans under RCRA Subtitle C. Following implementation of this rule, some of these generators will likely begin managing their aerosol cans as a universal waste, either to save money or to improve implementation of their existing waste management program. One of the streamlined provisions of the Universal Waste Rule allows consolidation of aerosol cans at central locations, which makes it easier for smaller generators to arrange for hazardous waste recycling or disposal of these materials when they are generated. Because the streamlined structure of the universal waste standards makes aerosol can collection programs more economical, hazardous waste aerosol cans that might otherwise be sent to a municipal landfill under a VSQG or household hazardous waste exemption would be more easily collected and consolidated for hazardous waste disposal by those who are interested in managing it this way. EPA intends to encourage individual households and VSQGs to participate in such programs.

In summary, EPA believes that management of hazardous waste aerosol cans will best be implemented through a universal waste approach where handlers are operating within a simple, streamlined management system. The universal waste program addresses the environmental concerns surrounding the management of such wastes, while at the same time putting into place a structure that will allow for and encourage increased collection of aerosol cans for recycling.

V. Discussion of Final Rule

A. Waste Covered by Final Rule

1. Definition of Aerosol Can

a. Discussion of Proposed Rule

EPA proposed that an ''aerosol can'' be defined as an ''intact container in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam.'' This definition is the same as the definition of aerosol can in the California, Colorado, New Mexico and Utah universal waste programs, with the exception of a twenty-four ounce size limit in Utah's definition of aerosol can. EPA proposed to adopt this definition of aerosol can to be consistent with the existing state programs.

This proposed definition was intended be limited to sealed containers whose intended use is to dispense a material by means of a propellant or compressed gas. Aerosol cans are designed to contain those materials until they are intended for release and to present minimal risk during normal storage and transport. Other types of containers, including compressed gas canisters and propane cylinders, present a greater risk than aerosol cans and would not be included. EPA also requested comment on limiting the definition of aerosol cans to those under twenty-four ounces, consistent with Utah's aerosol can universal waste program.

b. Summary of Comments

Several commenters recommended that EPA model the definition of aerosol can after language used in the DOT regulations in 49 CFR 171.8 and U.N. Model Regulations. An aerosol is defined in 49 CFR 171.8 as an article consisting of any non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas. Commenters noted that, in addition to harmonizing the RCRA regulations with DOT requirements, this language would be more inclusive, making it clear that aerosol cans containing products that are not dispensed as a spray or foam, such as aerosol cans that dispense product in the form of paste or powder, may be managed as universal waste. In addition, this definition would address the risk of gas cylinders if managed as universal waste, since those cylinders would not be considered ''non-refillable receptacles'' with a ''self-closing release device'' and therefore not eligible to be managed as universal waste under the alternative wording.

Most commenters supported EPA's proposal to exclude compressed gas cylinders from the definition of universal waste aerosol can, noting that such devices pose a higher risk than aerosol cans pose. Two industry commenters requested that compressed gas cylinders be included as universal waste, with one commenter asserting that ''as long as facilities have procedures in place to safely

[13] EPA 2016. *Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework.* September 12, 2016. *https://www.epa.gov/hwgenerators/strategy-addressing-retail-sector-under-resource-conservation-and-recovery-acts,* retrieved on January 24, 2018.

[14] See supporting document number 0004 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

depressurize these devices, potential risks can be mitigated.'' [15]

Finally, most commenters (including industry, most states, and local government) supported EPA's proposal to not set a specific size limit on aerosol cans. One state association and a few individual states did support limiting the size of aerosol cans to twenty-four ounces.

c. Final Rule Provisions

EPA is finalizing a definition of ''aerosol can'' that is consistent with language in the DOT regulations.[16] In the final rule, aerosol can is defined as a non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas. Using language from the DOT regulation will help ensure consistency across Federal regulatory programs, avoid unnecessarily narrowing the scope of the rule to aerosol cans that aerate their product, and will not inadvertently include compressed gas cylinders in the definition of aerosol can. Because compressed gas cylinders, unlike aerosol cans, require special procedures to safely depressurize, it would not be appropriate to include them in the final rule. Finally, because the DOT language is more inclusive than the proposed language, it better matches the intent of the proposal to apply to all types of aerosol cans, including cans that dispense product in the form of paste or powder, and would not require states that have already added aerosol cans to their universal waste program to change their regulations.

2. Applicability

a. Discussion of Proposed Rule

The proposed rule excluded from the universal waste requirements those cans that are not yet a waste under 40 CFR part 261 and those cans that are not hazardous waste. In addition, at proposed 40 CFR 273.6(b)(1)–(3), the proposal specifically excluded aerosol cans that have been emptied of their contents (both propellant and product). Aerosol cans that fall under these categories would not be subject to hazardous waste requirements or universal waste requirements.

Finally, the proposed rule also proposed to exclude aerosol cans that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. This proposed rule language would mean that hazardous waste aerosol cans that are not intact would continue to be subject to the full hazardous waste standards.

b. Summary of Comments

Several commenters requested that EPA allow leaking and damaged aerosol cans to be managed as universal waste. Commenters point out that the rules for other types of universal wastes (lamps, pesticides, batteries, mercury-containing equipment) allow damaged or leaking items to be managed as universal waste as long as they are in an appropriate container (*e.g.,* overpacked with absorbents). Commenters were concerned that determining whether an aerosol can shows ''evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions'' is a subjective standard that would be confusing to implement. Commenters noted that Colorado allows damaged aerosol cans to be managed as universal waste as long as they are managed in a separate individual container and that Ohio allows damaged aerosol cans to be managed as universal waste as long as they are overpacked with absorbents or immediately punctured to remove the contents of the can.

c. Final Rule Provisions

EPA is finalizing as proposed the language in 40 CFR 273.6(b)(1)–(3). These provisions designate aerosol cans that are not subject to hazardous waste requirements because they are either not solid waste, not hazardous waste, or they met the definition of empty container in 40 CFR 261.7.

However, EPA is not finalizing the proposed language in 40 CFR 273.6(b)(4), which would have barred leaking or damaged aerosol cans from being managed as universal waste, instead leaving such cans subject to 40 CFR part 262 hazardous waste requirements. Rather, EPA is requiring that universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the aerosol can universal waste requirements. (See 40 CFR 273.13(e)(2) and 40 CFR 273.33(e)(2)).

EPA agrees with those commenters who indicated that such an approach is more consistent with how other universal wastes are regulated and how the states that currently regulate aerosol cans as universal waste operate their programs. In addition, setting specific protective management standards for leaking aerosol cans under the universal waste regulations would ensure the risk from these cans is addressed and that they are ultimately sent to appropriate destination facilities per 40 CFR 273.18 and 40 CFR 273.38 instead of potentially being diverted to municipal waste streams as VSQG waste per the requirements in 40 CFR 262.14. Such an approach is also consistent with DOT requirement that aerosols that are damaged, defective, or leaking to the point where they do not meet applicable design standards be transported in special aerosol salvage drums. See 49 CFR 173.306(k)(2).

3. Comments and Responses Related to ''Emptied'' Aerosol Cans

a. Comment: Empty Aerosol Cans Should be Allowed To Be Managed as Universal Waste

Summary of Comments. Several commenters requested that EPA clarify that handlers should be able to continue to manage their punctured and drained aerosol cans as a universal waste and send them to another handler or destination facility. The proposed § 273.6(b)(3) designated aerosol cans that meet the standard for empty containers under § 261.7 of the chapter as being excluded from universal waste requirements, and the proposed definition for aerosol cans included the requirement that they be ''intact,'' implying that punctured aerosol cans would not meet the definition. Commenters stated that including empty aerosol cans would provide a clear decision process for generators to include all aerosol cans—empty, full, or partially full—for proper handling and disposal as universal waste. However, commenters noted it would not be necessary to require empty aerosol cans to be managed under the universal waste regulations because generators may still want to manage empty aerosol cans as scrap metal for recycling.

EPA Response. EPA agrees that while aerosol cans that meet the standard for empty containers found at 40 CFR 261.7 should not be required to meet the universal waste requirements, they also should not be barred from being managed as universal waste if a handler chooses to do so. Residues in empty containers that meet the requirements of 40 CFR 261.7 are not subject to RCRA hazardous waste requirements. However, a handler is nevertheless allowed under the regulation to manage

[15] See comment number 0088 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[16] The DOT definition is also similar to the definition used in U.N. Model regulations. EPA chose the DOT version in order to promote consistency between the U.S. Federal regulatory programs.

aerosol cans that meet the empty container standards as universal waste if they would prefer to do so. Likewise, non-hazardous aerosol cans may be managed as universal waste, although they are not required to be managed as such. EPA notes that the final definition of aerosol can is based on the DOT definition and no longer specifies that the cans must be ''intact,'' thus removing a potential source of confusion.

b. Comment: Additional Guidance Needed on How To Determine if an Aerosol Can Meets the Empty Container Standard

Summary of Comments. Several commenters suggested that EPA provide additional guidance on how to determine if an aerosol can meets the empty container standard found at 40 CFR 261.7. One commenter suggested that EPA adopt guidance used by the State of Minnesota which recognizes an aerosol can as ''empty'' when (1) the container contains no compressed ignitable gas propellant or product; (2) all liquid product that can be dispensed through the valve has been; and (3) less than 3% of the product capacity of the container remains. Minnesota's guidance also recognizes that documenting that an aerosol can meets this standard can be impractical and therefore provides that aerosol cans may be assumed empty when both of the following criteria are satisfied: (1) No liquid is felt or heard when the can is shaken by hand; and (2) no gas or liquid is released when the spray/discharge valve is activated and the container is rotated through all directions, and the valve is not observably or known to be clogged.[17] Another commenter suggested that EPA add a provision to 40 CFR 261.7 stating that an aerosol can is empty when it has been punctured and drained. The commenter stated that this provision should apply to cans that hold characteristic or listed wastes.[18]

EPA Response. Under 40 CFR 261.7(b),[19] a container that has held non-acute hazardous waste is ''empty'' if (1) all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, *e.g.,* pouring, pumping, and aspirating (applicable in all cases), *and* (2) no more than 2.5 centimeters (one inch) of residue remains on the bottom of the container or inner liner, or (3) no more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size. In addition, a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric pressure.

In the case of a container that has held an acute hazardous waste listed in 40 CFR 261.31 or 261.33(e), the container is considered empty when it has been triple rinsed or has been cleaned by another method that has been shown in scientific literature, or by tests conducted by the generator to achieve equivalent removal, per 40 CFR 261.7(b)(3). EPA also considers a container that has held an acute hazardous that is a compressed gas to meet the definition of empty when it approaches atmospheric pressure, as defined in 40 CFR 261.7(b)(2).[20] EPA is not aware of a chemical commonly found in aerosol cans that would be listed as an acute hazardous waste, but if such an aerosol can product does exist, it would have to meet the 40 CFR 261.7(b)(2) or (3) standard to be considered ''empty'' under the regulations. The commenter request for a revision to 40 CFR 261.7 that would allow aerosol cans that have held acutely hazardous waste to be disposed of without meeting the current standard in 40 CFR 261.7(b)(3) when punctured and drained is being beyond the scope of this rulemaking.

However, in the case of aerosol cans being recycled, rather than disposed of, aerosol cans that have been punctured and drained prior to recycling are considered exempt scrap metal under 40 CFR 261.6(a)(3)(ii), and therefore all such punctured cans would be exempt from hazardous waste requirements when recycled.

c. Comment: EPA Should Clarify That an Aerosol Can Does Not Need To Be ''Empty'' To Be Exempt Scrap Metal

Summary of Comments. One commenter noted that EPA said in the proposed rule that aerosol containers that meet the definition of empty in 40 CFR 261.7 are not subject to hazardous waste regulation and may be recycled as scrap metal. They found this statement misleading because it implies that the aerosol can must be RCRA empty, per 40 CFR 261.7, to be classified as exempt scrap metal. The commenter stated that an aerosol container does not need to be completely empty or triple rinsed (if it held a P-listed waste) to be classified and recycled as scrap metal. However, it is a good management practice to remove as much of the waste from the aerosol can as possible.

EPA Response. Under 40 CFR 261.1, ''scrap metal'' is defined as bits and pieces of metal parts (*e.g.,* bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (*e.g.,* radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled. Under 40 CFR 261.6(a)(3)(ii), exempt scrap metal is not subject to regulation under parts 262 through 268, part 270, or part 124, and is not subject to the notification requirements of section 3010 of RCRA.

However, an aerosol can that still contains hazardous liquid and/or hazardous compressed gas would not meet the definition of scrap metal and would not be eligible for the scrap metal exemption. As EPA has clearly stated, materials containing significant amounts of liquid cannot be eligible to be exempt scrap metal.[21] Thus while EPA agrees that aerosol cans do not need to be triple rinsed prior to being recycled as scrap metal, they do need to have their contents removed to be considered scrap metal.

d. Comment: Universal Waste Handlers Should Not Be Required To Make a Hazardous Waste Determination on the Emptied Cans

Summary of Comments. One commenter noted that 40 CFR 273.13(e)(3)(v) and 273.33(e)(3)(v) of the proposed rule require that the universal waste handler ''Conduct a hazardous waste determination on the emptied aerosol can and its contents per 40 CFR 262.11.'' While the commenter agreed on the need for a hazardous waste determination to be made on the contents, they stated that requiring it for the emptied cans contradicts prior EPA guidance regarding scrap metal. The proposed rule only allows for puncturing of cans on the condition that the empty punctured aerosol cans be recycled. EPA has previously stated that a formal hazardous waste determination is not required for scrap metal being recycled under 40 CFR 261.6(a)(3)(ii).[22]

[17] See comment number 0086 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[18] See comment number 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[19] EPA did not request comment on or otherwise reopen the empty container provisions of 40 CFR 261.7 and comments requesting changes to the empty container regulations are outside the scope of this rule.

[20] EPA first explained this interpretation in 2017. *See* U.S. EPA *2017 RCRA Regulatory Status of Permeation Device,* Memo from Barnes Johnson, Director, Office of Resource Conservation and Recovery to Alex Chaharom, GeNO LLC, February 9, 2017. RO# 14887

[21] EPA 1985 *Definition of Solid Waste Final Rule,* 50 FR 614 at 624–625, January 4, 1985.

[22] EPA 1993 Memorandum from Jeffrey D. Denit, Acting Director, Office of Solid Waste to Gregory L. Crawford. *Regulatory Status of Used Residential And Commercial/Industrial Aerosol Cans,* October

EPA response. EPA agrees with the comment and has removed the language in 40 CFR 273.13(e)(3)(v) and 273.33(e)(3)(v) requiring a waste determination to be made on the emptied aerosol can destined for recycling.

B. Management Requirements for Aerosol Cans

1. Requirements for Small and Large Quantity Handlers

Under the final rule, the existing universal waste requirements currently applicable to small quantity handlers of universal waste (SQHUW) and large quantity handlers of universal waste (LQHUW) are also applicable to handlers of discarded aerosol cans.[23] For both SQHUWs and LQHUWs, these requirements include waste management standards, labeling and marking, accumulation time limits, employee training, responses to releases, requirements related to off-site shipments, and export requirements. LQHUWs are subject to additional notification and tracking requirements. For the labeling requirement, EPA is finalizing in 40 CFR 273.14 and 273.34 that either each aerosol can, or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s),'' ''Waste Aerosol Can(s),'' or ''Used Aerosol Can(s).''

In addition, EPA is finalizing that small and large quantity universal waste handlers must follow certain specific management standards while handling their universal waste aerosol cans. Under the final rule, all handlers must manage their universal waste aerosol cans in a manner designed to prevent releases to the environment. This management includes accumulating universal waste aerosol cans in containers that are structurally sound and compatible with the contents of the can, and show no evidence of leaks, spills, or damage that could cause leaks under reasonably foreseeable conditions. The accumulation requirements in this final rule are similar to the existing accumulation requirements for small and large quantity universal waste handlers for other types of universal waste in 40 CFR 273.13 and 273.33 and are found in new paragraph (e) of each of these sections. Handlers may sort aerosol cans by type and consolidate intact aerosol cans in larger containers, remove actuators to reduce the risk of accidental release, and, under certain conditions, may puncture and drain aerosol cans when the emptied cans are to be recycled, as described below.

Other than the comments on the requirements for puncturing and draining at small and large quantity handlers, which are described below, EPA received few comments on the requirements for small and large quantity universal waste handlers. One state association urged EPA to place limits on the accumulation requirements for universal waste handlers by requiring separation of incompatible wastes because of the wide array of products aerosol cans contain.[24] EPA is finalizing the performance-based standard that handlers must manage their universal waste aerosol cans in a manner that prevents releases, but EPA is not requiring separation of specific types of aerosol cans whose contents may pose an incompatibility risk because EPA expects the intact aerosol cans will ensure the contents of these cans will not mix and therefore will not pose incompatibility risks. In addition, EPA is requiring that universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the aerosol can universal waste requirements. (See 40 CFR 273.13(e)(2) and 40 CFR 273.33(e)(2)), thus removing the risk of incompatible contents mixing during storage and transport.

A waste management industry commenter suggested EPA require that handlers accumulate universal waste aerosol cans in strong outer packaging that will not be allowed to build pressure, that the contents of the aerosol cans are compatible, and that protective caps are in place or valve stems are removed to prevent the accidental release of the contents of the aerosol cans during storage and handling.[25] EPA is finalizing, as proposed, the performance-based standards that require the aerosol cans to be accumulated in containers that are structurally sound and compatible with the contents of the cans. EPA is not requiring handlers to remove the actuators to reduce the risk of accidental release but is allowing handlers to do so prior to accumulation if they choose.

A state commenter suggested that EPA include more specific safety measures to address the risk of cans bursting when exposed to excessive heat during accumulation, regardless of whether the handler punctures and drains the universal waste aerosol cans.[26] In order to address this risk, EPA added language to 40 CFR 273.13(e)(1) and 40 CFR 273.33(e)(1) to require the universal waste aerosol cans be accumulated in a container that is protected from sources of heat. Sources of heat include, but are not limited to, open flames; lighting; smoking; cutting and welding; hot surfaces; frictional heat; static, electrical, and mechanical sparks; and heat-producing chemical reactions.[27] For example, handlers should not allow smoking or open flames near containers accumulating universal waste aerosol cans. It is the responsibility of the operator to ensure that the containers accumulating universal waste aerosol cans are protected from sources of heat.

2. Requirements on Puncturing and Draining at Small and Large Quantity Handlers

a. Summary of Proposal

EPA proposed specific management standards for the puncturing and draining of aerosol cans at universal waste handlers, similar to the requirements being implemented in states that added aerosol cans to their list of universal waste. EPA proposed that puncturing and draining activities be conducted by a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

EPA proposed that handlers must establish a written procedure detailing how to safely puncture and drain universal waste aerosol cans (including operation and maintenance of the unit; segregation of incompatible wastes; and proper waste management practices to prevent fires or releases), maintain a copy of the manufacturer's specification and instruction on site, and ensure that employees operating the devices are trained in the proper procedures.

EPA also proposed that the actual puncturing of the cans should be done in a manner designed to prevent fires and to prevent the release of the aerosol can contents to the environment so as to minimize human exposure. This included, but was not limited to,

7, 1993, RO#11782; EPA 1994; Memorandum from to Michael H. Shapiro, Director, Office of Solid Waste, to Michael C. Campbell, *Regulatory Status of Waste Aerosol Cans,* January 1, 1994, RO#11806.

[23] Note that EPA did not ask for comment or otherwise reopen the pre-existing universal waste requirements that will now also apply to universal waste aerosol cans. Comments on the pre-existing universal waste requirements are beyond the scope of this rulemaking.

[24] See comment number 0073 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[25] See comment number 0063 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[26] See comment number 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[27] This list is derived from OSHA's definition of ''sources of ignition'' in 29 CFR 1910.106(h)(7)(i)(*a*).

locating the equipment on a solid, flat surface in a well-ventilated area.

In addition, EPA proposed that the contents from the cans should be immediately transferred from the waste aerosol cans or puncturing device (if applicable), to a container or tank and that the contents are subject to a hazardous waste determination under 40 CFR 262.11. If the contents are hazardous waste, the handler becomes the hazardous waste generator of the hazardous aerosol can contents and must manage those wastes in accordance with applicable RCRA regulations.

The proposed rule also required that a written procedure be in place in the event of a spill or release and a spill clean-up kit must be provided. All spills or leaks of the contents must be cleaned up promptly.

EPA requested comment on establishing further limitations on the puncturing and draining of aerosol cans that may contain wastes incompatible with the puncturing and draining equipment or the contents of other cans being drained. EPA also requested comment on limiting puncturing and draining to handlers that are not commercial processors (*i.e.,* a person that processes aerosol cans received from other entities in exchange for compensation). Such a limitation would be consistent with California's universal waste program. Handlers that are off-site commercial processors could still accept aerosol cans and process the cans by sorting and consolidating them but would be unable to puncture and drain the cans. Under this option, off-site commercial processors that would like to puncture and drain aerosol cans would have to first meet the requirements for a universal waste destination facility (*e.g.,* obtaining a permit for the storage of the hazardous waste aerosol cans prior to recycling).

b. Summary of Comments

The most frequent comment EPA received on puncturing and draining was on limiting handlers from puncturing and draining aerosol cans received from off-site handlers. For example, waste management industry commenters and some state commenters requested that EPA not allow off-site handlers to puncture and drain aerosol cans collected from other handlers unless they first meet the requirements for a universal waste destination facility.[28] On the other hand, an industry commenter and a state commenter requested that EPA not limit which handlers can puncture and drain aerosol cans.[29] Multiple industry commenters requested that, at a minimum, if EPA limits off-site handlers from puncturing and draining, EPA still allow off-site handlers to puncture and drain aerosol cans collected from other handlers in the same company or handlers that are related entities.[30]

EPA also received numerous comments on the specific management standards for the puncturing and draining of aerosol cans at universal waste handlers. EPA received broad comments from industry commenters supporting the proposed standards for the puncturing and draining of aerosol cans as sufficient and arguing that further limitations are not necessary.[31] EPA also received specific suggestions from industry commenters on the management standards. For example, one commenter recommended that EPA should not place additional limitations on puncturing and draining designed to address potential incompatibility concerns because they are not necessary.[32] On the other hand, one state requested that EPA prohibit handlers from puncturing and draining aerosol cans with possible incompatibility with the puncturing and draining equipment or the contents of other cans being drained.[33]

State associations commented that EPA should require puncturing and draining to be conducted in a commercially-manufactured device and not allow handlers to use ''homemade'' devices.[34] A commenter from the waste management industry argued that there is no basis for requiring puncturing and draining to be conducted in a commercial device and pointed out that many companies have designed and operated their own equipment for such purposes based on their engineering expertise.[35]

Commenters also asked for the requirement that puncturing and draining activities be conducted in a device designed to effectively contain the residual contents and emissions to be clarified.[36] Specifically, commenters requested EPA clarify what ''effectively contain'' means in relation to emissions and what constitutes breakthrough.[37] A state association commenter wrote that the only way to ensure the puncturing and draining activities are containing emissions it to implement an air monitoring program or to ensure the devices are equipped with ''end of life'' filters that show when breakthrough is occurring.[38] An industry commenter wrote that a requirement that allows for no breakthrough is not practical, but that handlers can maximize collection of emissions by following manufacturer instructions.[39]

EPA also received comments from state associations urging EPA to require handlers that puncture and drain to establish and follow a written procedure detailing how to safely puncture aerosol cans rather than only require handlers to establish a written procedure as proposed.[40] Commenters also pointed out that it is common practice to operate puncturing and draining devices on spill catchment pallets to aid in capturing accidental leaks or spills and asked EPA to allow this under the final rule.[41]

c. Final Rule Provisions

EPA expects puncturing and draining activities at universal waste handlers will differ from those currently performed by hazardous waste generators. Because handlers receive universal waste from many other handlers, the volume of aerosol cans punctured and drained at a commercial universal waste handler is likely to be much greater than at a typical hazardous waste generator (which can only puncture and drain its own hazardous waste aerosol cans). In addition, under universal waste regulations, handlers may store their universal waste up to a year, which could increase the number of cans punctured and drained at one time if the facility processes the cans in batches. Thus, EPA believes it is appropriate to include performance-

[28] See comment numbers 0063, 0074, 0085, and 0091 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[29] See comment numbers 0029 and 0080 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[30] See comment numbers 0077, 0087, and 0093 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[31] See comment numbers 0075 and 0083 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[32] See comment number 0087 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[33] See comment number 0077 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[34] See comment numbers 0073 and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[35] See comment number 0074 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[36] See comment numbers 0073 and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[37] See comment numbers 0001, 0073, and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[38] See comment number 0073 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[39] See comment number 0001 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[40] See comment numbers 0073 and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[41] See comment number 0064 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

based management standards to address the risk of puncturing and draining aerosol cans at universal waste handlers.

Despite the differences between recycling of aerosol cans at hazardous waste generators versus recycling of aerosol cans at universal waste handlers, under the final rule, EPA is not limiting off-site handlers from puncturing and draining aerosol cans collected from other handlers. Based on an observed lack of damage cases from puncturing and draining aerosol cans in the manner described in this rule, it appears that risks posed by universal waste handlers puncturing and draining aerosol cans collected from other handlers is relatively low. EPA has determined that the final management standards for the puncturing and draining of aerosol cans at universal waste handlers at 40 CFR 273.13(e)(4) and 40 CFR 273.33(e)(4) adequately address the low risks. Additionally, the five of the six states that have added aerosol cans to their list of universal wastes allow off-site handlers to puncture and drain aerosol cans collected from other handlers, and EPA is not aware of any damage cases resulting specifically from the puncturing and draining under universal waste in these states.[42] In particular, State officials from Colorado stated to EPA that their respective aerosol can universal waste programs have been in effect for over 15 years, and they have not identified any damage cases associated with puncturing and draining.[43]

As mentioned, EPA is finalizing management standards for the puncturing and draining of aerosol cans at universal waste handlers to increase protections. Under the final rule, puncturing and draining activities must be conducted by a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof. EPA is not finalizing that the puncturing and draining activities must be conducted in a commercial device or a commercially-manufactured device and is instead finalizing a performance-based standard. In response to comments, EPA is not limiting universal waste handlers that have designed their own equipment for puncturing and draining and operated it safely from continuing to use that equipment. If a universal waste handler uses specifically custom designed or retrofitted equipment to ensure that the device safely punctures aerosol cans, it should ensure the equipment is designed or retrofitted according to accepted engineering practices based on established codes, standards, published technical reports, or similar peer reviewed documents. Although EPA received comments from the waste management industry arguing that their members have safely designed and operated their own equipment for puncturing and draining aerosol cans, EPA expects most universal waste handlers will choose to purchase commercial devices designed to puncture aerosol cans. Puncturing and draining systems for aerosol cans are available from multiple commercial vendors. These devices generally consist of an enclosed puncturing device that punctures an aerosol can, allowing the contents to be drained into an attached container. In many cases, these containers are 55-gallon drums with a filter made of carbon or similar materials to capture any gases that may escape the 55-gallon drum during the puncturing and draining process.

Manufacturers of aerosol can puncturing and draining devices include instructions for their use.[44] These instructions include operating devices in a well-ventilated area that is free from sparks and ignition sources in order to prevent fires, use of personal protective equipment such as safety goggles, and segregating incompatible products from being drained into the same container. Operators of puncturing and draining devices are also instructed to ensure that the container remains closed, that it does not become overfilled, and that the container or tank storing the contents of the drained aerosol cans is also kept in a well-ventilated area free from sparks or ignition sources.

EPA received multiple comments arguing that the requirement that puncturing and draining activities be conducted in a device designed to effectively contain the residual contents and emissions needs to be clarified.[45] Specifically, commenters requested EPA clarify what ''effectively contain'' means in relation to emissions.[46] The performance of aerosol can puncturing and draining devices will vary by manufacturer and it remains the responsibility of the operator to ensure breakthrough is not occurring. Although commenters pointed out that handlers could ensure devices are equipped with ''end of life'' filters that show when breakthrough is occurring, it is impractical to impose this requirement on all universal waste handlers who use puncturing and draining equipment because the manufacturer's guidance with respect to containing emissions varies across the industry.[47] For example, some manufacturers recommend limiting the number of cans drained per filter while other manufacturers recommend weighing the filter before and during use.[48] Given the variability in the market, it is impractical for EPA to determine a single, appropriate standard for ensuring breakthrough is not occurring. Rather, EPA is finalizing as proposed the performance-based standard that universal waste handlers must use a device designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof. Universal waste handlers can minimize the potential for breakthrough by maintaining the puncturing and draining device and replacing air filters according to the manufacturer's specifications.

Because handlers are responsible for ensuring that the puncturing device is properly draining the contents of the aerosol cans into the drum, EPA is finalizing that handlers must establish and follow a written procedure to ensure that handlers take the necessary precautions to protect human health and the environment while puncturing and draining universal waste aerosol cans. At a minimum, EPA is requiring that the written procedure address the operation and maintenance of the unit, including its proper assembly; segregation of incompatible wastes; and proper waste management practices (*e.g.,* ensuring that ignitable wastes are stored away from heat or open flames). In order to increase protections, EPA is clarifying in the final rule that handlers must follow the written procedure. Additionally, EPA is finalizing that handlers must maintain a copy of the manufacturers' instructions on site and ensure employees operating the device are trained in the proper procedures.

Although some states have issued guidelines for recommending against puncturing and draining certain types of aerosol cans, there is limited publicly

[42] See supporting document number 0004 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[43] See docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[44] See supporting document 0003 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[45] See comment numbers 0073 and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[46] See comment numbers 0001, 0073, and 0085 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[47] See supporting document 0003 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

[48] See comment number 0005 and supporting document 0003 in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

available data on the subset of aerosol cans that pose an incompatibility risk. Additionally, since new products enter the market and products are constantly changing, it is not practical to codify a finite list of aerosol cans that pose an incompatibility risk. Therefore, EPA is not providing a list of certain types of aerosol cans that might pose incompatibility issues with puncturing devices or the contents of other aerosol cans that are drained. However, it remains the responsibility of the operator to ensure that the puncturing device does not puncture aerosol cans that are incompatible with its materials or the contents of other aerosol cans that are being drained. Because aerosol cans are consumer products, aerosol cans have labels that identify the products contained within, including any hazardous posed by the contents which can assist handlers in ensuring they have addressed incompatibility issues. As mentioned above, EPA is requiring handlers to establish and follow a written procedure that addresses the operation of the unit, including the segregation of incompatible wastes. The operator can look to state guidance and manufacturer's guidance for information. For example, manufacturers make information available regarding potential incompatibilities between aerosol can propellants and puncturing devices container rubber seals or gaskets.[49]

EPA is also finalizing that the actual puncturing of the cans be done in a manner designed to prevent fires and to prevent the release of the aerosol can contents to the environment so as to minimize human exposure. This manner includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated area. Commenters pointed out that it is common practice to operate puncturing and draining devices on spill catchment pallets to aid in capturing accidental leaks or spills, which is allowed under the final rule if the spill catchment pallet is located on a solid, flat surface.

In addition, EPA is finalizing that the handler must immediately transfer the contents from the waste aerosol can, or the puncturing device (if applicable), to a container or tank and conduct a hazardous waste determination of the contents under 40 CFR 262.11. The handler becomes the generator of any hazardous aerosol can contents and must manage those wastes in accordance with applicable RCRA regulations.

The final rule also requires that a written procedure be in place in the event of a spill or leak and a spill clean-up kit should be provided. All spills or leaks of the contents of the aerosol cans should be cleaned up promptly.

Finally, EPA notes that all puncturing, waste collection, and disposal must be conducted in compliance with all applicable Federal, state and local waste (solid and hazardous waste) and occupational safety and health laws and regulations.

3. Requirements for Transporters

This final rule will not change any of the existing requirements applicable to universal waste transporters. Under 40 CFR 273.9, the definition of a universal waste transporter is a person engaged in the off-site transportation of universal waste by air, rail, highway, or water. Persons meeting the definition of universal waste transporter include those persons who transport universal waste from one universal waste handler to another, to a processor, to a destination facility, or to a foreign destination. These persons are subject to the universal waste transporter requirements of part 273, subpart D. EPA notes that this final rule also will not affect the applicability of shipping requirements under the hazardous waste materials regulations of DOT. Transporters continue to be subject to these requirements, if applicable (*e.g.,* 49 CFR 173.306 for shipping of limited quantities of aerosol cans, or 49 CFR 173.115(l), which sets limits in the definition of ''aerosol'' for the purpose of shipping flammable gas).

4. Requirements for Destination Facilities

This final rule will not change any of the existing requirements applicable to universal waste destination facilities (subpart E of part 273). Under 40 CFR 273.9, the definition of a destination facility is a facility that treats, disposes of, or recycles a particular category of universal waste (except certain activities specified in the regulations at §§ 273.13(a) and (c) and 273.33(a) and (c)).

5. Effect of This Rule on Household Wastes and Very Small Quantity Generators

Adding hazardous waste aerosol cans to the Federal definition of universal wastes would not impose any requirements on households or VSQGs for managing these cans. Household waste continues to be exempt from RCRA Subtitle C regulations under 40 CFR 261.4(b)(1). However, under the Universal Waste Rule provisions, VSQGs may choose to manage their hazardous waste aerosol cans in accordance with either the VSQG regulations under 40 CFR 262.14 or as a universal waste under part 273 (40 CFR 273.8(a)(2)). It should be noted, however, that 40 CFR 273.8(b) will continue to apply. Under this provision, if household or VSQG wastes are mixed with universal waste subject to the requirements of 40 CFR part 273 (*i.e.,* universal waste that is not generated by households or VSQGs), the commingled waste must be handled as universal waste in accordance with part 273. Under this final rule, handlers of universal waste who accumulate 5,000 kilograms or more of this commingled aerosol can waste at any time will be considered large quantity handlers of universal waste and must meet the requirements of that category of universal waste handler.

Hazardous waste aerosol cans that are managed as a universal waste under 40 CFR part 273 will not be required to be included in a facility's determination of hazardous waste generator status (40 CFR 262.13(c)(6)). Therefore, a generator that manages such cans under the requirements for universal waste and does not generate any other hazardous waste will not be subject to other Subtitle C hazardous waste management regulations, such as the hazardous waste generator regulations in part 262. A universal waste handler that meets the definition of a small quantity generator or large quantity generator in 40 CFR 260.10 for its other hazardous waste will be subject to the hazardous waste generator regulations in part 262.

6. Applicability of Land Disposal Restriction Requirements

This final rule does not change the applicability of land disposal restriction (LDR) requirements to universal waste. Under the existing regulations (40 CFR 268.1(f)), universal waste handlers and transporters are exempt from the LDR requirements regarding testing, tracking, and recordkeeping in 40 CFR 268.7, and the storage prohibition in 40 CFR 268.50. EPA is amending 40 CFR 268.1(f) to add aerosol can universal waste for consistency. This final rule also does not change the regulatory status of destination facilities; they remain subject to the full LDR requirements.

VI. Technical Corrections

As part of this rulemaking, EPA is finalizing four technical corrections to the universal waste standards for mercury-containing equipment in 40

[49] See *Compilation of Manufacturer's Guidance on Devices for Puncturing and Draining Aerosol Cans,* December 2017, in the docket for this rulemaking (EPA–HQ–RCRA–2017–0463).

CFR 273.13(c)(2)(iii) and (iv) and 273.33(c)(2)(iii) and (iv). Each of these paragraphs contained a reference to 40 CFR 262.34, which was removed and reserved as part of the November 28, 2016, Hazardous Waste Generator Improvements Rule (81 FR 85732). EPA neglected to update these references as part of its corresponding changes in that rule and is correcting that mistake here. In all four places, EPA proposed revisions to make the regulations refer to 40 CFR 262.16 or 262.17, as applicable. As a result of a comment stating that this revision did not include references to other potentially applicable paragraphs of the hazardous waste generator regulations in part 262, EPA has revised the language and is finalizing language that matches references in §§ 273.13(a) and 273.33(a). The final language states that mercury from broken ampules must be transferred to a container subject to all applicable requirements of 40 CFR parts 260 through 272.

VII. State Authority

A. Applicability of Final Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized states have enforcement responsibility. The standards and requirements for state authorization are found at 40 CFR part 271. Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a state with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that state. The Federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state, since only the state was authorized to issue RCRA permits. When EPA promulgated new, more stringent Federal requirements for these pre-HSWA regulations, the state was obligated to enact equivalent authorities within specified time frames. However, the new Federal requirements did not take effect in an authorized state until the state adopted the Federal requirements as state law. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by the statute to implement these requirements and prohibitions in authorized states, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA-related provisions as state law to retain final authorization, EPA implements the HSWA provisions in authorized states until the states do so.

Authorized states are required to modify their programs only when EPA enacts Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the Federal program (see also 40 CFR 271.1). Therefore, authorized states may, but are not required to, adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous Federal regulations.

B. Effect on State Authorization

This final rule will be less stringent than the current Federal program. Because states are not required to adopt less stringent regulations, they will not have to adopt the universal waste regulations for aerosol cans, although EPA encourages them to do so. Some states have already added aerosol cans to the list of universal wastes, and others may do so in the future. If a state's standards for aerosol cans are less stringent than those in the final rule, the state would have to amend its regulations to make them at least equivalent to the Federal standards and pursue authorization.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://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 regulatory action was determined to be not significant and was therefore not submitted to the Office of Management and Budget (OMB) for review. This regulatory action was determined to be not significant for purposed E.O. 12866 review. The Office of Management and Budget (OMB) waived review.

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

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in EPA's analysis of the costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) documents that the EPA prepared have been assigned EPA ICR number 1597.13 and ICR number 2513.04. You can find a copy of the ICRs in the docket for this rule, and they are briefly summarized here.

Because aerosol cans managed under the final rule are not counted toward a facility's RCRA generator status, respondents will see a reduction in burden. This reduction is because the aerosol cans will not be subject to recordkeeping and reporting requirements as hazardous waste, and the respondent may no longer be subject to hazardous waste generator recordkeeping and reporting requirements, depending on the quantity of hazardous waste they generate (that is not hazardous waste aerosol cans or other universal wastes). The existing universal waste requirements currently applicable to SQHUWs and LQHUWs will also be applicable to handlers of aerosol can universal waste. For both SQHUWs and LQHUWs, these requirements include labeling and marking, employee training, response to releases, and export requirements. LQHUWs are also subject to additional notification and tracking requirements. EPA ICR number 1597.13 focuses on the increased burden to the universal waste program resulting from new facilities becoming universal waste handlers. EPA ICR number 2513.04 focuses on the decrease in burden associated with this regulation.

Respondents/affected entities: The information collection requirements of the final rule affect facilities that handle aerosol can universal waste and vary based on facility generator and handler status.

Respondent's obligation to respond: The recordkeeping and notification requirements are required to obtain a benefit under 40 CFR part 273.

Estimated number of respondents: 970.

Frequency of response: One-time notification for LQHUWs; annual

training requirements for all universal waste handlers; per-shipment costs for labeling (all handlers) and tracking (LQHUWs).

Total estimated burden: EPA estimates the annual burden to respondents to be *a net reduction in burden of* approximately 62,621 hours. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The total estimated annual cost of this rule is a *cost savings* of approximately $2.77 million. This cost savings is composed of approximately $2.65 million in annualized avoided labor costs and $23,000 in avoided capital or operation and maintenance costs.

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

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. As documented in the Regulatory Impact Analysis found in the docket for this final rule, EPA does not expect the rule to result in an adverse impact to a significant number of small entities, since the rule is expected to result in net cost savings for all entities affected by the rule. We have therefore concluded that this action will either relieve regulatory burden or have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

As documented in the Regulatory Impact Analysis found in the docket for this rule, 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.

F. Executive Order 13132: Federalism

As documented in the Regulatory Impact Analysis found in the docket for this rule, this action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. Because the rule is expected to result in net cost savings, EPA does not expect that it will result in any adverse impacts on tribal entities. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the Regulatory Impact Analysis found in the docket for this rule.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in the Regulatory Impact Analysis found in the docket for this rule.

L. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 273

Environmental protection, Hazardous materials transportation, Hazardous waste.

Dated: November 15, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations, parts 260, 261, 264, 265, 268, 270, and 273 are amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, 6939g, and 6974.

Subpart B—Definitions

■ 2. Section 260.10 is amended by:
■ a. Adding the definition of ''Aerosol can'' in alphabetical order;
■ b. Republishing the introductory text for the definition ''Universal waste'' and revising paragraphs (3) and (4) and adding paragraph (5); and
■ c. In the definition of ''Universal waste handler,'' revising paragraph (2)(i).

The additions and revisions read as follows:

§ 260.10 Definitions.

* * * * *

Aerosol can means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

* * * * *

Universal waste means any of the following hazardous wastes that are managed under the universal waste requirements of part 273 of this chapter:

* * * * *

(3) Mercury-containing equipment as described in § 273.4 of this chapter;

(4) Lamps as described in § 273.5 of this chapter; and

(5) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

Universal waste handler:

* * * * *

(2) * * *

(i) A person who treats (except under the provisions of 40 CFR 273.13(a) or (c), or 40 CFR 273.33(a) or (c)), disposes of, or recycles (except under the provisions of 40 CFR 273.13(e) or 40 CFR 273.33(e)) universal waste; or

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

■ 4. Section 261.9 is amended by revising paragraphs (c) and (d) and adding paragraph (e) to read as follows:

§ 261.9 Requirements for Universal Waste.

* * * * *

(c) Mercury-containing equipment as described in § 273.4 of this chapter;

(d) Lamps as described in § 273.5 of this chapter; and

(e) Aerosol cans as described in § 273.6 of this chapter.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 5. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6939g.

Subpart A—General

■ 6. Section 264.1 is amended by revising paragraphs (g)(11)(iii) and (iv) and adding paragraph (g)(11)(v) to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(11) * * *

(iii) Mercury-containing equipment as described in § 273.4 of this chapter;

(iv) Lamps as described in § 273.5 of this chapter; and

(v) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 7. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, 6937, and 6939g.

Subpart A—General

■ 8. Section 265.1 is amended by revising paragraphs (c)(14)(iii) and (iv) and adding paragraph (c)(14)(v) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(14) * * *

(iii) Mercury-containing equipment as described in § 273.4 of this chapter;

(iv) Lamps as described in § 273.5 of this chapter; and

(v) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

■ 9. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

■ 10. Section 268.1 is amended by revising paragraphs (f)(3) and (4) and adding paragraph (f)(5) to read as follows:

§ 268.1 Purpose, scope, and applicability.

* * * * *

(f) * * *

(3) Mercury-containing equipment as described in § 273.4 of this chapter;

(4) Lamps as described in § 273.5 of this chapter; and

(5) Aerosol cans as described in § 273.6 of this chapter.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

■ 11. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart A—General Information

■ 12. Section 270.1 is amended by revising the section heading and paragraphs (c)(2)(viii)(C) and (D) and adding paragraph (c)(2)(viii)(E) to read as follows:

§ 270.1 Purpose and scope of the regulations in this part.

* * * * *

(c) * * *

(2) * * *

(viii) * * *

(C) Mercury-containing equipment as described in § 273.4 of this chapter;

(D) Lamps as described in § 273.5 of this chapter; and

(E) Aerosol cans as described in § 273.6 of this chapter.

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

■ 13. The authority for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

Subpart A—General

■ 14. Section 273.1 is amended by revising paragraphs (a)(3) and (4) and adding paragraph (a)(5) to read as follows:

§ 273.1 Scope.

(a) * * *

(3) Mercury-containing equipment as described in § 273.4;

(4) Lamps as described in § 273.5; and

(5) Aerosol cans as described in § 273.6.

* * * * *

■ 15. Section 273.3 is amended by revising paragraph (b)(2) to read as follows:

§ 273.3 Applicability—pesticides.

* * * * *

(b) * * *

(2) Pesticides not meeting the conditions set forth in paragraph (a) of this section. These pesticides must be managed in compliance with the hazardous waste regulations in 40 CFR parts 260 through 272, except that aerosol cans as defined in § 273.9 that contain pesticides may be managed as aerosol can universal waste under § 273.13(e) or § 273.33(e);

* * * * *

■ 16. Section 273.6 is added to read as follows:

§ 273.6 Applicability—Aerosol cans.

(a) *Aerosol cans covered under this part.* The requirements of this part apply to persons managing aerosol cans, as described in § 273.9, except those listed in paragraph (b) of this section.

(b) *Aerosol cans not covered under this part.* The requirements of this part do not apply to persons managing the following types of aerosol cans:

(1) Aerosol cans that are not yet waste under part 261 of this chapter. Paragraph (c) of this section describes when an aerosol can becomes a waste;

(2) Aerosol cans that are not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in part 261, subpart C, of this chapter or the aerosol can contains a substance that is listed in part 261, subpart D, of this chapter; and

(3) Aerosol cans that meet the standard for empty containers under § 261.7 of this chapter.

(c) *Generation of waste aerosol cans.* (1) A used aerosol can becomes a waste on the date it is discarded.

(2) An unused aerosol can becomes a waste on the date the handler decides to discard it.

■ 17. Section 273.9 is amended by:

■ a. Adding the definition of ''Aerosol can'' in alphabetical order;

■ b. Revising the definitions of ''Large Quantity Handler of Universal Waste'' and ''Small Quantity Handler of Universal Waste'';

■ c. Revising the introductory text and paragraphs (3) and (4) and adding paragraph (5) to the definition of ''Universal Waste'';

■ d. In the definition of ''Pesticide'':

■ i. Redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively;

■ ii. In newly redesignated paragraphs (1) and (2), removing the comma and adding a semicolon in its place; and

■ iii. In newly redesignated paragraph (3), removing ''(a) or (b) of this section'' and adding in its place ''(1) or (2)'' of this definition;

■ e. In the definition of ''Universal Waste Handler'':

■ i. Removing ''Waste Handler'' and adding ''waste handler'' in its place;

■ ii. Redesignating paragraphs (a) introductory text, (a)(1) and (2), (b) introductory text, and (b)(1) and (2) as paragraphs (1) introductory text, (1)(i) and (ii), (2) introductory text, and (2)(i) and (ii), respectively; and

■ iii. Revising newly redesignated paragraph (2)(i);

■ f. In the definition of ''Universal Waste Transfer Facility,'' removing ''Waste Transfer Facility'' and adding ''waste transfer facility'' in its place; and

■ g. In the definition of ''Universal Waste Transporter,'' removing ''Waste Transporter'' and adding ''waste transporter'' in its place.

The revisions and additions read as follows:

§ 273.9 Definitions.

Aerosol can means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

* * * * *

Large quantity handler of universal waste means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000-kilogram limit is met or exceeded.

* * * * *

Small quantity handler of universal waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

* * * * *

Universal waste means any of the following hazardous wastes that are subject to the universal waste requirements of this part:

* * * * *

(3) Mercury-containing equipment as described in § 273.4;

(4) Lamps as described in § 273.5; and

(5) Aerosol cans as described in § 273.6.

* * * * *

Universal waste handler:

* * * * *

(2) * * *

(i) A person who treats (except under the provisions of § 273.13(a) or (c), or § 273.33(a) or (c)), disposes of, or recycles (except under the provisions of § 273.13(e) or § 273.33(e)) universal waste; or

* * * * *

Subpart B—Standards for Small Quantity Handlers of Universal Waste

■ 18. Section 273.13 is amended by revising paragraphs (c)(2)(iii) and (iv) and adding paragraph (e) to read as follows:

§ 273.13 Waste management.

* * * * *

(c) * * *

(2) * * *

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that is subject to all applicable requirements of 40 CFR parts 260 through 272;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that is subject to all applicable requirements of 40 CFR parts 260 through 272;

* * * * *

(e) *Aerosol cans.* A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

(2) Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of paragraph (e)(4) of this section.

(3) A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type;

(ii) Mixing intact cans in one container; and

(iii) Removing actuators to reduce the risk of accidental release; and

(4) A small quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(ii) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer's specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(iii) Ensure that puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated area.

(iv) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of 40 CFR 262.14, 262.15, 262.16, or 262.17.

(v) Conduct a hazardous waste determination on the contents of the emptied aerosol can per 40 CFR 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to 40 CFR part 262.

(vi) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable Federal, state, or local solid waste regulations.

(vii) A written procedure must be in place in the event of a spill or leak and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

■ 19. Section 273.14 is amended by adding paragraph (f) to read as follows:

§ 273.14 Labeling/marking.

* * * * *

(f) Universal waste aerosol cans (*i.e.,* each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s),'' ''Waste Aerosol Can(s),'' or ''Used Aerosol Can(s)''.

Subpart C—Standards for Large Quantity Handlers of Universal Waste

■ 20 Section 273.32 is amended by revising paragraph (b)(4) to read as follows:

§ 273.32 Notification.

* * * * *

(b) * * *

(4) A list of all the types of universal waste managed by the handler (*e.g.,* batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans); and

* * * * *

■ 21. Section 273.33 is amended by revising paragraphs (c)(2)(iii) and (iv) and adding paragraph (e) to read as follows:

§ 273.33 Waste management.

* * * * *

(c) * * *

(2) * * *

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that is subject to all applicable requirements of 40 CFR parts 260 through 272;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container is subject to all applicable requirements of 40 CFR parts 260 through 272;

* * * * *

(e) *Aerosol cans.* A large quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

(2) Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of paragraph (e)(4) of this section.

(3) A large quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(i) Sorting aerosol cans by type;

(ii) Mixing intact cans in one container; and

(iii) Removing actuators to reduce the risk of accidental release; and

(4) A large quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(i) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(ii) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer's specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(iii) Ensure that puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This includes, but is not limited to, locating the equipment on a solid, flat surface in a well ventilated area.

(iv) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of 40 CFR 262.14, 262.15, 262.16, or § 262.17.

(v) Conduct a hazardous waste determination on the contents of the emptied can per 40 CFR 262.11. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous waste and is subject to 40 CFR part 262.

(vi) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable Federal, state, or local solid waste regulations.

(vii) A written procedure must be in place in the event of a spill or release and a spill clean-up kit must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

■ 22. Section 273.34 is amended by adding paragraph (f) to read as follows:

§ 273.34 Labeling/marking.

* * * * *

(f) Universal waste aerosol cans (*i.e.,* each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Aerosol Can(s)'', ''Waste Aerosol Can(s)'', or ''Used Aerosol Can(s)''.

[FR Doc. 2019–25674 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; FCC 19–104]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) reviews performance measures established by the Wireline Competition Bureau (WCB), the Wireless Telecommunications Bureau, and the Office of Engineering and Technology (collectively the Bureaus) for recipients of Connect America Fund (CAF) high-cost universal service support to ensure that those standards strike the right balance between ensuring effective use of universal service funds while granting the flexibility providers need given the practicalities of network deployment in varied circumstances.

DATES: Effective January 8, 2020.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in WC Docket No. 10–90; FCC 19–104, adopted on October 25, 2019 and released on October 31, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC–19–104A1.pdf*

I. Introduction

1. The Commission has long recognized that ''[a]ll Americans [should] have access to broadband that is capable of enabling the kinds of key applications that drive the Commission's efforts to achieve universal broadband, including education (*e.g.,* distance/online learning), health care (*e.g.,* remote health monitoring), and person-to-person communications (*e.g.,* Voice over internet Protocol (VoIP) or online video chat with loved ones serving overseas).'' To that end, the Commission has invested significant Universal Service Fund support for the deployment of broadband-capable networks in high cost, rural areas.

2. But only fast and responsive networks will allow Americans to fully realize the benefits of connectivity. That is why the Commission requires recipients of universal service support in high cost areas to deploy broadband networks capable of meeting minimum service standards. These standards protect taxpayers' investment and ensure that carriers receiving this support deploy networks that meet the performance standards they promised to deliver to rural consumers. At the same time, the Commission recognizes that each carrier faces unique circumstances, and that one set of prescriptive rules may not make sense for every one of them. To accommodate this practical reality, the Commission's rules provide flexibility, taking into account the operational, technical, and size differences among providers when establishing minimum standards, to ensure that even the smallest rural carriers can meet testing requirements without facing excessive burdens.

3. In the Order on Reconsideration, the Commission reviews performance measures established by the Bureaus for recipients of CAF high-cost universal service support to ensure that those standards strike the right balance between ensuring effective use of universal service funds while granting the flexibility providers need given the practicalities of network deployment in varied circumstances. Several petitions for reconsideration and applications for review of the Performance Measures Order, 83 FR 42052, August 20, 2018, propose changes to these performance measures. Here, the Commission rejects the proposed changes where it finds that the Bureaus' approach strikes the right balance. Where the Commission finds that the Bureaus' approach does not—for example, where it concludes that greater flexibility is warranted than was offered under the Bureaus' original methodology—the Commission adjusts its rules accordingly. Finally, the Commission clarifies the Bureaus' approach where doing so will help resolve stakeholder confusion.

II. Discussion

4. In the Order on Reconsideration, the Commission reexamines each of the described performance measure requirements in this document. As a result, the Commission adopts several modifications. The Commission believes these changes will alleviate concerns expressed by carriers by increasing the time for carriers to meet certain deadlines and further minimizing the costs associated with compliance, yet still ensure that carriers meet their performance obligations. In short, the refinements to the Bureau's approach adopted in the Performance Measures Order will further the overarching goal of the *Performance Measures Order;* namely, to ensure that carriers deliver broadband services with the speed and latency required while providing flexibility to enable carriers of all sizes to choose how to conduct the required performance testing in the manner most appropriate for each individual carrier.

5. Under the Performance *Measures Order,* all high-cost support recipients serving fixed locations must perform speed and latency tests from the customer premises of an active subscriber to a remote test server located at or reached by passing through an FCC-designated internet Exchange Point (IXP). In the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, the Commission decided that speed and latency should be measured on each eligible telecommunications carriers (ETCs) access network from the end-user interface to the nearest internet access point, *i.e.,* the internet gateway, which is the closest peering point between the broadband provider and the public internet for a given consumer connection. Subsequently, in the *CAF Phase II Price Cap Service Obligation Order,* 78 FR 70881, November 27, 2013, WCB stated that latency should be tested to an IXP, defined as occurring in any of ten different U.S. locations, almost all of which are locations used in the MBA program because they are geographically distributed major peering locations. The Bureaus expanded the list to permit testing to six additional metropolitan areas to ensure that most mainland U.S. locations are within 300 miles of an FCC-designated IXP and that all are within approximately 500 air miles of one. Further, the Bureaus permitted providers to use any FCC-

designated IXP for testing purposes, rather than limiting testing to the provider's nearest IXP. Providers serving non-contiguous areas greater than 500 air miles from an FCC-designated IXP were also permitted to conduct testing between the customer premises and the point at which traffic is aggregated for transport to the continental U.S.

6. The Commission agrees with the Bureaus that the speed and latency of networks of carriers receiving support through the various high-cost support mechanisms should be tested between the customer premise of an active subscriber and an FCC-designated IXP. This approach is consistent with the Commission's determination in the *USF/ICC Transformation Order* that ''actual speed and latency [must] be measured on each ETCs access network from the end-user interface to the nearest internet access point.'' Measuring the performance of a consumer's connection to an IXP better reflects the performance that a carrier's customers experience. As the Commission observed when it first adopted performance measures for CAF Phase II model-based support recipients, ''[t]esting . . . on only a portion of the network connecting a consumer to the internet core will not show whether that customer is able to enjoy high-quality real-time applications because it is network performance from the customer's location to the destination that determines the quality of the service from the customer's perspective.''

7. The Commission therefore disagrees with those commenters arguing that it should require testing over a shorter span. For example, NTCA seeks modification of the testing requirements to account for performance only on ''portions of the network owned by the USF recipient and the next-tier ISP from which that USF recipient procures capacity directly.'' NTCA argues that requiring testing to an FCC-designated IXP imposes liability on a carrier for conditions beyond its control and violates the Act by applying obligations to parts of the network that are not supported by USF funding. Alternatively, NTCA requests that the Commission provide a ''safe harbor'' to protect a carrier from off-network issues that affect its test measurements. WTA similarly contends that testing to an FCC-designated IXP makes carriers responsible for portions of the connection over which they have no control. WTA instead proposes a two-tiered framework consisting of a network-only test for purposes of high-cost compliance and customer-to-IXP testing to respond to customer complaints, with unresolved network-only problems being subject to non-compliance support reductions. Finally, Vantage Point seeks clarity on the initiation point for performance testing within the customer premises, and contends that the endpoint for testing should be at or reached by passing through a carrier's next tier ISP.

8. The Commission disagrees with petitioners that testing to an FCC-designated IXP, rather than the edge of a carrier's network, makes a carrier responsible for network elements it does not control, and the Commission rejects testing only on a carrier's own network as inadequate. As the Bureaus explained, carriers—even smaller ones—do have some influence and control over the type and quality of internet transport they purchase. The Commission expects a carrier to purchase transport of a sufficient quality that enables it to provide the requisite level of service expected by consumers and required by the Commission's rules. However, in the event a carrier fails to meet its performance obligations because the only transport available would demonstrably degrade the measured performance of the carrier's network, the carrier can seek a waiver of the performance measures requirements. The Commission is similarly unpersuaded by WTA's two-tiered testing proposal. Adopting WTA's proposal to conduct its required tests over only half of the full testing span would only provide the Commission with insight into the customer experience on half of the network between the customer and the IXP. Given that the Commission's aim is to ensure that customers are able to enjoy high-quality real-time applications, it declines to adopt WTA's proposed approach.

9. Finally, the Commission provides additional clarity on both the initiation point and endpoint for testing. As the Commission has noted in this document, one of the chief purposes for implementing performance requirements is to ensure that customers are receiving the expected levels of service that carriers have committed to providing. Testing from any place other than the customer side of any carrier network equipment used in providing a customer's connection may skew the testing results and not provide an accurate reflection of the customer's broadband experience. As Vantage Point notes, testing in this manner would make it ''difficult to ensure that the test was being performed on the network path actually used by the customer.'' Thus, the Commission clarifies that testing should be conducted from the *customer side* of any network equipment that is being used.

10. *Definition of FCC*-designated *internet Exchange Point.* Given the Commission's commitment to testing the performance of connections between consumers and FCC-designated IXPs, it also takes this opportunity to clarify which facilities qualify as FCC-designated IXPs for purposes of performance testing.

11. USTelecom, ITTA, and WISPA request clarification that ETCs are permitted to use ''the nearest internet access point,'' as specified in the *USF/ICC Transformation Order,* which may not necessarily be a location specified in the *Performance Measures Order.* They also seek clarification that ETCs may test to servers that are within the provider's own network (*i.e.,* on-net servers). In subsequent filings, the petitioners suggest that there should be a criteria-based approach to defining the testing endpoint. Specifically, they propose that testing occur ''from the end-user interface to the first public internet gateway in the path of the CAF-supported customer that connects through a transitive internet Autonomous System,'' (ASN) and ''that the Commission establish a safe harbor where the transitive internet AS which the gateway hosts includes one or more router(s) that advertise(s) [ASN] organizations that are listed on the Center for Applied internet Data Analysis (CAIDA) 'AS Organization Rank List.' '' The petitioners propose that testing occurring through a ''safe harbor'' ASN ''would be considered valid without further inquiry.''

12. The Commission concludes that the *Performance Measures Order's* designation of certain metropolitan areas as qualifying IXPs is too ambiguous. It is not clear where the boundaries of a designated IXP metropolitan area begin and end. Thus, drawing on the petitioners' proposal, the Commission now provides a revised definition of FCC-designated IXP that is more specific and better designed to account for the way internet traffic is routed. For testing purposes, the Commission defines an FCC-designated IXP as any building, facility, or location housing a public internet gateway that has an active interface to a qualifying ASN. Such a building, facility, or location could be either within the provider's own network or outside of it. The Commission uses the term ''qualifying ASN'' to ensure that the ASN can properly be considered a connection to the public internet. The Commission notes that in the *USF/ICC*

Transformation Order, it finds that the internet gateway is the ''peering point between the broadband provider and the public internet'' and that public internet content is ''hosted by multiple service providers, content providers and other entities in a geographically diverse (worldwide) manner.'' The criteria the Commission uses to determine FCC-designated IXPs are designed to ensure that the peering point is sufficiently robust such that it can be considered a connection to the public internet and not simply another intervening connection point. The Commission designates 44 major North American ASNs using CAIDA's ranking of Autonomous Systems and other publicly available resources as ''safe harbors.'' The Commission directs the Bureaus to update this list of ASNs periodically using the CAIDA ranking of ASNs, PeeringDB, and other publicly available resources. Providers may test to a test server located at or reached by passing through any building, facility, or location housing a public internet gateway that has an active interface to one of these qualifying ASNs or may petition the Bureaus to add additional ASNs to the list. The Bureaus will determine whether any ASN included in a carrier petition is sufficiently similar to qualifying ASNs that it should be added to the list of qualifying ASNs.

13. The Bureaus also established a daily testing period for speed and latency tests, requiring carriers to conduct tests between 6:00 p.m. and 12:00 a.m. local time, including weekends. The testing window the Bureaus adopted reflects a slight expansion of the testing window used for the MBA. The Bureaus reasoned that MBA data indicated a peak period of internet usage every evening but noted that they would revisit this requirement periodically ''to determine whether peak internet usage times have changed substantially.''

14. Petitioners and commenters urge the Commission to reconsider the daily test period requirement to account for the usage patterns of rural consumers, as well as the conditions and characteristics of rural areas. WTA notes that the MBA data cited by the Bureaus likely reflect the usage patterns of urban consumers, rather than consumers in rural areas that ''are typically making personal and business use of their household internet connections throughout the day.'' WTA contends that there is likely to be increased congestion on rural networks during the time period adopted by the Bureaus, potentially resulting in an inaccurate or unrepresentative testing of the carrier's service. WTA also argues that mandating testing during evening hours and weekends requires rural carriers to adjust their regular daytime schedule, creating staffing and financial hardships and potentially preventing them from responding to other customer service issues. ITTA supports this point, noting that ''evening and weekend test hours require RLECs to re-schedule one or more technicians from their regular daytime maintenance and installation duties and pay them premium or overtime wages.'' ITTA also challenges the expansion of the daily test period from 7 p.m. to 11 p.m. to 6 p.m. to 12 a.m., and requests flexibility as to the specific hours that testing may be conducted.

15. The Commission declines to revisit the daily testing period at this time. WTA provides no data to support its claim that rural consumers are more active users of broadband service during daytime hours than urban consumers. Moreover, the Commission's review of MBA data from more rural areas indicates that these areas have similar peak periods to urban areas. As the Commission has stated many times, a primary goal for universal service is to ensure that customers in rural areas receive the same level of service as those in urban areas. By establishing the same testing window for urban and rural areas, the Commission can confirm that consumers in rural areas are not receiving substandard service as compared to consumers in urban areas during the same time periods. Additionally, WTA's concern that testing during the peak period may degrade a consumer's broadband experience is unfounded. As the Commission previously observed, the small amount of data required for speed testing will have no noticeable effect on network congestion. The Commission reminds carriers that it provides them the flexibility to choose whether to stagger their tests over the course of the testing period, so long as they do not violate any other testing requirements.

16. The Commission also disagrees with WTA and ITTA that the current daily testing period will require rural carriers to devote additional personnel hours to implement the Commission's performance testing requirements. Once the testing regime is implemented and carriers have installed the necessary technology and software to test the speed and latency of their networks on a routine basis, the Commission does not anticipate that extensive staffing will be required to monitor the testing process. Because the technological testing options that the Commission has allowed carriers to use are all relatively automated, carriers should not have to adjust schedules to ensure staffing during evenings and weekends. Additionally, the Commission notes that the Bureaus expanded the testing period from 7 p.m. to 11 p.m. to 6 p.m. to 12 a.m. based on several comments from parties that requested a longer testing period. Adding one additional hour on both the front and back end of the testing period allows a carrier's testing to capture the ramp up and ramp down periods before and after peak time, providing a more accurate picture of whether customers are receiving the required level of service. The Commission also reminds parties that the Bureaus committed to revisiting periodically the daily testing window to ensure that the established hours continue to reflect the usage habits of consumers.

17. The Bureaus required a specified number of speed tests during each testing window. In particular, the *Performance* Measures *Order* required a minimum of one download test and one upload test per testing hour at each subscriber test location. Providers were required to start separate download and upload speed tests at the beginning of each test hour window, and, after deferring a test due to cross-talk (*e.g.,* traffic to and from the consumer's location that could impact performance testing), providers were required to reevaluate whether the consumer load exceeds the cross-talk threshold every minute until the speed test can be run or the one-hour test window ends.

18. In their Petition for Reconsideration, USTelecom, ITTA, and WISPA request clarification that recipients are afforded flexibility in commencing hourly tests. They argue that ''[i]t is not clear from the *Performance Measures Order* . . . whether 'the beginning' of a test hour window requires a recipient to commence testing at the top of the hour, or whether testing must commence for all test subscribers at exactly the same time.'' The petitioners state that carriers should only be required to complete the test within the hour, and they should be able to retry tests as frequently as their systems allow until a successful test is administered, rather than retrying deferred tests every minute. Noting that ''there should be no practical difference as to whether testing occurs at the top, middle, or closer to [the] end of a testing window,'' NTCA, NRECA, and UTC support the petitioners' request that ''the Commission reconsider the discrete and specific times at which testing is to be conducted within each hour.'' Vantage Point likewise proposes that the Commission permit carriers to distribute speed tests within testing

hours in a way that minimizes network impact; otherwise, Vantage Point asserts, requiring all speed testing to start at the beginning of each hour would significantly burden test servers such that test results would not be representative of customers' normal experience.

19. The Commission clarifies that providers do not have to begin speed tests at the beginning of each test hour, as petitioners suggest. In particular, the Commission agrees with Vantage Point that providing greater flexibility in this regard will further minimize the impact of any potential burden on the test servers during speed testing. However, to ensure that there is enough data on carriers' speed performance, providers must still conduct and report at least one download test and one upload speed test per testing hour at each subscriber test location, with one exception. A carrier that begins attempting speed tests within the first fifteen minutes of a testing hour, and repeatedly retries and defers the test at one-minute intervals due to consumer load meeting the adopted cross-talk thresholds (*i.e.,* 64 Kbps for download tests or 32 Kbps for upload tests), may report that no test was successfully completed during the test hour because of cross-talk. A provider that does not attempt a speed test within the first 15 minutes of the hour and/or chooses to retry tests in greater than one-minute intervals must, however, conduct and report a successful speed test for the testing hour regardless of cross-talk. Although this approach continues to differ slightly from MBA practice, the Commission believes that it minimizes the possibility of network congestion at the beginning of the testing hour while ensuring that it will have access to sufficient testing data.

20. The *Performance Measures Order* established specific test intervals within the daily test period for latency testing, requiring carriers to conduct ''a minimum of one discrete test per minute, *i.e.,* 60 tests per hour, for each of the testing hours, at each subscriber test location, with the results of each discrete test recorded separately.'' Recognizing that cross-talk could negatively affect the test results, the Bureaus provided flexibility for carriers to postpone a latency test in the event that the consumer load exceeded 64 Kbps downstream and to reevaluate the consumer load before attempting the next test.

21. Several parties express concern with these requirements and request reconsideration of the latency testing framework. USTelecom, ITTA, and WISPA jointly contend that the Bureaus failed to provide adequate notice for the frequency of latency testing and did not justify departing from the MBA practice of combining speed and latency testing under a unified framework. These parties further argue that requiring latency testing once per minute will be administratively burdensome for carriers by preventing them from combining the instructions for testing into a single process and potentially overloading and disrupting some testing methods. Instead, USTelecom, ITTA, and WISPA propose that the number of latency tests should be reduced to match the frequency of speed testing. Midcontinent also supports aligning the frequency of speed and latency testing requirements.

22. AT&T contends that testing once per minute ''is unnecessary and arbitrary and capricious'' and likewise argues that the Commission should permit carriers to test latency only once per hour. AT&T supports its proposal by providing internal data purporting to demonstrate no material difference between testing latency once per minute versus testing once per hour. As a result, AT&T proposes that the Commission require a minimum of one latency test per hour, but provide flexibility to allow carriers to test more frequently if they desire. ITTA concurs with AT&T's proposed approach.

23. Conversely, NTCA, NRECA, and UTC support the latency testing framework adopted by the Bureaus. These parties observe that aligning the frequency of speed and latency tests would ''risk undermining the Commission's statutory mandate to ensure reasonably comparable services in rural and urban areas'' because speed does not require as frequent testing as latency in order to demonstrate compliance. In response, USTelecom, ITTA, and WISPA again argue that the Bureaus failed to adequately address the Administrative Procedure Act's notice obligations or present any legal or factual basis for requiring substantially more latency tests than speed tests.

24. The Commission declines to revise the determination of the Bureaus that carriers must conduct latency testing once per minute. Regarding parties' procedural arguments, the Commission notes that, in the two Public Notices seeking comment on the performance measures, the Bureaus specifically explained that adopting the Measuring Broadband America (MBA) testing was under consideration. Indeed, many of the performance testing requirements were derived from or influenced by the Commission's experience with MBA testing. As such, parties had ample notice that the testing regime adopted by the Bureaus, which is a less burdensome variation of the MBA testing, was a potential option. Any argument to the contrary is unfounded.

25. Complaints that the frequency of latency testing will affect network performance also are speculative. The latency testing frequency framework ultimately adopted by the Bureaus is substantially less extensive than the MBA program testing. For example, MBA testing sends approximately 2,000 User Datagram Protocol (UDP) packets per hour, and these 2,000 individual results are summarized as a single reporting record that reflects all 2,000 tests. To be clear, MBA requires latency to be tested *2,000 times per hour,* with results summarized into one record. Conversely, the Bureaus adopted testing of 60 UDP packets per hour that consists of approximately 3% of the typical MBA load. The more intensive MBA test frequency has not been found to pose any technical or other difficulties, so there is no reason to believe that the vastly lower frequency of latency testing adopted by the Bureaus will cause concerns. Requiring 60 UDP packets per hour rather than 2,000 balances the need for sufficient testing while minimizing the burden of testing on carriers.

26. The Commission also agrees with the Bureaus that the disparity in testing frequency between speed and latency reflects the different type of testing necessary to determine whether carriers are meeting the required benchmarks. The purpose of speed testing is to determine if the network is properly provisioned to furnish the required speed and whether the network provides sufficient throughput to handle uploads and downloads at particular speeds and times. Because of the burden that such testing puts on a carrier's network, the Bureaus adopted the minimum number of tests necessary to ensure that consumers are receiving broadband service at required speed levels. On the other hand, latency testing indicates whether there is sufficient capacity in the network to handle the level of traffic, which is of particular importance when the network is experiencing high traffic load. In this respect, latency is similar to a pulse rate and can vary substantially as a result of several factors. Even if all these factors are unknown, frequently monitoring latency determines the ability of the network to handle various circumstances and factors that are affecting it. As NTCA, NRECA, and UTC explain:

[T]here is logic in a protocol that tests for latency more frequently than speed. The

impact of latency is measured in and discernible by milliseconds: the frequency of testing aims to illuminate whether variables that perforate performance are present. In contrast, speed contemplates a steadier aspect of the network facility, and therefore does not require as frequent testing to demonstrate compliance. Therefore, in as much as latency-sensitive services and applications (including but not limited to voice) are affected by millisecond variables, NTCA, NRECA and UTC urge the Commission to maintain its rigorous standards for latency testing.

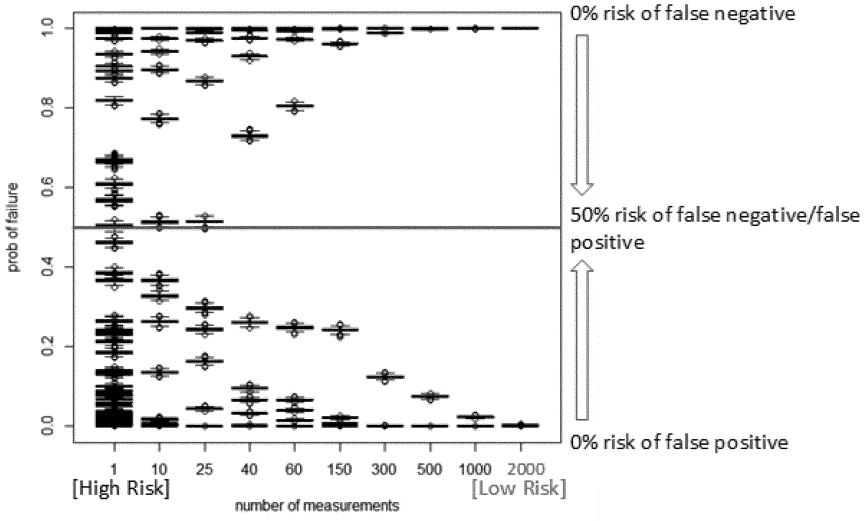
And, in any event, conducting more tests for latency is to the carrier's benefit, because of the variability of latency and resulting greater likelihood that outlier failures will not affect the overall rate.

27. The Commission appreciates AT&T's willingness to share its internal data and analysis. However, AT&T's data reflect only the capabilities of its own network and consisted of a very small sample set—18 customers for one peak period in one instance and ''almost'' 100 subscribers for one peak period in the other. The Commission also notes that even AT&T's data demonstrated a substantial variation between testing once per hour and once per minute. For example, in its testing, AT&T found that per minute latency testing of customers served by varying technologies showed that 1.17% of tests were higher than 100 ms but once per hour testing showed that 3.04% of tests showed a latency of higher than 100 ms. A difference of 2% when the latency standard is 5% is substantial.

28. Analysis undertaken by Commission staff confirms the importance of more frequent testing to account for the variability associated with latency. Commission staff compared the conclusions that AT&T—and supported by ITTA—drew from its data to what the much larger MBA data demonstrate. This analysis indicates that the risk of false positives and false negatives (*i.e.,* sample test results indicate that a carrier fails, when given overall network performance, it should have passed, or that a carrier passes, when given overall network performance, it should have failed) varies significantly based on the number of measurements per hour. Because the Commission's performance standard for latency requires 95% of the latency measurements to be less than or equal to 100 ms, a carrier would fail the standard if more than 5% of its latency measurements are greater than 100 ms. In general, staff's analysis found that a greater number of measurements reduces the impact of data outliers and makes false positives and false negatives less likely. For example, a single 200 ms data outlier among a sample of 10 latency measurements that otherwise are all under 100 ms would result in the carrier's failing to meet the 95% threshold (*i.e.,* only 9 out of 10 or 90% of the measurements would be at or under 100 ms). However, a single data outlier of 200 ms in a sample of 100 latency measurements would not, in the absence of at least five other measurements exceeding 100 ms, cause the carrier to fail (*i.e.,* 99 out of 100 or 99% of the measurements would be at or under 100 ms).

29. Additionally, staff analysis of MBA data indicated that the distribution of latency among carriers varies widely even within the same minute. This means that latency varies significantly depending upon the traffic on the network at any given time and does not vary in the same way for each carrier or even within each day for each carrier. Because of the countless number of distributions observed among carriers reflected by the MBA data, the Commission concludes that a smaller number of observations would not yield reliable testing results. Thus, more testing provides the Commission with greater ability to detect bad performance in cases where a carrier's latency is consistently high. In other words, since the likelihood of failing or passing the Commission's latency standard depends, to some degree, on random noise, the more measurements taken by a carrier, the less likely that random factors would cause it to fail the standard.

30. The figure in the following demonstrates staff's analysis of the estimated probability of failure and associated risk of false positive or false negative results with different numbers of measurements from a range of latency distributions observed in the MBA data. Each box (bar) represents the estimated probability of failure for a given latency distribution. The difference in the probability of failure between N number of measurements and N=2000 is the estimated risk of a false positive (the test result indicates that a carrier fails when it should have passed) and a false negative (the test result indicates that a carrier passes when it should have failed). As demonstrated, there is a much higher risk of a false positive or false negative under AT&T's proposed once per hour latency measurement as compared to a moderate risk from 60 measurements per hour.



Thus, staff's analysis shows that, given the high variability of latency, one of two things would occur if the Commission required only one measurement per hour: either a few extreme measurements would cause a carrier to fail the standard when, in fact, it should pass given its overall performance, or the Commission would be unable to capture consistent poor performance by a carrier that should fail based on the overall performance of its network. As a result, a moderate-risk approach of 60 measurements per hour strikes a balance between the burden of testing on carriers and the risk of failure by carriers caused by uncertainty.

31. Finally, the Commission notes that some parties may misunderstand what exactly constitutes a latency test for purposes of the performance measures. Specifically, USTelecom states that, ''[t]esting every minute may also overload some testing methods and cause testing to be disrupted,'' implying that a carrier must start and stop a latency test every minute within a test-hour. While the Commission does not believe this interpretation is consistent with the intent of the *Performance Measures Order,* it provides greater clarity here on what is considered a sufficient latency test to assuage concerns about the number of latency tests per hour. As the Bureaus described in the *Performance Measures Order,* a ''test'' constitutes a ''single, discrete observation or measurement of speed or latency.'' While carriers may choose to continuously start and stop latency testing every minute and record the specific result, the Commission clarifies that there is no requirement to conduct latency testing in this manner. Instead, carriers may continuously run the latency testing software over the course of a test-hour and record an observation or measurement every minute of that test-hour. If a carrier transmits one packet at a time for a one-minute measurement, the carrier should report the result of that packet as one observation. However, some applications, such as ping, commonly send three packets and only report summarized results for the minimum, mean, and maximum packet round trip time and not individual packet round trip time. If this is the case, the carrier should report the mean as the result of this observation. If the carrier sends more than one packet and the testing application allows for individual round trip time results to be reported for each packet, then the carrier must report all individual measurements for each packet. Such an approach plainly fits within the definition of ''test'' adopted by the Bureaus in the *Performance Measures Order* and does not require constant starting and stopping of the latency testing software. In sum, carriers have the flexibility to choose how to conduct their latency testing, so long as one separate, discrete observation or measurement is recorded each minute of the specific test-hour.

32. The Bureaus required that carriers test a maximum of 50 subscriber locations per required service tier offering per state, depending on the number of subscribers a carrier has in a state, randomly selected every two years. The *Performance Measures Order* included scaled requirements permitting smaller carriers (*i.e.,* carriers with fewer than 500 subscribers in a state and particular service tier) to test 10% of the total subscribers in the state and service tier, except for the smallest carriers (*i.e.,* carriers with 50 or fewer subscribers), which must test five subscriber locations. The Bureaus also recognized that, in certain situations, a carrier serving 50 or fewer subscribers in a state and service tier may not be able to test even five active subscribers; the Bureaus permitted such carriers to test a random sample of existing, non-CAF-supported active subscriber locations within the same state and service tier to satisfy the testing requirement. In situations where a subscriber at a test location stops subscribing to the service provider within 12 months after the location was selected, the Bureaus required that the carrier test another randomly selected active subscriber location. Finally, the Bureaus explained that carriers may use inducements to encourage subscribers to participate in testing, which may be particularly useful in cases where support is tied to a particular performance level for the network, but the provider does not have enough subscribers to higher performance service tiers to test to comply with the testing sample sizes.

33. Petitioners and applicants raise various concerns regarding the required number of subscriber test locations. Micronesian Telecommunications Corporation (MTC), for example, argues that it and similar carriers that may have fewer than 50 subscribers in a particular state and speed service tier will be unable to comply with the test locations requirement. MTC claims that it will be difficult to find even five customers to test, particularly in higher service tiers. Asking that the Commission ''provide a safety valve'' for similar small carriers, MTC proposes that such a provider should ''test no more than 10 percent of its customers in any given service tier, with a minimum of one test customer per service tier with customers.'' NTCA argues that testing 10% of subscribers may be excessive; instead, NTCA proposes that carriers should test the lesser of 50 locations per state or 5% of active subscribers. Further, NTCA argues that carriers should not be required to upgrade the speed or customer premises equipment for individual locations even temporarily to conduct speed tests. WTA suggests that, at least for rural carriers, the number of test locations should be much lower than adopted in the *Performance Measures Order.* Smaller carriers must test larger percentages of their customers compared to larger carriers; accordingly, WTA argues, the Commission should permit testing of just 10–15 locations or 2–3% of subscribers in each CAF-required service tier.

34. NTCA, as well as USTelecom, ITTA, and WISPA, also ask that the Commission clarify that carriers may use the same locations for testing both speed and latency. USTelecom, ITTA, and WISPA explain that, if carriers must conduct speed and latency testing at different locations, the number of subscribers that must be tested would be unnecessarily doubled, which ''would be particularly troublesome for smaller recipients, many of whom will be drawing test locations from a small group of subscribers.'' Similarly, the petitioners explain, the requirement regarding the number of test locations should be clarified to be exactly the same for both speed and latency. These clarification proposals drew broad support from commenters. For example, comments submitted jointly by NTCA, NRECA, and UTC assert that the clarifications would help providers ''avoid unnecessary costs and excessive administrative burden,'' while Midcontinent Communications notes that using ''the same panelists for speed and latency testing for CAF purposes would align with [its] internal testing practices.''

35. A few parties offer suggestions regarding the parameters for the random selection process. In particular, WTA asks that locations should be tested for five years, instead of two years, before a new random sample of test locations is chosen. WTA also proposes that twice the required random number of testing locations be provided to carriers so that carriers can replace locations where residents refuse to participate or have incompatible CPE. Frontier, in an *ex parte* filing, proposes that carriers be allowed to test only new customer locations; it argues that installing the necessary testing equipment at older locations requires more time than is

available with the adopted testing schedule.

36. The Commission declines to modify the adopted sample sizes for testing speed and latency. To minimize the burdens of testing, the Bureaus have used a ''trip-wire'' approach in determining the required sample sizes. In other words, the adopted sample sizes produce estimates with a high margin of error but can show where further inquiry may be helpful; the Commission's target estimation precision is a 90% confidence level with an 11.5% margin of error. For the largest carriers, *i.e.,* those with over 500 subscribers in a given state and speed service tier, this requires a sample size of 50 subscriber locations. For the smallest carriers, the Bureaus adopted small sample sizes that result in less precision, with the margin of error reaching 34.9%, to reduce the testing burden on smaller providers. Reducing the sample sizes for smaller carriers even more would further reduce the resulting estimation precision—making the test data even less likely to be representative of the actual speed and latency consumers experience on CAF-supported networks. The Commission therefore does not modify the required numbers of subscriber locations carriers must test.

37. Nonetheless, the Commission recognizes that a few carriers facing unique circumstances may find it extraordinarily difficult to find a sufficient number of subscriber locations to test. Although the Commission declines to modify the adopted sample sizes, the Commission appreciates that special circumstances occasionally demand exceptions to a general rule. The Commission's rules may be waived for good cause shown.

38. For carriers that cannot find even five CAF-supported locations to test, the Commission also reconsiders the Bureaus' decision to permit testing of non-CAF-supported active subscriber locations within the same state and service tier. Testing and reporting speed and latency for non-CAF-supported locations adds unnecessary complexity to the Commission's requirements. Accordingly, the Commission requires that any non-compliant carrier testing fewer than five CAF-supported subscriber locations because more are not available would be subject to verification that more customers are not available, rather than requiring that all carriers testing fewer than five CAF-supported subscriber locations find non-CAF-supported locations to test.

39. Additionally, the Commission recognizes that, as several parties have noted, obtaining customer consent for testing which requires placement of testing equipment on customer premises may prove difficult. The Commission believes that its revised testing implementation schedule (discussed in the following) will help alleviate this concern, particularly for smaller carriers. Numerous vendors are developing software solutions that will allow providers to test the service at customer locations without requiring any additional hardware at the customer's premises. Further, the Commission directs WCB to publish information on the Commission's website explaining the nature and purpose of the required testing—to ensure that carriers are living up to the obligations associated with CAF support—and urging the public's participation. The Commission expects that providing such information in an easy-to-understand format will help alleviate subscribers' potential concerns. Moreover, the Commission emphasizes that no customer proprietary network information is involved in the required testing or reporting, other than information for which the carrier likely would already have obtained customer consent; carriers routinely perform network testing of speed and latency and the performance measures testing the Commission is requiring is of a similar nature.

40. The Commission agrees with comments recommending that the same sample sizes adopted for speed should also apply to latency, and that the same subscriber locations should be used for both speed and latency tests. As some parties have noted, requiring testing of two separate sets of subscriber locations for speed and latency, rather than the same group of locations for both, is unnecessarily burdensome. By requiring speed and latency tests at the same subscriber locations, the Commission reduces the amount of equipment, coordination, and effort that may otherwise be involved in setting up testing. Therefore, carriers will test all of the locations in the random sample for both speed and latency. The Commission notes that because it is adopting different implementation dates for testing of different broadband deployment programs, a carrier will receive a separate random sample of testing locations for each program for which it must do performance testing. In the *Performance Measures Order,* the Bureaus stated that, ''[a] carrier with 2,000 customers subscribed to 10/1 Mbps in one state through CAF Phase II funding and 500 rural broadband experiment (RBE) customers subscribed to 10/1 Mbps in the same state, and no other high-cost support with deployment obligations, must test a total of 50 locations in that state for the 10/1 Mbps service tier.'' But because CAF Phase II and RBE have different implementation dates for testing, the carrier in this example must test 50 locations for its CAF Phase II obligations and 50 locations for its RBE obligations. Similarly, because the Commission now requires carriers to use the same sample for both speed and latency, it reconsiders the requirement that carriers replace latency testing locations that are no longer actively subscribed after 12 months with another actively subscribed location. The Bureaus did not make clear if this provision applied to both speed and latency test locations. To avoid confusion, the Commission clarifies that the same replacement requirements should apply to both speed and latency. Therefore, the Commission now requires that carriers replace non-actively subscribed locations with another actively subscribed location by the next calendar quarter testing. Although the Commission does not believe it is necessary for carriers to obtain a random list of twice the number of required testing locations at the outset, carriers should be able to obtain additional randomly selected subscriber locations as necessary for these kinds of situations.

41. The Commission reconsiders the Bureaus' requirement that carriers meet and test to their CAF obligation speed(s) regardless of whether their subscribers purchase internet service offerings with speeds matching the CAF-required speeds for those CAF-eligible locations. Specifically, in situations where subscribers purchase internet service offerings with speeds lower than the CAF-required speeds for those locations, carriers are not required to upgrade individual subscriber locations to conduct speed testing unless there are no other available subscriber locations at the CAF-required speeds within the same state or relevant service area. The Commission recognizes that there may be significant burdens associated with upgrading an individual location, particularly when physically replacing equipment at the customer premises is necessary. Some carriers may still find it necessary to upgrade individual subscriber locations, at least temporarily, to conduct speed testing. The Commission does not believe that requiring temporary upgrades of service of testing locations in these instances will discourage bidding in future auctions. Carriers participating in auctions should be prepared to provide

the required speeds at all of the locations in the relevant service area and should anticipate that over time more and more customers in the service area will be purchasing the higher-speed offerings.

42. Finally, the Commission rejects proposals to require testing only of newly deployed subscriber locations and to maintain the same sample for more than two years. If the Commission were to permit testing of only new locations, carriers' speed and latency test data would not reflect their previous CAF-supported deployments, for which carriers also have ongoing speed and latency obligations. Moreover, although the Bureaus adopted the *Performance Measures Order* in 2018, carriers have been certifying that their CAF-supported deployments meet the relevant speed and latency obligations for several years. Requiring testing of older locations should not prove a problem for carriers that have been certifying that their deployments properly satisfy their CAF obligations. In any case, further shrinking the required sample to include only more recent deployments would compromise the effectiveness of the ''trip-wire'' sample; the Commission would not be able to identify potential problems with many older CAF-supported deployments. Maintaining the same sample beyond two years would present the opposite problem. By excluding newer deployments, the Commission's understanding of carriers' networks would be outdated; the Bureaus' decision to require testing a different set of subscriber locations every two years struck the correct balance between overburdening carriers and maintaining a current, relevant sample for testing.

43. The Bureaus required quarterly testing for speed and latency. In particular, to capture any seasonal effects and differing conditions throughout the year that can affect a carrier's broadband performance, the Bureaus required carriers subject to the performance measures to conduct one week of speed and latency testing in each quarter of the calendar year.

44. WTA argues that spreading testing across the year imposes a substantial burden, particularly on rural carriers, without producing more accurate information than a single week of testing. WTA also contends that obtaining consent from customers to allow testing for four weeks a year ''is going to be extremely difficult and likely to become a customer relations nightmare.'' Instead, WTA argues that testing for a single week in late spring or early fall would be more representative of typical internet usage. WTA cites these claimed difficulties as a reason for reducing the number of weeks of annual testing, reducing the numbers of locations to be tested, allowing more flexible selection of customer locations, and using the test locations for longer periods.

45. The Commission declines to adjust the quarterly testing requirement as proposed by WTA. As the Bureaus acknowledged when they adopted the quarterly requirement, different conditions exist throughout the year that can affect service quality, including changes in foliage, weather, and customer usage patterns, school schedules, holiday shopping, increased or decreased customer use because of travel and sporting events, and business cycles. The goal of the testing requirements is to ensure that consumers across the country experience consistent, quality broadband service throughout the year, not at only one defined point during the year. Additionally, the Commission believes WTA's concerns regarding customer consent are unfounded. The Commission expects that once the requisite technology and software to conduct the required testing has been installed, testing the performance of the network for one week per quarter will not impose any additional significant burden on carriers or customers. Moreover, the tests themselves use so little bandwidth that the Commission does not believe customers will even notice that testing is occurring. Indeed, as the Bureaus explained, quarterly testing ''strikes a better balance of accounting for seasonal changes in broadband usage and minimizing the burden on consumers who may participate in testing.''

46. The Commission confirms that carriers may use any of the three methodologies outlined in the *Performance Measures Order* to demonstrate their compliance with network performance requirements. The Commission has previously determined that it should provide carriers subject to performance testing with flexibility in determining the best means of conducting tests. In 2013, WCB had determined that price cap carriers generally may use ''existing network management systems, ping tests, or other commonly available network measurement tools,'' as well as results from the MBA program, to demonstrate compliance with latency obligations associated with CAF Phase II model-based support. Thus, the Bureaus concluded that ETCs subject to fixed broadband performance obligations would be permitted to conduct testing by employing either: (1) MBA testing infrastructure (MBA testing), (2) existing network management systems and tools (off-the-shelf testing), or (3) provider-developed self-testing configurations (provider-developed self-testing or self-testing). The Bureaus reasoned that the flexibility afforded by three different options offered ''a cost-effective method for conducting testing for providers of different sizes and technological sophistication.''

47. NTCA requests clarification about language in the *Performance Measures Order* stating that ''MBA testing must occur in areas and for the locations supported by CAF, *e.g.,* in CAF Phase II eligible areas for price cap carriers and for specific built-out locations for RBE, Alternative Connect America Cost Model (A–CAM), and legacy rate-of-return support recipients.'' NTCA contends that this language refers to previously-promulgated MBA testing requirements and that the Commission should clarify that ETCs subject to fixed broadband performance obligations should be permitted to use any of three testing options outlined by the Bureaus.

48. The language highlighted by NTCA applies only to carriers choosing the MBA testing option; the Bureaus set out additional, separate requirements for carriers choosing to use off-the-shelf or provider-developed testing options. As the *Performance Measures Order* explained, in the event that a carrier opts to use the MBA testing methodology to collect performance data, it must ensure boxes are placed at the appropriate randomly selected locations in the CAF-funded areas, as required for the CAF testing program. If, on the other hand, a carrier opts for either off-the-shelf testing tools or its own self-testing, it must use the testing procedures specific to the providers' respective chosen methodology.

49. To achieve full compliance with the latency and speed standards, the *Performance Measures Order* required that 95% of latency measurements during testing windows fall below 100 ms round-trip time, and that 80% of speed measurements be at 80% of the required network speed. Based on the standard adopted by the Commission in 2011, WCB used ITU calculations and reported core latencies in the contiguous United States in 2013 to determine that a latency of 100 ms or below was appropriate for real-time applications like VoIP. WCB thus required price cap carriers receiving CAF Phase II model-based support to test and certify that 95% of testing hours latency measurements are at or below 100 ms (the latency standard). Later, WCB sought comment on extending the

same testing methodologies to other high-cost support recipients serving fixed locations, and in multiple orders, the Commission extended the same latency standard to RBE participants, rate-of-return carriers electing the voluntary path to model support, CAF Phase II competitive bidders not submitting high-latency bids, and Alaska Plan carriers.

50. The Bureaus ultimately reaffirmed and further extended the latency standard to all high-cost support recipients serving fixed locations, except those carriers submitting high-latency bids in the CAF Phase II auction. In doing so, the Bureaus noted that the data on round-trip latency in the United States had not markedly changed since the *CAF Phase II Price Cap Service Obligation Order,* and that no parties challenged the Commission's reasoning for the existing 100 ms standard. More recently, the Bureaus refreshed the record, seeking comment on USTelecom's proposal that certifying ''full'' compliance means that 95 to 100% of all of an ETCs measurements during the test period meet the required speed. The Bureaus then adopted a standard requiring that 80% of a carrier's download and upload measurements be at or above 80% of the CAF-required speed (*i.e.,* an 80/80 standard). The Bureaus explained that this speed standard best meets the Commission's statutory requirement to ensure that high-cost-supported broadband deployments provide reasonably comparable service as those available in urban areas. The Bureaus also noted that they would exclude from certification calculations certain speed measurements above a certain threshold to ensure that outlying observations do not unreasonably affect results.

51. In their Petition, USTelecom, ITTA, and WISPA complain that ''[t]here is . . . a significant disparity in compliance thresholds for speed and latency,'' and ask that the Bureaus require ETCs' latency measurements to meet 175 ms at least 95% of the time. The petitioners argue that, before accepting CAF Phase II model-based support, carriers could not have fully understood whether the latency standard adopted in 2013 was appropriate, apparently because it was adopted ''almost two full years before price cap carriers accepted CAF Phase II support,'' and other ''reasonable'' requirements were adopted later. Further, the petitioners argue, the same ITU analysis that WCB relied on in 2013 to adopt the latency standard ''found that consumers continue to be 'satisfied' with speech quality at a one-way mouth-to-ear latency of 275 ms or a provider round-trip latency of 175 ms,'' so ''treating a latency result that is even one millisecond above 100 ms as a violation . . . penaliz[es] recipients for providing users with voice quality with which they are fully satisfied.'' Changing the standard to require latency measurements of 175 ms or better 95% of the time, petitioners assert, would better align the latency standard with the speed standard, which is designed to ensure that high-cost-supported broadband deployments are reasonably comparable to those in urban areas.

52. NTCA, NRECA, and UTC oppose the petitioners' request to ''align'' the latency standard with the speed standard. Defending the 95% threshold adopted by the Bureaus, these parties explain that low latency is necessary to support achieving a ''reasonably comparable'' level of service, and the 95% compliance benchmark for latency is a ''reasonable'' standard for that. Moreover, speeds may vary up to 20% because of ''networking protocols, interference and other variances that affect all providers and whose accommodation is technology neutral,'' but such factors do not affect latency. Thus, they say, the record supports the adopted latency standard.

53. Multiple parties seek clarifications regarding implementation of the 80/80 speed standard adopted in the *Performance Measures Order.* In particular, carriers expressed concern that compliance will be measured against advertised speeds, rather than the speeds carriers are obligated to provide in exchange for CAF support. In addition, USTelecom, ITTA, and WISPA, among others, challenge the Bureaus' finding that speed test results greater than 150% of advertised speeds are likely invalid and ask that the Bureaus reconsider automatically excluding those measurements from compliance calculations. Instead, Vantage Point suggests, the Commission should consider excluding data points beyond a defined number of standard deviations, rather than setting a 150% cutoff for measurements.

54. The Commission declines to modify the longstanding latency standard requiring that 95% of round-trip measurements be at or below 100 ms. As petitioners acknowledge, the standard was initially adopted in 2013, before carriers accepted CAF Phase II model-based support. Petitioners claim that, as a result, ''no future recipient could have been expected to assess the appropriateness of this prematurely adopted requirement,'' but, in fact, carriers accepted CAF Phase II support conditioned on the requirement that they certify to the adopted latency standard. In other words, carriers assessed the appropriateness of the standard and decided that they would be able to certify meeting the standard—or, at the very least, accepted that they would risk losing CAF Phase II support if they were unable to meet the standard. Moreover, no parties sought reconsideration when the standard was originally adopted, and the Commission later extended the same standard to other high-cost support recipients in the years following.

55. The Commission also notes that latency is fundamentally different from speed and therefore requires a different standard to ensure that CAF-supported broadband internet service is reasonably comparable to service in urban areas. The 100 ms standard, which is more lenient than the 60 ms standard originally proposed, ensures that subscribers of CAF-supported internet service can use real-time applications like VoIP. If the Commission were to require 95% of latency measurements to be only 175 ms or lower, it would be relaxing the standard considerably—permitting CAF-supported internet service to have 75% higher latency than permitted by the existing standard adopted by the Commission. Further, lowering the existing standard would not decrease burdens on carriers and provide ''a more efficient compliance and enforcement process,'' as the petitioners suggest. The carriers need only to conduct tests, which can be automated, and provide the data; Universal Service Administrative Company (USAC) will complete the necessary calculations to determine compliance. To the extent that parties argue that the 100 ms standard is overly strict and that consumers may be satisfied with higher latencies, that standard was adopted in prior Commission orders and thus is not properly addressed in this proceeding, which is to determine the appropriate methodology for measuring whether high-cost support recipients' networks meet established performance levels.

56. The Commission clarifies, however, that carriers are not required to provide speeds beyond what they are already obligated to deploy as a condition of their receipt of high-cost support. Thus, for a location where a carrier is obligated to provide 10/1 Mbps service, the Commission only requires testing to ensure that the location provides 10/1 Mbps service, even if the customer there has ordered and is receiving 25/3 Mbps service.

57. Regarding the trimming of data in calculating compliance with the speed standard, the Commission reconsiders the Bureaus' decision to exclude from

compliance calculations any speed test results with values over 150% of the advertised speed for the location. Instead of trimming the data at the outset as the Bureaus had required, the Commission directs the Bureaus to study data collected from carriers' pre-testing and testing and determine how best to implement a more sophisticated procedure using multiple statistical analyses to exclude outlying data points from the test results. The Commission anticipates that the Bureaus will develop such a procedure for USAC to implement for each carrier's test results in each speed tier in each state or study area and may involve determining whether multiple methods (*e.g.,* the interquartile range, median absolute deviation, Cook's distance, Isolation Forest, or extreme value analysis) flag a particular data point as an anomaly.

58. The *Performance Measures Order* also established a framework of support reductions that carriers would face in the event that their performance testing did not demonstrate compliance with speed and latency standards to which each carrier is subject. The Bureaus considered numerous approaches to address non-compliance with the required speed and latency standards. They adopted a ''four-level framework that sets forth particular obligations and automatic triggers based on an ETCs degree of compliance with the Commission's latency, speed, and, if applicable, MOS testing standards in each state and high-cost support program.'' Under this scheme, compliance for each standard is separately determined, with the percentage of a carrier's measurements meeting the relevant standard divided by the required percentage of measurements to be in full compliance. The Bureaus noted that the framework ''appropriately encourages carriers to come into full compliance and offer, in areas requiring high-cost support, broadband service meeting standards consistent with what consumers typically experience.''

59. Broadly, the Commission's goal in establishing a performance testing regime is to ensure that consumers receive broadband at the speed and latency to which carriers have committed, and for which they are receiving support. The Commission's compliance regime is designed to encourage them to provide high quality broadband, not to punish carriers for failing to perform. That is why the Bureaus adopted an interim schedule for withholding support for failing to meet the required performance, but to return such support as the carrier comes into compliance. This is consistent with the Commission's approach to construction of network facilities, *i.e.* support is withheld if carriers do not meet their build-out milestones, but as the carrier improves its performance, withheld support is returned. There is no correlation in either case between the interim percentages of support withheld and the total per-location support; rather, these interim withholdings are designed solely to encourage the carrier to meet its obligations and ensure that progress is continuing. The Commission notes that carriers have their entire support term to improve their networks and come into compliance. Even at the end of the support term, the Commission's rules provide for a one-year period before any support is permanently withheld, during which the carrier can show that it has fixed the problems with its network. Further, as explained in the following, the Commission add san opportunity for carriers to request a larger, statistically valid sample if the carrier believes that the small sample size is the cause of the failure to perform. The Commission therefore anticipates few instances of non-compliance with the Commission's performance measures.

60. Several parties urge the Commission to adjust the adopted framework for non-compliance. USTelecom, ITTA, and WISPA jointly argue that non-compliance with the speed and latency requirements is subject to support withholding under the established framework that is ''more severe[] than non-compliance with build-out milestones.'' For example, they observe that a carrier with a compliance gap of less than six percent would lose 5% of its high-cost support, while only being subject to quarterly reporting obligations for missing its required build out by up to 14.9%. USTelecom, ITTA, and WISPA instead propose mirroring the precedent established for the deployment milestone framework, with non-compliance with the speed and latency requirements of 5% or less resulting only in a quarterly reporting obligation and non-compliance of 5% to 15% resulting in 5% of funding being withheld. Additionally, they request clarification that a carrier not complying with both its performance measurement requirements and deployment requirements will be subject only to a reduction in support equal to the greater of the two amounts, rather than the combined percentage of the two amounts. AT&T concurs with petitioners that support reductions for failing to comply with performance standards should not be more serious than failure to deploy. NTCA, NRECA, and UTC jointly contend that ''non-compliance (especially if relatively minor in degree) should impose upon the provider the burden of proof to demonstrate a justifiable reason for non-compliance and an avenue toward remediation; it should not eliminate automatically support upon which the provider relies for deployment and operation.'' WTA proposes that rural carriers not in full compliance be given a six-month grace period ''to locate and correct the problem without reduction or withholding of the monthly high-cost support needed to finance the repair, upgrade and operation of [their] networks.'' WTA also reiterates that rural local exchange carriers (LECs) should not lose high-cost support due to the shortcomings of facilities or circumstances over which they have no control and are not able to repair or upgrade. Finally, Peñasco Valley Telephone Cooperative argues that a 100% success requirement for full compliance does not take into account factors outside the carrier's control and instead proposes a high percentage benchmark, but less than 100%, to account for these variables.

61. Except as discussed in the following, the Commission generally declines to revise the compliance and certification frameworks adopted by the Bureaus. The Commission disagrees that the consequences for failure to meet its performance measures are greater than that for failure to meet deployment obligations. As opposed to the deployment obligations that many parties use for comparison, the speed and latency standards adopted by the Bureaus include a margin for error and do not require carriers to meet the established standards in every instance. For example, carriers are required to meet the 100 ms standard for latency only 95% of the time, rather than 100% as suggested by some parties. Similarly, the Commission allows carriers to be in compliance with its speed standards if they provide 80% of the required speed 80% of the time. Moreover, the Commission establishes pre-testing periods in which no support reductions for failing to meet standards will occur to allow carriers to adjust to the new regime. This opportunity for pre-testing will ensure that carriers are familiar with the required testing and how to properly measure the speed and latency of their networks. Because carriers will be aware of which locations are being tested, they will be able to monitor their networks prior to beginning the required testing to make sure the network is performing properly. Further, once a

location is certified in USAC's High Cost Universal Broadband (HUBB) portal, the carrier has certified that it meets the required standards, so the performance of the network should not be a surprise to the carrier.

62. Some parties have expressed concern about the performance requirements and the non-compliance support reductions. For example, USTelecom, ITTA, and WISPA argue that certain aspects of the compliance framework ''penalize non-compliance with broadband speed and latency requirements more severely than non-compliance with build-out milestones.'' They also assert that the compliance framework is ''is too stringent and could impede—rather than advance—broadband deployment in rural CAF-supported areas.'' The Commission disagrees. As a condition of receiving high-cost support, carriers must commit not only to building out broadband-capable networks to a certain number of locations, but also to providing those locations with a specific, defined level of service. Building infrastructure is insufficient to meet a carrier's obligation if the customers do not receive the required level of service. If a carrier fails to meet its deployment requirements, it will face certain support reductions, and if it likewise fails to meet its performance requirements for locations to which it claims it has deployed, it has failed to fully fulfill its obligations. The compliance framework established by the Bureaus is essential to ensuring that consumers are receiving the appropriate level of service that the carrier has committed to provide.

63. The Commission emphasizes that at the conclusion of a carrier's build-out term, any failure to meet the speed and latency requirements is a failure to deploy because the carrier is not delivering the service it has committed to deliver. A failure to comply with all performance measure requirements will result in the Commission determining that the carrier has not fully satisfied its broadband deployment obligations at the end of its build-out term and subjecting the carrier to the appropriate broadband deployment non-compliance support reductions. The Commission does not consider a carrier to have completed deployment of a universal service funded broadband-capable network simply by entering the required number of locations to which it has built into the HUBB; customers at those locations also must be able to receive service at the specific speed and latency to which the carrier has committed. Simply put, consumers must receive the required level of service before a network can be considered to have been fully deployed. Otherwise, a carrier would not be meeting the conditions on which it receives support to deploy broadband.

64. Several parties argue that there is insufficient notice for clarifying that ''any failure to meet the speed and latency requirements will be considered a failure to deploy.'' The Commission disagrees. When establishing the CAF in 2011, the Commission noted that it ''will require recipients of funding to test their broadband networks for compliance with speed and latency metrics,'' and each recipient of high-cost support with defined build-out obligations must deploy broadband service with available speeds as required by the Commission. Indeed, the Commission found that verifiable test results would allow the Commission ''to ensure that ETCs that receive universal service funding are providing at least the minimum broadband speeds, and thereby using support for its intended purpose as required by section 254(e)''; if the support is not used to provide the required level of service, it is not being used for its intended purpose under section 254(e). Carriers do not receive high-cost support to just install any network; they must deploy a broadband-capable network actually meeting the required speed and latency metrics. Indeed, section 54.320(d)(1) of the Commission's rules provides that ''[f]or purposes of determining whether a default has occurred, a carrier must be offering service meeting the requisite performance obligations.''

65. The Commission uses the testing data to determine the level of compliance for the carrier's network, as defined by the Bureaus in the *Performance Measures Order.* Thus, at the end of a carrier's build-out term, if a carrier has deployed to 100% of its required locations, but its overall performance compliance percentage is 90%, USAC will recover the percentage of the carrier's support equal to 1.89 times the average amount of support per location received in the state for that carrier over the term of support for the relevant performance non-compliance percentage (*i.e.,* 10%), plus 10 percent of the carrier's total relevant high-cost support over the support term for that state. Similarly, if a carrier deploys to only 90% of the locations to which it is required to build, and of those locations, the performance compliance percentage is 90%, the carrier will be required to forfeit support equal to 1.89 times the average amount of support per location received in the state for that carrier over the term of support for both the 10% of locations lacking deployment and an additional 9% of locations (reflecting a non-compliance percentage of 10% for the 90% deployed locations), plus 10 percent of the carrier's total relevant high-cost support over the support term for that state. However, carriers are permitted up to one year to address any shortcomings in their deployment obligations, including ensuring that their performance measurements are 100% in compliance, before these support reductions will take effect.

66. To provide certainty to carriers and to take into account that carriers may be in compliance with performance obligations during their testing periods, but for whatever reason may not be in compliance at the end of the support term, the Commission more narrowly tailors its end-of-term non-compliance provisions to recognize past compliance. Accordingly, the Commission will withhold support where a carrier is unable to demonstrate compliance at the end of the support term only for the amount of time since the carrier's network performance was last fully compliant. Specifically, the Commission modifies the support recovery required by section 54.320(d) that is related to compliance with performance measures by multiplying it by the percentage of time since a carrier was last able to show full compliance with required performance testing requirements prior to the end of the support term on a quarterly basis. For example, if a carrier's failure to meet end-of-term performance measures under section 54.320(d) resulted in it having to repay support associated with 10% of locations to which it was obligated to deploy (and not including any support related to a failure to build and install the network as determined by USAC verifications) and the carrier's performance testing had not been in compliance with the Commission's requirements for the 15 preceding quarters of testing, out of a total of 20 annual quarters in which it received support, the amount of support to be recovered would be multiplied by 15⁄20 or 3⁄4. If a carrier was not in compliance with the Commission's performance measures for 5 quarters of testing but comes into compliance before or during end-of-term testing, USAC will not recover any support. However, because carriers have an affirmative duty to demonstrate compliance with network performance measures—as they have with respect to physical build-out milestones—a carrier that has never been in compliance with performance testing requirements at any time during the testing period will have the appropriate amount of support withheld

at the end of the support term for the entire term. The Commission believes that this approach more narrowly ties the non-compliance consequences to the period of time in which a carrier fails to comply with performance requirements.

67. In response to commenters' concerns regarding the fairness of potentially reducing carriers' support amounts for both lack of deployment and non-compliance with speed and latency standards, the Commission clarifies that at the end of the support term when USAC has performed the calculation to determine the total lack of deployment based on the numbers of locations to which the carrier has built out facilities and the number of locations that are in compliance with the performance measures, USAC will ensure that the total amount of support withheld from the carrier because of failure to meet deployment milestones and performance requirements does not exceed the requirements of § 54.320(d)(2). To facilitate this calculation, the Commission reconsiders the decision allowing carriers to recover only the support withheld for non-compliance for 12 months or less. When a non-compliant carrier comes into a higher level of compliance, USAC will now return the withheld support up to an amount reflecting the difference between the levels' required withholding. By returning all the support USAC may have withheld from a carrier for non-compliance, the non-compliance framework will continue to provide an incentive to carriers to return to full compliance with the speed and latency standards.

68. Finally, the Commission provides additional flexibility at the conclusion of a carrier's build-out term for any carrier that has failed to meet its performance requirements and believes that its failure to do so is the result of a small sample size. As noted in this document, to minimize the burdens of testing, the Bureaus have used a ''trip-wire'' approach in determining the required sample sizes; while these sample sizes are useful for demonstrating where further inquiry may be helpful, they are subject to a high margin of error. Thus, if at the end of its term, a carrier is shown not to have met its deployment obligations due to a failure in meeting the speed and latency requirements, the carrier can submit a request to the Bureaus for an increased size of random samples that will produce an estimate with a margin of error of 5% or less and conduct further testing during the additional 12-month period provided in section 54.320(d)(2) to show that the carrier is compliance with the Commission's performance requirements. If, after this further testing, the carrier is able to demonstrate that it fully complies with the required speed and latency benchmarks, then the carrier will be considered to have met the deployment obligations.

69. The Commission is persuaded by the record here to modify the specific schedule to commence speed and latency tests established in the *Performance Measures Order.* The *Performance Measures Order* established a deadline of July 1, 2020 for carriers subject to the *Performance Measures Order* to report the results of testing, with an accompanying certification, for the third and fourth quarters of 2019. The Commission now adopts a modified approach to enable better individualization to the specific circumstances of a given provider.

70. The Commission concludes that it is appropriate under the circumstances to modify the scheduled start of performance testing to link speed and latency testing to the deployment obligations for carriers receiving support from each of the various high-cost support mechanisms. The Commission believes this solution best balances its responsibility to ensure that consumers are receiving the promised levels of service in a timely manner with the ability of all carriers to undertake the required performance testing. This approach also allows larger price cap carriers that are further along in their deployments and are more able, at this point, to begin testing to do so without additional delay. Moreover, the rolling testing schedule the Commission adopts will be less administratively burdensome for Commission staff by allowing for more individualized review and evaluation of testing results over time. Pushing back testing will have the added benefit of allowing additional time for the marketplace to further develop solutions for carriers to undertake the required testing.

71. The Commission also implements a pre-testing period that will occur prior to the commencement of each carrier's testing start date. As with the testing period, this pre-testing period will be aligned with a carrier's deployment obligations for the specific high-cost mechanism under which it receives support and will require the filing of data regarding pre-testing results. Pre-testing will require carriers to conduct testing according to the Commission's requirements using a USAC-determined random sample of subscribers, and results must be submitted to USAC within one week of the end of each quarter (*i.e.,* by April 7 for the first quarter, July 7 for the second quarter, etc.).

72. However, no support reductions will be assessed during the pre-testing period, as long as carriers actually undertake the pre-testing and report their results. Carriers that fail to conduct pre-testing and submit results in a timely fashion will be considered to be at Level 1 non-compliance. The random sample for pre-testing can be used by the carrier for a total of two years, meaning that carriers will need to obtain a new random sample after two years of pre-testing/testing. Thus, for example, if a carrier does one year of pre-testing and then one year of testing, it will need to obtain a new random sample prior to beginning the second year of testing. While there will be no support reductions during the pre-testing period (as long as the carrier undertakes the testing and reports results), the filing will allow Commission staff to evaluate the pre-testing data and determine if any adjustments to the testing regime are needed to ensure that the testing period is successful. In addition, pre-testing will give carriers an opportunity to see how their networks and testing software and hardware perform and make any changes necessary. The Commission directs the Bureaus to amend the performance measures as appropriate based on the information learned and experience gained from the pre-testing period.

73. Several industry associations support the approach the Commission adopts to tie speed and latency testing to a carrier's deployment obligations for the specific high-cost program under which it receives support. Specifically, ITTA, USTelecom, and WISPA advocate aligning a carrier's performance obligations with its deployment obligations, as well as designating the first two quarters of testing as ''transitional and not subject to non-compliance measures for any performance deficiencies'' to allow carriers to become familiar with the testing process. In addition, both NTCA and WTA support linking testing obligations to deployment obligations and allowing carriers to have a period of advanced testing before the mandated testing period. The Commission agrees with those commenters suggesting that a period to ''test the testing'' will help ensure that all carriers become familiar with testing methodologies and equipment, as well as prevent or reduce future administrative issues with the testing process.

74. Accordingly, the Commission adopts the schedule in the following for pre-testing and testing obligations

specific to the carriers receiving high-cost universal service support:

SCHEDULE FOR PRE-TESTING AND TESTING

Program	Pre-testing start date	Testing start date
CAF Phase II (Price-cap carrier funding)	January 1, 2020	July 1, 2020.
RBE	January 1, 2021	January 1, 2022.
Alaska Plan	January 1, 2021	January 1, 2022.
A–CAM I	January 1, 2021	January 1, 2022.
A–CAM I Revised	January 1, 2021	January 1, 2022.
ACAM II	January 1, 2022	January 1, 2023.
Legacy Rate of Return	January 1, 2022	January 1, 2023.
CAF II Auction	January 1, 2022	January 1, 2023.
New NY Broadband Program	January 1, 2022	January 1, 2023.

75. Because the Commission establishes pre-testing and testing periods to coincide with a carrier's specific deployment obligations under its respective high-cost mechanism, recipients of CAF Phase II model-based support will be the first to undertake the pre-testing period on January 1, 2020. These carriers are required to build out to 80% of their supported locations by December 31, 2019. Recipients of CAF Phase II model-based support are primarily larger carriers that are better positioned to begin testing sooner due to the availability of testing equipment and solutions already in the marketplace for these carriers. During the six-month pre-testing period, these carriers will be required to test the speed and latency of their networks for a weeklong period once per quarter (first and second quarters of 2020) and submit the results to the Commission within one week of the end of each quarter of pre-testing. The testing period for CAF Phase II model-based support recipients will commence on July 1, 2020, with speed and latency tests occurring for weeklong periods in both the third and fourth quarters of 2020 and results of that testing submitted by July 2021.

76. RBE support recipients, as well as rate-of-return carriers receiving model-based support under both the A–CAM I and the revised A–CAM I, will follow a similar, but slightly extended schedule. The pre-testing period for these carriers will commence on January 1, 2021 and will last one full year to ensure that the predominantly smaller carriers receiving support under these mechanisms have adequate time to implement and test their technology and software solutions to meet the Commission's performance testing requirements. The Commission believes that a longer pre-testing period than the one it adopts for CAF Phase II model-based support recipients is warranted to ensure that any concerns or issues with the testing process are addressed prior to these carriers being subject to support reductions. During this one-year pre-testing period, this group of carriers will be required to test the speed and latency of their networks quarterly for a weeklong period and submit the results to the Commission within one week of the end of each quarter of pre-testing. The testing period for these carriers will begin on January 1, 2022, and results will be submitted to the Commission by July 2023.

77. The Commission also adopts a one-year pre-testing period for recipients of support from the CAF Phase II auction and A–CAM II, as well as legacy rate-of-return support recipients. However, the Commission delays commencement of the pre-testing period for these carriers to account for certain timing considerations. For example, the Commission is in the process of authorizing CAF Phase II auction winners to receive support, and recently authorized rate-of-return carriers electing the A–CAM II offer to receive support. Additionally, to increase administrative efficiency, the Commission put legacy rate-of-return carriers on the same schedule as A–CAM II support recipients in light of the fact that their deployment requirements started at approximately the same time. Thus, to allow time for carriers receiving support under these mechanisms not only to be authorized, but also to deploy in a timely manner, the Commission institutes a one-year pre-testing period beginning January 1, 2022. The required testing period for these carriers will commence on January 1, 2023. The Commission anticipates that these support recipients will have deployed to at least 40% of their required locations by the end of 2022. These carriers will be subject to the same testing and reporting requirements, for both pre-testing and testing, as the other categories of carriers described in this document, except that these carriers will have a one-year pre-test period rather than a six-month pre-test period.

78. The Commission disagrees with those petitioners urging it to adopt a blanket delay of implementation of the testing requirements. NTCA contends that the equipment necessary for the most cost-effective method of testing is not yet fully developed or widely available, particularly in rural markets. NTCA instead proposes that any obligations be suspended or waived until a later time—at least 12 months—following the widespread availability of modems with built-in testing capability to the rural market. WTA agrees that the necessary testing equipment is unavailable at this time and thus proposes that the Commission postpone testing for rural LECs for at least two years. WTA also proposes to delay support reductions for non-compliance to coincide with build-out milestones. WISPA, ITTA, and NTTA support proposals to postpone testing for a time in order to permit equipment to become more available and affordable.

79. The Commission is not convinced that a blanket delay for all carriers subject to its performance measure requirements is necessary. As petitioners and commenters observe, large carriers and carriers serving more urban markets are differently situated than smaller carriers serving more rural communities, and these carriers may already be positioned to begin testing. Though a minor delay for all carriers is warranted to allow USAC time to develop and implement specific IT solutions, additional time beyond that for the marketplace to develop technical solutions is necessary only for a certain subset of carriers. As WTA observes, ''Whiteboxes for MBA testing are being used by large carriers, but thus far [its members] have generally been unable to obtain Whitebox pricing estimates for their likely levels of demand.'' Similarly, NTCA explains that larger carriers are able to purchase modems

and routers at scale or can develop their own proprietary devices, but smaller carriers oftentimes must purchase ''off the rack'' technology solutions and may have already deployed equipment that cannot be easily retrofitted to accommodate performance testing.

80. The Commission agrees that a one-size-fits-all approach does not reflect the realities of the marketplace. However, the tiered implementation schedule the Commission adopts strikes a better balance between the interests of carriers in cost-effectively testing their networks' performance and its need to ensure that those networks are performing at the level promised. The Commission further notes that WCB has already announced a delay in the requirement to begin testing and reporting of speed and latency results until the first quarter of 2020.

81. Given the changes to the testing framework the Commission adopts, it likewise declines WTA's suggestion to delay support reductions for non-compliant carriers until they are given an opportunity to address any deficiencies in their networks. The pre-testing period the Commission adopts will provide carriers with ample opportunity to identify any issues within their network infrastructure that may impact testing results and to rectify those problems prior to undertaking the required testing. As a result, carriers should have minimal, if any, technological or software challenges that prevent them from meeting the Commission's performance requirements and would require an opportunity to cure. Moreover, because carriers will be testing only those locations that the carrier has certified are deployed with the requisite speed, the Commission does not see a compelling reason to delay support reductions for non-compliance.

82. The Commission likewise declines to further delay testing and reporting obligations for Alaska Communications Systems (ACS). Because carriers serving certain non-contiguous areas of the United States face different operating conditions and challenges from those faced by carriers in the contiguous 48 states, the Commission concluded that it was appropriate to adopt tailored service obligations for each non-contiguous carrier that elected to continue to receive frozen support amounts for Phase II in lieu of the offer of model-based support. For ACS, the Commission adopted a 10-year term of support to provide a minimum of 10/1 Mbps broadband service with a roundtrip provider network latency requirement of 100 ms or less to a minimum of 31,571 locations.

83. ITTA, USTelecom, and WISPA propose that testing and reporting obligations for ACS be delayed for one year from the date on which they begin for other CAF Phase II model-based support recipients. These parties contend that ACS should be given more time because it is still in the process of planning its CAF II deployment and has not identified or reported the specific customer locations that it intends to serve. ITTA, USTelecom, and WISPA also argue that additional time also is necessary for ACS to identify one or more suitable points at which traffic can be aggregated for transport to the continental U.S.

84. Because the Commission is instituting a pre-testing period and delaying the start of the required testing period for CAF Phase II model-based support recipients until July 1, 2020, the Commission anticipates that ACS will have had ample time to finalize deployment plans and identify a suitable aggregation point or points. Thus, the Commission is unconvinced by the argument advanced by ITTA, USTelecom, and WISPA that these issues warrant further delay for ACS. Moreover, the Commission notes that ACS already has passed its first deployment milestone and certified to locations in the HUBB. Thus, ACS should be fully prepared to commence testing on the same schedule as other CAF Phase II support recipients.

85. NTCA requests clarification that the *Performance Measures Order* applies only to high-cost recipients with mandatory build-out obligations. Though some Alaskan rate-of-return carriers are subject to defined build-out obligations, NTCA observes that if a carrier has ''no mandated build-out obligation, there is neither a clear speed threshold to which a carrier can be required to test nor a specified number of locations at which the test can be conducted.'' NTCA argues that additional proper notice-and-comment rulemaking procedures would be needed to subject carriers without mandatory build-out obligations to any required performance measures.

86. Absent any specific deployment requirements, the Commission lacks a standard for determining whether a carrier's deployment meets the required performance measures. As a result, consistent with NTCA's request, the Commission clarifies that only carriers subject to defined build-out requirements are required to test the speed and latency of their networks in accord with Commission rules. Alaskan rate-of-return carriers that have committed to maintaining existing service levels therefore are not subject to the performance measures adopted by the Bureaus and modified herein.

87. Alaskan rate-of-return carriers that have committed to defined build-out obligations, however, must conduct speed and latency testing of their networks. That said, the Commission recognizes that many of these carriers lack the ability to obtain terrestrial backhaul such as fiber, microwave, or other technologies and instead must rely exclusively on satellite backhaul. Consistent with the standards the Commission adopted for high-latency service providers in the CAF Phase II auction, it requires Alaska Plan carriers using satellite or satellite backhaul to certify that 95% or more of all testing hour measurements of network round trip latency are at or below 750 ms for any locations using satellite technology. The Commission also reaffirms that these carriers must certify annually that no terrestrial backhaul options exist, and that they are unable to satisfy the standard performance measures due to the limited functionality of the available satellite backhaul facilities. To the extent that new terrestrial backhaul facilities are constructed, or existing facilities improve sufficiently to meet the public interest obligations, the Commission has required funding recipients to meet the standard performance measures within twelve months of the new backhaul facilities becoming commercially available.

III. Procedural Matters

88. *Paperwork Reduction Act.* This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

89. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order on

Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

90. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *USF/ICC Transformation FNPRM,* 76 FR 78384, December 16, 2011. The Commission sought written public comment on the proposals in the *USF/ICC Transformation FNPRM,* including comment on the IRFA. The Bureaus included a Final Regulatory Flexibility Analysis (FRFA) in connection with the *Performance Measures Order.* This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA in the *Performance Measures Order* to reflect the actions taken in the Order on Reconsideration and conforms to the RFA.

91. The Order on Reconsideration addresses issues raised by parties in petitions for reconsideration and applications for review of the *Performance Measures Order.* In the *Performance Measures Order,* the Bureaus established how recipients of CAF support must test their broadband networks for compliance with speed and latency metrics and certify and report those results. In doing so, the Bureaus adopted a flexible framework to minimize the burden on small entities—for example, by permitting carriers to choose from one of three methodologies to conduct the required testing.

92. The Order on Reconsideration affirms certain key components of the Performance Measures Order while making several modifications to the requirements. Specifically, in the Order, the Commission maintains the choice between three testing methodologies for carriers to conduct required testing; tie the implementation of speed and latency testing to a carrier's deployment obligations for the specific high-cost program under which it receives support; adopt a pre-testing regime to give both carriers and the Commission the opportunity to ensure that carriers are familiar with the testing regime and minimize any administrative issues; maintain the previously-adopted testing sample sizes but clarify that carriers must use the same locations for testing both latency and speed; adopt a revised definition of FCC-designated Internet Exchange Point (IXP); confirm that end-points for testing are from the customer's side of any network being used to an FCC-designated IXP; maintain the existing daily testing time period and quarterly testing requirement; allow further flexibility for the timing of speed tests but maintain the same frequency of latency testing; and reaffirm the compliance standards and associated support reductions for non-compliance.

93. There were no comments raised that specifically addressed how broadband service should be measured, as presented in the *USF/ICC Transformation FNPRM* IRFA. Nonetheless, the Commission has considered the potential impact of the rules proposed in the IRFA on small entities and reduced the compliance burden for all small entities in order to reduce the economic impact of the rules enacted herein on such entities.

94. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

95. As noted in this document, the *Performance Measures Order* included a FRFA. In that analysis, the Bureaus described in detail the small entities that might be significantly affected. Accordingly, in this FRFA, the Commission hereby incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFA in the *Performance Measures Order.*

96. The Commission expects the amended requirements in the Order on Reconsideration will not impose any new or additional reporting or recordkeeping or other compliance obligations on small entities and, as described in the following, will reduce their costs.

97. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

98. The Commission has taken further steps which will minimize the economic impact on small entities. In the Order on Reconsideration, the Commission adopts a delayed schedule providing for a period of ''pre-testing'' for all carriers and later start dates for carriers that do not receive CAF Phase II model-based support. Thus, CAF Phase II model-based support recipients, which include only large carriers, must begin pre-testing and testing in 2020, whereas legacy rate-of-return carriers, many of which are smaller entities, must begin pre-testing in 2022 and testing in 2023, and small carriers receiving A–CAM I model support do not begin pre-testing until 2021 and testing in 2022. Pre-testing will give carriers time to correct any issues with their networks or with their testing infrastructure without being subject to support reductions, and the delayed schedule for non-CAF Phase II carriers will permit smaller entities even more time to prepare to meet the Commission's testing requirements.

99. The Commission also now permits greater flexibility for carriers to conduct speed tests within an hour. In the Order on Reconsideration, the Commission clarifies that carriers may not necessarily start testing speed at the very beginning of each test hour. Instead, a carrier must simply report a successful speed test for each hour, except a carrier that begins attempting a speed test within the first 15 minutes of an hour and checks for cross-talk in one-minute intervals (using the cross-talk thresholds of 64 Kbps for download and 32 Kbps for upload) may record that no test was successful during that test hour.

100. Finally, the Commission clarifies that carriers may use the same subscriber locations for testing both speed and latency, halving the potential burdens for carriers that may have otherwise believed it necessary to test separate subscriber locations for speed and latency. This clarification is most significant for the smallest carriers, which may use less automated means of testing than larger carriers.

IV. Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1–4, 5, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151–155, 201–206, 214, 218–220, 251, 256, 254, 256, 303(r), 403 and 405, the Order on Reconsideration *is*

adopted, effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**, except for paragraphs 15, 16, 19, 22, 23, 26, 31 through 38, 43 through 49, 52, 53, 64, and 75 through 91, which contain new or modified information collection requirements, that will not be effective until approved by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections not yet effective. It is the Commission's intention in adopting these rules that if any of the rules that the Commission retains, modifies, or adopts in this document, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the rules not deemed unlawful, and the application of such rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

101. *It is further ordered* that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and §§ 0.331 and 1.429 of the Commission's rules, 47 CFR 0.331 and 47 CFR 1.429, the Petition for Reconsideration and Clarification filed by USTELECOM—THE BROADBAND ASSOCIATION, ITTA—THE VOICE OF AMERICA'S BROADBAND PROVIDERS, and the WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION on September 19, 2018 *is granted in part* and *denied in part* to the extent described herein, and the Petition for Partial Reconsideration filed by MICRONESIAN TELECOMMUNICATIONS CORPORATION on September 19, 2018 *is denied.*

102. *It is further ordered* that, pursuant to the authority contained in 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c)(5), and § 1.115(g) of the Commission's rules, 47 CFR 1.115(g), the Application for Review and Request for Clarification filed by NTCA—THE RURAL BROADBAND ASSOCIATION on September 19, 2018 and the Application for Review filed by WTA—ADVOCATES FOR BROADBAND on September 19, 2018, *are granted in part* and *denied in part* to the extent described herein.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302, unless otherwise noted.

■ 2. Amend § 54.320 by revising paragraphs (d)(1)(ii) and (iii), the first sentence of paragraph (d)(1)(iv)(A) and paragraph (d)(2) to read as follows:

§ 54.320 Compliance and recordkeeping for the high-cost program.

* * * * *

(d) * * *

(1) * * *

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(ii) *Tier 2.* If an eligible telecommunications carrier has a compliance gap of at least 15 percent but less than 25 percent of the number of locations that the eligible telecommunications carrier is required to have built out to or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, by the interim milestone, USAC will withhold 15 percent of the eligible telecommunications carrier's monthly support for that support area and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 15 percent of the required number of locations (or population, if applicable) for that interim milestone for that support area, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect, USAC will stop withholding support, and the eligible telecommunications carrier will receive all of the support that had been withheld. The eligible telecommunications carrier will then move to Tier 1 status.

(iii) *Tier 3.* If an eligible telecommunications carrier has a compliance gap of at least 25 percent but less than 50 percent of the number of locations that the eligible telecommunications carrier is required to have built out to by the interim milestone, or, in the case of Alaska Plan mobile-carrier participants, population covered by the specified technology, middle mile, and speed of service in the carrier's approved performance plan, USAC will withhold 25 percent of the eligible telecommunications carrier's monthly support for that support area and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 25 percent of the required number of locations (or population, if applicable) for that interim milestone for that support area, the Wireline Competition Bureau or Wireless Telecommunications Bureau will issue a letter to that effect, the eligible telecommunications carrier will move to Tier 2 status.

(iv) * * *

(A) USAC will withhold 50 percent of the eligible telecommunications carrier's monthly support for that support area, and the eligible telecommunications carrier will be required to file quarterly reports. * * *

* * * * *

(2) *Final milestone.* Upon notification that the eligible telecommunications carrier has not met a final milestone, the eligible telecommunications carrier will have twelve months from the date of the final milestone deadline to come into full compliance with this milestone. If the eligible telecommunications carrier does not report that it has come into full compliance with this milestone within twelve months, the Wireline Competition Bureau—or Wireless Telecommunications Bureau in the case of mobile carrier participants—will issue a letter to this effect. In the case of Alaska Plan mobile carrier participants, USAC will then recover the percentage of support that is equal to 1.89 times the average amount of support per location received by that carrier over the support term for the relevant percentage of population. For other recipients of high-cost support, USAC will then recover the percentage of support that is equal to 1.89 times the average amount of support per location received in the support area for that carrier over the term of support for the relevant number of locations plus 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area. Where a recipient is unable to demonstrate compliance with a final performance testing milestone, USAC will recover the percentage of support

that is equal to 1.89 times the average amount of support per location received in the support area for the relevant number of locations for that carrier plus 10 percent of the eligible telecommunications carrier's total relevant high cost-support over the support term for that support area, the total of which will then be multiplied by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing, on a quarterly basis. In the event that a recipient fails to meet a final milestone both for build-out and performance compliance, USAC will recover the total of the percentage of support that is equal to 1.89 times the average amount of support per location received by that carrier over the support term for the relevant number of locations to which the carrier failed to build out; the percentage of support that is equal to 1.89 times the average amount of support per location received in the support area for the relevant number of locations for that carrier multiplied by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing; and 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area.

[FR Doc. 2019–26448 Filed 12–6–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 191202–0098]

RIN 0648–BI98

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 42

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in Amendment 42 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 42), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). This final rule adds three new devices to the Federal regulations as options for fishermen with Federal commercial or charter vessel/headboat permits for South Atlantic snapper-grouper to meet existing requirements for sea turtle release gear, and updates the regulations to simplify and clarify the requirements for other sea turtle release gear. This final rule also modifies the FMP framework procedure to allow for future changes to release gear and handling requirements for sea turtles and other protected resources. The purpose of this final rule is to allow the use of new devices to safely handle and release incidentally captured sea turtles, clarify existing requirements, and streamline the process for making changes to the release devices and handling procedures for sea turtles and other protected species.

DATES: This final rule is effective on January 8, 2020. The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of January 8, 2020.

ADDRESSES: Electronic copies of Amendment 42 may be obtained at *www.regulations.gov* or from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-42-modifications-sea-turtle-release-gear-and-framework-procedure-snapper-grouper.* Amendment 42 includes a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305; email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the South Atlantic Council manage the snapper-grouper fishery under the FMP. The FMP was prepared by the South Atlantic Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On June 13, 2019, NMFS published the notice of availability for Amendment 42 in the **Federal Register** and requested public comment (84 FR 27576). On September 17, 2019, NMFS published a proposed rule for Amendment 42 in the **Federal Register** and requested public comment (84 FR 48890). On September 5, 2019, the Secretary of Commerce approved Amendment 42 under section 304(a)(3) of the Magnuson-Stevens Act. Amendment 42 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 42 and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule adds three new sea turtle handling and release devices to the Federal regulations, clarifies the requirements for other required gear, and modifies the FMP framework procedure to include future changes to release gear and handling requirements for sea turtles and other protected resources.

New Sea Turtle Release Gear

For vessels with Federal commercial and charter vessel/headboat permits for South Atlantic snapper-grouper, this final rule adds three new devices to the Federal regulations that have been approved for use by NMFS' Southeast Fisheries Science Center (SEFSC) to safely handle and release sea turtles, and provide more options for fishermen to fulfill existing requirements. Details for these new devices can be found in Amendment 42, the proposed rule, and the 2019 NMFS Technical Memorandum titled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'' (Release Protocols), which is published by the SEFSC. Complete construction specifications for all SEFSC-approved handling and release devices are included in the 2019 NMFS SEFSC Technical Memorandum titled, ''Design Standards and Equipment for Careful Release of Sea Turtles Caught in Hook-and-Line Fisheries''. Both documents are available at *https://www.fisheries.noaa.gov/southeast/endangered-species-conservation/sea-turtle-and-smalltooth-sawfish-release-gear-protocols.* NMFS expects the new release devices in this final rule will increase flexibility for fishermen and regulatory compliance within the snapper-grouper fishery, which may result in positive benefits to sea turtles.

Two of the new sea turtle handling devices are a collapsible hoop net and a sea turtle hoist (net). Both of these devices are more compact versions of the approved long-handled dip net, and could be used for bringing an incidentally captured sea turtle on board the fishing vessel to remove fishing gear from the sea turtle. For the collapsible hoop net, the net portion is attached to hoops made of flexible stainless steel cable; when the collapsible hoop net is folded over on itself for storage, its size reduces to

about half of its original diameter. Additionally, there are two versions of the sea turtle hoist. One version consists of the net portion securely fastened to a frame, providing a relatively taut platform for the sea turtle to be brought on board. Another version creates a basket with the frame and net that holds the sea turtle as it is brought on board. Both the collapsible hoop net and the sea turtle hoist use rope handles attached to either side of the frame, in place of the rigid handle on the dip net. Generally, the collapsible hoop net or hoist could be used to bring sea turtles on board vessels with a high freeboard when it is not feasible to use a dip net.

The third new device is a dehooker that can be used to remove an externally embedded hook from a sea turtle. This device has a squeeze handle that secures the hook into notches at the end of the shaft of the dehooker, so the hook can be twisted out. This new device provides another option for fishermen to comply with the regulations for a short-handled dehooker for external hooks.

Requirements for Existing Sea Turtle Release Gear

This final rule also updates the requirements of some other approved devices for clarity and simplicity, and to aid fishermen and law enforcement with compliance and enforcement efforts. Existing regulations use the word ''approximately'' to define some gear specifications, and this rule replaces ''approximately'' in the applicable regulations where precise specifications will clarify requirements for the dimensions or lengths of several devices. The revisions provide for either a minimum size dimension or a size range for the short-handled dehookers for external and internal hooks, bite block on the short-handled internal use dehooker, long-nose or needle-nose pliers, bolt cutters, and the block of hard wood and hank of rope when used as mouth openers and gags. In general, these clarifications either establish the previously approximate dimensions as a minimum requirement, or establish the smaller end of the current size range for the required dimensions as a minimum. Other changes to the gear requirements follow.

The SEFSC has also approved 304L grade stainless steel for the construction of all short-handled and long-handled dehookers, in addition to 316L grade stainless steel that has already been approved and is in use. This additional grade of stainless steel is commonly available and is also corrosion resistant to salt water.

Another required device to assist with removing fishing gear from a sea turtle is a pair of monofilament line cutters. SEFSC has clarified that the blade length on the monofilament line cutters must be a minimum of 1 inch (2.5 cm) long but can be longer, and therefore, this final rule revises the specification.

Another required gear type is mouth openers and gags, used to hold a sea turtle's mouth open to remove fishing gear. At least two of the seven types of mouth openers and gags are required on board. SEFSC determined that canine mouth gags, an option for this gear requirement, should not have the ends of the canine mouth gags covered with clear vinyl tubing, friction tape, or similar, to pad the surface, because this is not necessary and can result in the gags not functioning properly. This final rule removes from the regulations the requirement to cover the ends of the canine mouth gags with these materials.

A life-saving device on a vessel, such as a personal flotation device or life ring buoy, may be used as an option to satisfy the required cushion or support device for sea turtles brought aboard a vessel to remove fishing gear. This final rule clarifies that any life-saving device used to fulfill the sea turtle safe handling requirements cannot also be used to meet U.S. Coast Guard safety requirements of one flotation device per person on board the vessel.

Lastly, fishermen are currently required to maintain a paper copy of the Release Protocols on each vessel for reference in the event a sea turtle is incidentally captured. This final rule allows fishermen to use an electronic copy of the document to fulfill the requirement, as long as the electronic document is readily available for viewing and reference during a trip.

FMP Framework Procedure

Amendment 42 and this final rule allow future changes to the sea turtle release gear and handling techniques under the framework procedure. For example, the South Atlantic Council could more quickly add a new release device for sea turtles if approved by the SEFSC. The South Atlantic Council decided that making these changes through an expedited process may have beneficial biological and socio-economic impacts. The South Atlantic Council concluded that the revised framework procedure will still allow adequate opportunity for the public to comment on any future proposed regulatory changes.

Incorporation by Reference

If a sea turtle is incidentally caught during fishing operations, the owner or operator of a federally permitted commercial vessel or a recreational charter vessel or headboat for South Atlantic snapper-grouper must have the 2019 Release Protocols document (incorporated by reference, see § 622.179(b) below) available for reference on board to safely handle and release the animal. In addition, a placard summarizing sea turtle handling and release guidelines (incorporated by reference, see § 622.179(b) below) must be posted on the vessel. The Release Protocols document is a NOAA Technical Memorandum published by the NMFS SEFSC. The placard is also contained within the Release Protocols document, and the placard is available in English, Spanish, and Vietnamese. Both the Release Protocols document and placard are available at the NMFS Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701, phone: 727–824–5301, or for digital download and printing from this website: *https://www.fisheries.noaa.gov/southeast/endangered-species-conservation/sea-turtle-and-smalltooth-sawfish-release-gear-protocols.*

Comments and Responses

NMFS did not receive any public comments on the notice of availability for Amendment 42 or the proposed rule, and therefore, no changes were made to this final rule as a result of public comment.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Amendment 42, the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is considered an Executive Order 13771 deregulatory action.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purposes of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this preamble.

The objectives of this final rule are to provide greater flexibility to owners and operators of vessels in the commercial and for-hire snapper-grouper fishing industries (*i.e.,* vessels for which Federal commercial and charter vessel/headboat permits for South Atlantic snapper-grouper have been issued) in complying with release gear regulations, clarify existing requirements for fishery participants and law enforcement officers, and streamline the process for

future revisions to release gear and handling procedures for incidentally captured sea turtles and other protected species after approval by the SEFSC.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this final rule, if implemented, would not have a significant economic impact on a substantial number of small entities. NMFS did not receive any comments from SBA's Office of Advocacy or the public regarding the economic analysis of Amendment 42 or the certification in the proposed rule. No changes to this final rule were made in response to public comments. The factual basis for the certification was published in the proposed rule and is not repeated here. Because this final rule is not expected to have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Charter vessel, Commercial, Fisheries, Fishing, Headboat, Incorporation by reference, Sea turtle, South Atlantic.

Dated: December 3, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.29, revise paragraph (a)(1)(ii) to read as follows:

§ 622.29 Conservation measures for protected resources.

(a) * * *

(1) * * *

(ii) Such owner or operator must also comply with the sea turtle interaction mitigation measures, including the release gear and handling requirements specified in appendix F of this part.

* * * * *

■ 3. In § 622.179, revise paragraph (a)(1) and add paragraph (b) to read as follows:

§ 622.179 Conservation measures for protected resources.

(a) * * *

(1) *Sea turtle conservation measures.* (i) The owner or operator of a vessel for which a commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(a)(1) and (b)(1), respectively, and whose vessel has on board any hook-and-line gear, must have the 2019 version of the NMFS document titled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'' available for reference on board electronically or have a paper copy on board inside the wheelhouse, or within a waterproof case if there is no wheelhouse. In addition, the NMFS sea turtle handling and release guidelines placard must be posted inside the wheelhouse or an easily viewable area on the vessel if there is no wheelhouse.

(ii) Such owner or operator must also comply with the sea turtle interaction mitigation measures, including the release gear and handling requirements specified in appendix F of this part.

(iii) Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a net or hoist, tire or other support device, short-handled dehooker(s) for internal and external hooks, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers or mouth gags. This equipment must meet the specifications described in appendix F of this part.

(iv) Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a net or hoist, tire or other support device, long-handled line clipper or cutter, short-handled dehooker(s) for internal and external hooks, long-handled dehooker(s) for internal and external hooks, a long-handled device to pull an inverted ''V'' in the fishing line, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers or mouth gags. This equipment must meet the specifications described in appendix F of this part.

* * * * *

(b) *Incorporation by reference.* The standards required in paragraph (a)(1) of this section are incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the National Marine Fisheries Service, Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701, phone: 727–824–5301, website: *https://www.fisheries.noaa.gov/southeast/endangered-species-conservation/sea-turtle-and-smalltooth-sawfish-release-gear-protocols,* and is available from the sources listed in paragraphs (b)(1) and (2) of this section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(1) U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149.

(i) Careful Release Protocols for Sea Turtle Release with Minimal Injury, NOAA Technical Memorandum NMFS–SEFSC–735, Stokes, L., and Bergmann, C. (Editors), 2019.

(ii) [Reserved]

(2) U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701.

(i) Sea Turtle Handling/Release Guidelines: Quick Reference for Hook and Line Fisheries, English, Spanish, Vietnamese, Revised April 2019.

(ii) [Reserved]

■ 4. In § 622.194, revise the introductory text and add paragraph (b) to read as follows:

§ 622.194 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region, the RA may establish or modify the items specified in paragraph (a) of this section for South Atlantic snapper-grouper and wreckfish, or paragraph (b) of this section for sea turtles and other protected species.

* * * * *

(b) Possession, specifications, and use of required release gear and handling requirements for sea turtles and other protected species.

■ 5. Revise appendix F to part 622 to read as follows:

Appendix F to Part 622—Specifications for Sea Turtle Release Gear and Handling Requirements

A. Sea Turtle Release Gear

1. *Long-handled line clipper or cutter.* Line cutters are intended to cut fishing line as close as possible to the hook, and assist in removing line from an entangled sea turtle to minimize any remaining gear upon release. One long-handled line clipper or cutter and one set of replacement blades are required to be on board. The minimum design standards are as follows:

(a) *A protected and secured cutting blade.* The cutting blade(s) must be capable of cutting 2.0 to 2.1-mm (0.078 to 0.083-inch) diameter monofilament line (approximately 400 to 450-lb test strength) or polypropylene multistrand material, known as braided or tarred mainline, and the cutting blade must be maintained in working order. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to facilitate its safe use so that direct contact between the cutting surface and the sea turtle or the user is prevented. The cutting instrument must be securely attached to an extended reach handle and the blade(s) must be easily replaceable during a trip if necessary. The extra set of replacement blades must meet these standards and be carried on board to replace all cutting surfaces on the line cutter or clipper.

(b) *An extended reach handle.* The line cutter blade must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the freeboard, or a minimum length of 6 ft (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. There is no restriction on the type of material used to construct this handle as long as it is sturdy and facilitates the secure attachment of the cutting blade.

2. *Long-handled dehooker for internal hooks.* One long-handled dehooker to remove internal hooks from sea turtles that cannot be brought on board is required on the vessel. It should also be used to engage an unattached hook when a sea turtle is entangled but not hooked, and line is being removed. The design must shield the point of the hook and prevent the hook from re-engaging during the removal process. The minimum design standards are as follows:

(a) *Hook removal device.* The dehooker must be constructed of 3/16-inch (4.8-mm) to 5/16-inch (7.9-mm) diameter 316L or 304L stainless steel and have a dehooking end no larger than 1 7/8 inches (4.8 cm) outside diameter. The dehooker must securely engage and control the leader while shielding the point to prevent the hook from re-engaging during removal. It may not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Extended reach handle.* The dehooking end that secures the fishhook must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the freeboard, or a minimum of 6 ft (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. The handle must be sturdy and strong enough to facilitate the secure attachment of the dehooking end.

3. *Long-handled dehooker for external hooks.* One long-handled dehooker to remove external hooks from sea turtles that cannot be brought on board is required on the vessel. The long-handled dehooker for internal hooks described in paragraph A.2. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Hook removal device.* A long-handled dehooker must be constructed of 3/16-inch (4.8-mm) to 5/16-inch (7.9-mm) diameter 316L or 304L stainless steel and have a dehooking end no larger than 1 7/8 inches (4.8 cm) outside diameter. The dehooking end that secures the fishhook must be blunt with all edges rounded. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Extended reach handle.* The handle must be a minimum length equal to the freeboard of the vessel or 6 ft (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required.

4. *Long-handled device to pull an ''inverted V''.* One long-handled device to pull an ''inverted V'' is required on board. This tool is used to pull an ''inverted V'' in the fishing line when implementing the ''inverted V'' dehooking technique, as described in the 2019 version of the document titled ''Careful Release Protocols for Sea Turtle Release with Minimal Injury,'' for dehooking and disentangling sea turtles. A long-handled J-style dehooker as described in paragraph A.3. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Hook end.* This device, such as a standard boat hook or gaff must be constructed of stainless steel or aluminum; if a long-handled J-style dehooker is used to comply with this requirement, it must be constructed of 316L or 304L stainless steel. The semicircular or ''J'' shaped hook end must be securely attached to the handle to allow the hook end to engage and pull an ''inverted V'' in the fishing line. A gaff or any other tool with a sharp point is to be used only for holding fishing lines and must never contact the sea turtle.

(b) *Extended reach handle.* The handle must have a minimum length equal to the freeboard of the vessel or must be at least 6 ft (1.8 m) in length, whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook end.

5. *Net or hoist.* One approved net or hoist is required on board. These devices are to be used to facilitate safe handling of sea turtles by allowing them to be brought on board for fishing gear removal, without causing further injury to the animal. Sea turtles must not be brought on board without the use of a net or hoist. There must be no sharp edges or burrs on the hoop or frame, or where the hoop or frame attaches to the handle. There is no requirement for the hoop or frame to be circular as long as it meets the applicable minimum specifications. In this appendix, bar measure means the non-stretched distance between a side knot and a bottom knot of a net mesh; also known as the square mesh measurement. The types and minimum design standards for approved nets and hoists are as follows:

(a) *Dip net*—(i) *Size of the net.* The dip net must have a sturdy net hoop or frame of at least 31 inches (78.7 cm) inside diameter and a bag depth of at least 38 inches (96.5 cm) to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The bag mesh size must not exceed 3 inches (7.6 cm), bar measure. The net hoop or frame must be made of a rigid material strong enough to facilitate the sturdy attachment of the net.

(ii) *Extended reach handle.* The dip net hoop or frame must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the freeboard, or at least 6 ft (1.8 m) in length, whichever is greater. The handle and net must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant bending or distortion. The extended reach handle may break down into sections for storage, but it is not required.

(b) *Collapsible hoop net*—(i) *Size of the net.* The collapsible hoop net must have a sturdy net hoop of at least 31 inches (78.7 cm) inside diameter and a bag depth of at least 38 inches (96.5 cm) to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The bag mesh size must not exceed 3 inches (7.6 cm), bar measure. The net hoop must be strong enough to facilitate the sturdy attachment of the net.

(ii) *Extended reach handle.* The collapsible hoop net must be securely fastened with rope(s) or other line(s) connected to the hoop with a minimum length equal to or greater than 150 percent of the freeboard, or at least 6 ft (1.8 m) in length, whichever is greater. The rope(s) and net must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant distortion.

(c) *Small hoist*—(i) *Size of the hoist.* The sea turtle hoist must have a sturdy net hoop or frame of at least 31 inches (78.7 cm) inside diameter to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The net mesh size must not exceed 3 inches (7.6 cm), bar measure. If polyvinyl chloride, or PVC, pipe is used to construct the hoist, the pipe fittings must be glued together and a minimum strength of Schedule 40 pipe must be used. The hoist hoop or frame must be made of a rigid material strong enough to facilitate the sturdy attachment of the net.

(ii) *Extended reach handle.* The sea turtle hoist must be securely fastened with ropes or other lines connected to the hoop or frame with a minimum length equal to or greater than 150 percent of the freeboard, or at least 6 ft (1.8 m) in length, whichever is greater. The ropes and hoist hoop or frame must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant distortion.

6. *Cushion or support device.* A standard automobile tire free of exposed steel belts, a boat cushion, or any other comparable cushioned and elevated surface, is required for supporting a sea turtle in an upright orientation while the sea turtle is on board. The cushion or support device must be appropriately sized to fully support a range of sea turtle sizes. Any life-saving device that would be used to support a sea turtle on board must be dedicated for that purpose and in addition to all minimum human safety at sea requirements.

7. *Short-handled dehooker for internal hooks.* One short-handled dehooker for

removing internal hooks is required on board. This dehooker is designed to remove internal hooks from sea turtles brought on board. This dehooker can also be used on external hooks. The minimum design standards are as follows:

(a) *General.* The dehooker must allow the hook to be secured and the hook point shielded without re-engaging during the removal process. It may not have any unprotected terminal points, including blunt ones, as this could cause injury to the esophagus during hook removal. A sliding plastic bite block must be permanently installed around the shaft to protect the beak and facilitate hook removal in case a sea turtle bites down on the dehooker. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Specifications.* The dehooker must be constructed of 316L or 304L stainless steel. The shaft must be 3/16 inch (4.8-mm) to 5/16 inch (7.9-mm) in diameter. The shaft must be 16 to 24 inches (40.6 cm to 60.7 cm) long, with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-handle, wire loop handle, or similar. The bite block must be constructed of a 3/4 to 1-inch (1.9 to 2.5-cm) inside diameter high impact rated, rigid plastic cylinder (*e.g.,* Schedule 80 PVC) that is 4 to 6 inches (10.2 to 15.2 cm) long to allow for 5 inches (12.7 cm) of slide along the shaft. The dehooking end must be no larger than 1 7/8 inches (4.8 cm) outside diameter.

8. *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks is required on board. This dehooker is designed to remove external hooks from sea turtles brought on board. The short-handled dehooker for internal hooks required to comply with paragraph A.7. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Fixed handle dehooker*—(i) *General.* The dehooking end that secures the fishhook must be blunt and all edges rounded. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(ii) *Specifications.* The dehooker must be constructed of 316L or 304L stainless steel. The shaft must be 3/16 inch (4.8-mm) to 5/16 inch (7.9-mm) in diameter. The shaft must be 16 to 24 inches (40.6 to 60.7 cm) long with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-handle, wire loop handle, or similar.

(b) *Squeeze handle dehooker*—(i) *General.* The dehooking end that secures the fishhook must be blunt and all edges rounded. The dehooker must be able to secure the range of hook sizes and styles used on the vessel. This dehooker secures a fishhook for removal by squeezing the handles together using one hand to grab and pull the hook into notches at the top of the shaft of the dehooker.

(ii) *Specifications.* The dehooker must be constructed of 316L or 304L stainless steel. The overall length must be a minimum of 11 inches (27.9 cm) long.

9. *Long-nose or needle-nose pliers.* One pair of long-nose or needle-nose pliers is required on board. Required long-nose or needle-nose pliers can be used to remove hooks from the sea turtle's flesh or for removing hooks from the front of the mouth. They can also hold PVC splice couplings in place, when used as mouth gags. The minimum design standards are as follows: The long-nose or needle-nose pliers must be a minimum of 11 inches (27.9 cm) in length. It is recommended that the pliers be constructed of stainless steel or other corrosion resistant metal material.

10. *Bolt cutters.* One pair of bolt cutters is required on board. Required bolt cutters may be used to cut off the eye or barb of a hook to facilitate the hook removal without causing further injury to the sea turtle. They should also be used to cut off as much of the hook as possible, when the remainder of the hook cannot be removed. The minimum design standards are as follows: The bolt cutters must be a minimum of 14 inches (35.6 cm) in total length, with blades that are a minimum of 4 inches (10.2 cm) long and 2 1/4 inches (5.7 cm) wide, when closed. Required bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to 1/4-inch (6.4-mm) wire diameter, and they must be capable of cutting through the hooks used on the vessel.

11. *Monofilament line cutters.* One pair of monofilament line cutters is required on board. Required monofilament line cutters must be used to remove fishing line entangling a sea turtle, or to cut fishing line as close to the eye of the hook as possible if the hook is swallowed or if the hook cannot be removed. The minimum design standards are as follows: The monofilament line cutters must be a minimum of 6 inches (15.2 cm) in length. The blades must be a minimum of 1 inch (2.5 cm) in length and 5/8 inches (1.6 cm) wide, when closed.

12. *Mouth openers or mouth gags.* Required mouth openers and mouth gags are used to open sea turtle mouths, and to keep them open when removing internal hooks from sea turtles brought on board. They must allow access to the hook or line without causing further injury to the sea turtle. Design standards are included in the item descriptions. At least two of the seven different types of mouth openers or mouth gags described in paragraphs A.12.(a) through (g) of this appendix are required.

(a) *A block of hard wood.* A block of hard wood of a type that does not splinter (*e.g.,* maple) with rounded and smoothed edges, or a wooden-handled brush with the bristles removed. The dimensions must be a minimum of 10 inches (25.4 cm) by 3/4 inch (1.9 cm) by 3/4 inch (1.9 cm).

(b) *A set of three canine mouth gags.* A set of canine mouth gags must include one of each of the following sizes: small—5 inches (12.7 cm), medium—6 inches (15.2 cm), and large—7 inches (17.8 cm). They must be constructed of stainless steel.

(c) *A set of two sturdy dog chew bones.* Required canine chews must be constructed of durable nylon or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of sea turtle beak sizes, a set must include one large (5 1/2 to 8 inches (14 cm to 20.3 cm) in length), and one small (3 1/2 to 4 1/2 inches (8.9 cm to 11.4 cm) in length) canine chew bones.

(d) *A set of two rope loops covered with protective tubing.* A required set consists of two 3-ft (0.9-m) lengths of poly braid rope (3/8-inch (9.5-mm) diameter suggested), each covered with an 8-inch (20.3-cm) long section of 1/2-inch (1.3-cm) to 3/4-inch (1.9-cm) diameter light duty garden hose or similar flexible tubing, and each rope tied into a loop.

(e) *A hank of rope.* A length of soft braided or twisted nylon rope a minimum of 3/16-inch (4.8-mm) diameter must be folded to create a hank, or looped bundle, of rope. The rope must create a hank of 2 to 4 inches (5.1 cm to 10.2 cm) in thickness.

(f) *A set of four PVC splice couplings.* A required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.5 cm), 1 1/4 inch (3.2 cm), 1 1/2 inch (3.8 cm), and 2 inches (5.1 cm). PVC splice couplings are held in a sea turtle's mouth with the needle-nose pliers.

(g) *A large avian oral speculum.* The avian oral speculum must be 9 inches (22.9 cm) long, and constructed of 3/16-inch (4.8-mm) wire diameter 304 stainless steel. The wire must be covered with 8 inches (20.3 cm) of clear vinyl tubing (5/16-inch (7.9-mm) outside diameter, 3/16-inch (4.8-mm) inside diameter), friction tape, or similar to pad the surface.

B. *Sea turtle handling requirements.* Any sea turtle incidentally captured during fishing operations must be handled, and release gear must be used, in accordance with the NMFS careful handling, resuscitation, and release protocols as specified in this appendix, in the 2019 version of the NMFS document titled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'', or on the NMFS sea turtle handling and release guidelines placard.

1. *Sea turtles brought on board.* When practicable, both active and inactive (comatose) sea turtles must be brought on board the vessel without causing further injury to the animal, using a net or hoist as specified in paragraph A.5. of this appendix. Release gear specified in paragraphs A.6. through A.12. of this appendix must be used to remove fishing gear from sea turtles. All sea turtles up to 3 ft (0.9 m) carapace (shell) length must be brought on board to remove fishing gear if sea conditions allow.

(a) Place a sea turtle upright on its bottom shell on a cushion or support device, as specified in paragraph A.6. of this appendix, to immobilize it and facilitate gear removal. Then, determine if the fishing gear can be removed without causing further injury. All externally embedded hooks should be removed, unless hook removal would result in further injury to the sea turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point of the hook is not clearly visible, or if it is determined that removal would result in further injury to the sea turtle.

(b) If a hook cannot be removed, remove as much line as possible from the sea turtle and the hook using monofilament cutters as specified in paragraph A.11. of this appendix, and as much of the hook as possible should be removed before releasing the sea turtle, using bolt cutters as specified in paragraph A.10. of this appendix.

(c) If a hook can be removed, an effective technique may be to cut off the barb or the

eye of the hook using bolt cutters, and then to slide the hook out. When the hook is visible in the mouth, a mouth opener or mouth gag, as specified in paragraph A.12. of this appendix, may facilitate opening the sea turtle's mouth and keeping the mouth open. Short-handled dehookers for internal hooks, or long-nose or needle-nose pliers, as specified in paragraphs A.7. and A.8. of this appendix, respectively, should be used to remove visible hooks from the mouth that have not been swallowed on boated sea turtles, as appropriate.

(d) If a sea turtle appears comatose or inactive, follow the NMFS resuscitation protocols to attempt revival before its release. As much gear as possible must be removed from the sea turtle without causing further injury prior to its release.

(e) *Sea turtle resuscitation.* Resuscitation must be attempted on any sea turtle that is comatose or appears inactive by the following methods:

(i) Place the sea turtle upright on its bottom shell and elevate its hindquarters at least 6 inches (15.2 cm) to drain any water from the sea turtle for a period of at least 4 hours and up to 24 hours. The amount of the elevation depends on the size of the sea turtle; greater elevations are needed for larger sea turtles.

(ii) Periodically rock the sea turtle gently from left to right by holding the outer edge of the shell (carapace) and lift one side about 3 inches (7.6 cm), and then alternate to the other side.

(iii) The sea turtle being resuscitated must be shaded and kept damp or moist. Do not put the sea turtle into a container holding water. A water-soaked towel placed over the head, shell, and flippers is the most effective method to keep a sea turtle moist.

(iv) Gently touch the corner of the eye and pinch the tail (reflex test) periodically to see if there is a response indicating the sea turtle may be recovering.

(f) *Sea turtle release.* A sea turtle that is actively moving or determined to be dead as described in paragraph B.1.(g) of this appendix must be released. Release the sea turtle when fishing gear is not in use to avoid recapturing the sea turtle. Place the engine gear in neutral position, and then lower the sea turtle into the water from a low part on the vessel, in an area where the sea turtle is unlikely to be recaptured or injured by vessels.

(g) A sea turtle is determined to be dead if the muscles are stiff (*rigor mortis*) and/or the flesh has begun to rot; otherwise the sea turtle is determined to be comatose or inactive, and resuscitation attempts are necessary as specified in paragraph B.1.(e).

(h) A sea turtle that fails to respond to the reflex test or fails to move within 4 hours (up to 24 hours if possible) must be returned to the water in the same manner as that for an actively moving sea turtle.

2. *Sea turtles that cannot be brought on board.* If a sea turtle is too large, or is hooked or entangled in a manner that prevents bringing the sea turtle on board safely and without causing further injury, release gear specified in paragraph A. of this appendix must be used to remove the maximum amount of fishing gear from the sea turtle, or to remove as much line as possible from the sea turtle or from a hook that cannot be removed prior to releasing the sea turtle.

(a) A non-boated sea turtle should be brought close to the boat. Then, determine whether the hook can be removed without causing further injury to the sea turtle. All externally embedded hooks should be removed, unless hook removal would result in further injury to the sea turtle. No attempt should be made to remove a hook if it has been swallowed and the insertion point is not clearly visible, or if it is determined that removal would result in further injury.

(b) If the hook cannot be removed or if the sea turtle is only entangled, remove as much line as possible prior to its release using a long-handled line cutter or monofilament line cutters specified in paragraphs A.1. and A.11. of this appendix.

(c) If the hook can be removed, it must be removed using the appropriate dehooker or other hook removal device specified in paragraph A. of this appendix. Without causing further injury, as much gear as possible must be removed from the sea turtle prior to its release.

3. *Other sea turtle requirements.* Any sea turtle taken incidentally while fishing, regardless of whether the sea turtle is alive or dead, or whether it is brought on board, must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

C. *Incorporation by reference.* The standards required in paragraphs A. and B. of this appendix are incorporated by reference into this appendix with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the National Marine Fisheries Service, Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701, phone: 727–824–5301, website: *https://www.fisheries.noaa.gov/southeast/endangered-species-conservation/sea-turtle-and-smalltooth-sawfish-release-gear-protocols,* and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

1. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149.

(a) Careful Release Protocols for Sea Turtle Release with Minimal Injury, NOAA Technical Memorandum NMFS–SEFSC–735, Stokes, L., and Bergmann, C. (Editors), 2019.

(b) [Reserved]

2. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701.

(a) Sea Turtle Handling/Release Guidelines: Quick Reference for Hook and Line Fisheries, English, Spanish, Vietnamese, Revised April 2019.

(b) [Reserved]

[FR Doc. 2019–26363 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 236
Monday, December 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–19–0095–NOP–19–06]

Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), is announcing a meeting of the National Organic Standards Board (NOSB). The NOSB assists the USDA in the development of standards for substances to be used in organic production and advises the Secretary of Agriculture on any other aspects of the implementation of the Organic Foods Production Act (OFPA).

DATES: An in-person meeting will be held April 29–May 1, 2020, from 8:30 a.m. to approximately 6:00 p.m. Eastern Time. The Board will hear oral public comments via webinars on Tuesday, April 21, 2020 and Thursday, April 23, 2020, from 1:00 p.m. to approximately 4:00 p.m. Eastern Time, and at the in-person meeting on Wednesday, April 29, 2019 and Thursday, April 30, 2020. The deadline to submit written comments and/or sign up for oral comment at either the webinar or in-person meeting is 11:59 p.m. ET, April 3, 2020.

ADDRESSES: The webinars are virtual and will be accessed via the internet and/or phone. Access information will be available on the AMS website prior to the webinars. The in-person meeting will take place at the Westin Crystal City, 1800 Richmond Highway, Arlington, Virginia 22202, United States. Detailed information pertaining to the webinars and in-person meeting can be found at *https://www.ams.usda.gov/event/national-organic-standards-board-nosb-meeting-crystal-city-va.*

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Arsenault, Advisory Committee Specialist, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Ave. SW, Room 2642–S, Mail Stop 0268, Washington, DC 20250–0268; Phone: (202) 720–3252; Email: *nosb@usda.gov.*

SUPPLEMENTARY INFORMATION: The NOSB makes recommendations to the USDA about whether substances should be allowed or prohibited in organic production and/or handling, assists in the development of standards for organic production, and advises the Secretary on other aspects of the implementation of the OFPA. The NOSB is holding a public meeting to discuss and vote on proposed recommendations to the USDA, to receive updates from the USDA National Organic Program (NOP) on issues pertaining to organic agriculture, and to receive comments from the organic community. The meeting and webinars are open to the public. No registration is required except to sign up for oral comments. All meeting documents and instructions for participating will be available on the AMS website at *https://www.ams.usda.gov/event/national-organic-standards-board-nosb-meeting-crystal-city-va.* Please check the website periodically for updates. Meeting topics will encompass a wide range of issues, including substances petitioned for addition to or removal from the National List of Allowed and Prohibited Substances (National List), substances on the National List that are under sunset review, and guidance on organic policies. Participants and attendees may take photos and video at the meeting, but not in a manner that disturbs the proceedings.

Public Comments

Comments should address specific topics noted on the meeting agenda.

Written Comments: Written public comments will be accepted on or before 11:59 p.m. ET on April 3, 2020, via *http://www.regulations.gov: Docket #AMS–NOP–19–0095.* Comments submitted after this date will be provided to the NOSB, but Board members may not have adequate time to consider those comments prior to making recommendations. The NOP strongly prefers comments be submitted electronically. However, written comments may also be submitted (*i.e.,* postmarked) via mail to the person listed under **FOR FURTHER INFORMATION CONTACT** by or before the deadline.

Oral Comments: The NOSB is offering the public multiple dates and opportunities to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, April 3, 2020, and can register for only one speaking slot: Either during the webinars scheduled for April 21 & 23, or at the in-person meeting, scheduled for April 29–May 1, 2020. Due to the limited time allotted for in-person public comments during the in-person meeting, commenters are strongly encouraged to comment during the webinar(s). Instructions for registering and participating in the webinar can be found at *www.ams.usda.gov/NOSBMeetings.*

Meeting Accommodations: The meeting hotel is Americans with Disabilities Act compliant, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify the person listed under **FOR FURTHER INFORMATION CONTACT**. Determinations for reasonable accommodation will be made on a case-by-case basis.

Dated: December 4, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–26446 Filed 12–6–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103, 106, 204, 211, 212, 214, 216, 223, 235, 236, 240, 244, 245, 245a, 248, 264, 274a, 301, 319, 320, 322, 324, 334, 341, 343a, 343b, and 392

[CIS No. 2627–18; DHS Docket No. USCIS–2019–0010]

RIN 1615–AC18

U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Proposed rule; extension of comment period; availability of supplemental information.

SUMMARY: The Department of Homeland Security (DHS) is extending the comment period for its November 14, 2019, notice of proposed rulemaking (NPRM or ''proposed rule'') regarding the USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements. DHS is also announcing the availability of supplemental information to inform the public of information related to the NPRM. This supplement describes the projected costs associated with supporting immigration adjudication and naturalization services for which USCIS will reimburse U.S. Immigration and Customs Enforcement. This document also clarifies the comment period on the proposed information collection revisions in the NPRM. This announcement ensures that the public has an opportunity to comment on the supplemental materials.

DATES: The comment period for the NPRM published November 14, 2019, at 84 FR 62280, is extended to December 30, 2019.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2019–0010, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow this site's instructions for submitting comments.
- *Mail:* Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW, Mailstop #2140, Washington, DC 20529–2140. To ensure proper handling, please reference DHS Docket No. USCIS–2019–0010 in your correspondence. Mail must be postmarked by the comment submission deadline. Please note that USCIS cannot accept any comments that are hand delivered or couriered. In addition, USCIS cannot accept mailed comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives.

FOR FURTHER INFORMATION CONTACT: Kika M. Scott, Chief Financial Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW, Washington, DC 20529–2130, telephone (202) 272–8377.

SUPPLEMENTARY INFORMATION:

I. Public Participation

DHS invites you to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Comments providing the most assistance to DHS will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports the recommended change.

Instructions: All submissions should include the agency name and DHS Docket No. USCIS–2019–0010 for this rulemaking. Providing comments is entirely voluntary. Regardless of how you submit your comment, DHS will post all submissions, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov* and will include any personal information you provide. Because the information you submit will be publicly available, you should consider limiting the amount of personal information in your submission. DHS may withhold information provided in comments from public viewing if it determines that such information is offensive or may affect the privacy of an individual. For additional information, please read the Privacy Act notice available through the link in the footer of *http://www.regulations.gov.*

Docket: For access to the docket, go to *http://www.regulations.gov* and enter this rulemaking's eDocket number: USCIS–2019–0010. The docket includes additional documents that support the analysis contained in the proposed rule to determine the specific fees that are proposed. These documents include:

- Fiscal Year (FY) 2019/2020 Immigration Examinations Fee Account Fee Review Supporting Documentation;
- Regulatory Impact Analysis: U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements; and
- Small Entity Analysis for Adjustment of the U.S. Citizenship and Immigration Services Fee Schedule notice of proposed rulemaking (NPRM).

You may review these documents on the electronic docket. The software [1] used to compute the immigration benefit request fees [2] and biometric fees [3] is a commercial product licensed to USCIS that may be accessed on-site, by appointment, by calling (202) 272–1969.[4]

II. Extension of Comment Period

On November 14, 2019, DHS published the aforementioned proposed rule. *See* 84 FR 62280. DHS has received requests to extend the comment period for this rulemaking. In consideration of these requests, and to provide additional time for the public to review the supplemental information below, the comment deadline is extended from December 16, 2019 through December 30, 2019.

DHS also notes and clarifies the comment period for the information collection requests (forms) that the proposed rule would revise in accordance with the Paperwork Reduction Act. The comment period for the NPRM will end on December 30, 2019, including comments on the forms DHS must submit to OMB for review and approval under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–12. The NPRM contained erroneous references to comments being accepted for 60 days from the publication date of the proposed rule. *See* 84 FR 62349, 62350, 62351, 62352, 62353, 62354, 62355, 62356.

III. Supplemental Information Regarding ICE Activities To Be Funded by the IEFA

a. Background

In the proposed rule, DHS proposed to recover, via USCIS' fee schedule, the full amount of the proposed transfer from USCIS to ICE that was contained in past budget requests. *See* 84 FR 62287. The IEFA may be used to reimburse appropriations that fund enforcement and support positions of U.S. Immigration and Customs

[1] USCIS uses commercially available activity-based costing (ABC) software, SAP Business Objects Profitability and Cost Management, to create financial models as described in the supporting documentation.

[2] Benefit request means any application, petition, motion, appeal, or other request relating to an immigration or naturalization benefit, whether such request is filed on a paper form or submitted in an electronic format, provided such request is submitted in a manner prescribed by DHS for such purpose. *See* 8 CFR 1.2.

[3] DHS uses the terms biometric fees, biometric services fees, and biometric fee synonymously in this rule to describe the cost and process for capturing, storing, or using biometrics.

[4] The proposed rule describes key inputs to the ABC model (for example, budget, workload forecasts, staffing, and completion rates).

Enforcement (ICE) to the extent that such positions support adjudication and naturalization services.

DHS proposed to recover as much as $207.6 million in ICE expenses via USCIS' fee schedule, and described some categories of eligible costs. *See id.* DHS wrote that it ''continues to study which ICE costs would be reimbursable through the IEFA, and may announce more precise cost estimates prior to publication of a final rule. To the extent that such cost estimates are lower than the $207.6 million figure currently accounted for in the rule, fee levels would be revised downward.'' *See id.* at 62288. This document announces such cost estimates, which are lower than the $207.6 million figure in the proposed rule. DHS therefore anticipates a downward adjustment in the proposed fees. *See id.*

Specifically, following further study, DHS now proposes to recover, via USCIS' fee schedule, $112,287,417 for allowable costs, instead of the $207.6 million referenced in the proposed rule. DHS proposes to establish USCIS fees at a level necessary to recover the full amount of this proposed transfer in addition to the costs of operating USCIS. This document explains how those ICE costs were determined.

b. Methodology

DHS estimated the ICE projected costs to be funded through the IEFA using Activity-Based Costing (ABC) consistent with OMB Circular A–25, the Statement of Federal Financial Accounting Standards (SFFAS–4): Managerial Cost Accounting Concepts and Standards for the Federal Government, and other relevant financial management directives as described in the November 14, 2019 proposed rule. 84 FR 62280, 62283. ICE used an ABC approach to define full cost, outline the sources of cost for providing the investigation of immigration adjudication and naturalization services and the collection, safeguarding, and accounting for fees deposited in and funds reimbursed from the IEFA. These costs do not include costs associated with the Student and Exchange Visitor Program (SEVP). ICE conducts a separate ABC analysis to set SEVP fees.

A critical element in building the ABC model was for ICE to identify the sources and cost for all expenses in providing immigration adjudication and naturalization services. Consistent with the applicable law and guidance as stated in the November 14, 2019 proposed rule, the proposed transfer from USCIS to ICE would recover the full cost of providing immigration adjudication and naturalization services. After identifying which case activities can be covered by IEFA funds, the total investigative hours were estimated for the case activities. ICE used the full cost of providing immigration adjudication and naturalization services to calculate the amount needed to be transferred from the USCIS-managed IEFA to ICE to fully recover all costs for ICE administered immigration adjudication and naturalization services.[5]

c. Fees To Support Operations

ICE Homeland Security Investigations (HSI) would use funds transferred from the IEFA to support investigations of immigration benefit fraud via Document and Benefit Fraud Task Forces (DBFTFs), Operation Janus, the HSI National Lead Development Center, and other immigration adjudication and naturalization activities. Under INA section 286(m) and (n), 8 U.S.C. 1356(m) and (n), adjudication and naturalization services include all costs for work related to determining whether applicants may receive the benefit of such services. The cost of the services provided includes the cost of any investigatory work necessary to adjudicate applications or provide services, including investigations of fraud. Moving forward, USCIS will reimburse ICE for costs associated with supporting immigration adjudication and naturalization services. Table 1 provides a detailed list of case activities that can be paid for with IEFA funds as they directly relate to the investigation of the immigration adjudication and naturalization process.

TABLE 1—IDENTITY AND BENEFIT FRAUD ACTIVITIES

[As of November 2019]

Activity	Detailed description
General Investigative Activities	Covers investigation of benefit fraud of adjudication and naturalization services.
Employment Fraud	Covers employment benefit fraud in the context of adjudication and naturalization services.
Family Fraud	Covers family-based benefit fraud in the context of adjudication and naturalization services.
Non-Employment Visa Fraud	Closely tied to benefit fraud of adjudication and naturalization services.
Marriage Fraud	Covers marriage-based benefit fraud in the context of adjudication and naturalization services.
Refugee Fraud	Covers refugee-based benefit fraud in the context of adjudication and naturalization services.
Asylum Fraud	Covers asylum-based benefit fraud in the context of adjudication and naturalization services.
Citizenship/Naturalization Fraud	Covers benefit fraud of adjudication and naturalization services.
Deferred Action for Childhood Arrivals (DACA) Fraud.	Covers activities related to specific fraud investigations that USCIS refers to ICE for investigation.
Petition for Relief of Seizure	Covers costs associated with investigating relief of seizure when property had been seized as part of a fraud investigation in the context of adjudication and naturalization services.
Benefit Fraud	Covers identity benefit fraud cases directly related to adjudication and naturalization fraud.
Unauthorized Practice of Immigration Law (UPIL)/Notario Fraud.	Covers fraud related to individuals acting as an attorney or authorized legal representative for aliens in an attempt to fraudulently obtain a USCIS benefit.
Document Benefit Fraud Task Force (DBFTF)	Targets criminal enterprises and individuals who attempt to use document and benefit fraud to compromise the integrity of the immigration system. IEFA-funded personnel improve DBFTFs' information sharing, reduce duplication of efforts, and increase the effectiveness of investigations alongside our Federal, State, and local law enforcement partners.
Operation Janus (Special Interest Alien (SIA) Fraud).	Covers naturalization fraud by an alien that's been identified through biometrics for having an alternative identity.
EB–5 Investor Fraud	Covers benefit fraud case for investing $900,000+ into a business solely to gain immigration status.

[5] Additional HSI agents and requisite support staff would need to be hired in order to complete the additional work contemplated.

TABLE 1—IDENTITY AND BENEFIT FRAUD ACTIVITIES—Continued

[As of November 2019]

Activity	Detailed description
Juvenile Deferred Action	Covers routine investigative activities to support DACA adjudication and/or to confirm the DACA application information.
H&L Visa Fraud	Covers benefit fraud by illegally obtaining H and L visas.
Benefit Fraud Assessment	Statistical analysis of benefit fraud.
HQ-Denaturalization Referrals	Covers naturalization fraud relating to the vetting of denaturalization referrals from the Department of State and other federal agencies, now being conducted by ICE.
Executive Office for Immigration Review (EOIR) Referral.	Covers investigative activities that focus on USCIS fraud that were referred from EOIR.
USCIS Historical Fingerprint Enrollment (HFE) Referrals.	Covers activities related to HFE referrals from USCIS.
Military Marriage Fraud	Covers benefit fraud from a military marriage.
Sex Offender Naturalization	Covers fraud during the naturalization process, by not disclosing the fact that they have a criminal record relating to sex offenses, and the benefit would not have been awarded had the criminal history been disclosed.

DHS notes that the aforementioned list of activities serves as the basis for cost projections and is not intended to be all-inclusive. DHS may use IEFA revenue to reimburse any IEFA-eligible expense, regardless of whether DHS considered those expenses when setting fees.

d. Expansion of Investigations

ICE HSI case hours from Fiscal Year (FY) 2017, FY 2018, and FY 2019 are used to estimate future expenditures on those activities. Using an activity-based cost model consistent with DHS methodology for USCIS fee setting, the number of case hours were translated into total cost of full-time equivalents (FTEs) needed to cover activities that DHS proposes to fund with IEFA funds. DHS estimated a 5.2 percent growth rate from FY 2020 projections and 1.9 percent constant rate to FY 2021 to fully fund the cost of future expenses consistent with recent trends in the hours spent providing immigration adjudication and naturalization services. The projected growth rate is based on the growth rate for case hours in FY 2017 (517,531 hours), FY 2018 (547,774 hours), and FY 2019 (572,004 hours). There was a 5.84 percent increase in HSI investigative case hours from FY 2017 to FY 2018 and a 4.42 percent increase in investigative case hours from FY 2018 to FY 2019. The DHS forecast of 5.2 percent growth in FY 2020 based on historical averages was applied to account for future costs.

Table 2 outlines the percent change of activity hours by fiscal year.

TABLE 2—IEFA HOURS BY FISCAL YEAR

Fiscal year	IEFA activity hours	Percent change
FY 2017	517,531	.....
FY 2018	547,774	5.84
FY 2019	572,004	4.42
FY 2020*	601,748	5.2
FY 2021*	601,748	0

*Denotes forecast.

e. Projected Cost Estimates by Fiscal Year

In FY 2017, 2018, and 2019 HSI agents worked a total of 517,531 hours, 547,774 hours and 572,004 hours, respectively, on IEFA reimbursable related activities. To determine the number of IEFA activity hours for FY 2020, ICE analyzed historical growth rates from the three preceding years, which averaged approximately 5.2 percent. The IEFA activity hours for FY 2021 may remain the same. This results in a ''total hours'' projection of 601,748 hours for FY 2020, and 601,748 hours for FY 2021. Hours were then translated into an FTE count for an ICE, HSI Criminal Investigator (U.S. Office of Personnel Management Classification Position Number 1811).[6] Total FTEs were then translated into a total cost for all HSI criminal investigators. Total cost of HSI criminal investigators was derived using an ICE Budget-approved modular cost table that accounts for salary, compensation, locality payment, mission essential equipment (*e.g.,* uniforms, technical equipment, supplies, and training), and inflation.

Mission Support staff is also needed to support the investigators. To determine the mission support FTEs required, a mission support ratio of 0.32 to each criminal investigator was derived by taking the total number of mission support FTEs divided by the total number of investigators from the ICE FY 2017 to FY 2019 Table of Organization Position System (TOPS) data. This FTE total was then translated into total Mission Support Cost using the ICE Budget-approved cost table that accounts for salary, compensation, locality payment, mission essential equipment, supplies, trainings, and inflation.

ICE estimates that it will spend approximately 601,748 investigative hours on IEFA reimbursable activities in FY 2021. That results in an estimated 355 criminal investigators and 113 mission support professionals being required.[7] Table 3 outlines the cost estimate for the services provided.

[6] U.S. Office of Personnel Management, *General Schedule Qualifications Standards, https://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/1800/criminal-investigator-treasury-enforcement-agent-1811/.*

[7] Actual needs may be slightly more or less based on the ability to hire and on-board personnel and the level of services ICE provides to support USCIS within a given year.

TABLE 3—COST ESTIMATE FOR IMMIGRATION ADJUDICATION AND NATURALIZATION SERVICES

Fiscal year	IEFA activity hours	HSI 1811 FTE	HSI FTE Frontline (1811 series) cost (HSI 1811 FTE * fully burdened 1811 FTE cost)	Mission support FTE (HSI 1811 FTE * MS FTE to 1811 ratio)	HSI mission support cost (MS FTE * fully burdened MS FTE cost)	Total cost (HSI 1811 FTE frontline cost + HSI MS cost)
FY 2017	517,531	305	$77,750,217	96	$17,021,439	$94,771,656
FY 2018	547,774	323	82,293,713	102	18,016,122	100,309,835
FY 2019	572,004	337	85,933,858	107	18,813,040	104,746,897
FY 2020	601,748	355	90,402,418	113	19,791,318	110,193,736
FY 2021 *	601,748	355	92,120,064	113	20,167,353	112,287,417

*Denotes forecast.

As a result, DHS projects an annual transfer to ICE of $112,287,417, rather than $207.6 million. Because the projected annual transfer to ICE is lower than DHS previously proposed, the proposed fee levels would be reduced accordingly. As the NPRM stated, the fees that DHS proposed may change in the final rule based on policy decisions, in response to public comments, intervening legislation, and other reasons. 84 FR 62327. In the NPRM, to reduce uncertainty, USCIS laid out what the fees would be if certain conditions materialize and explained that the final fees would be one of the scenarios presented, or an amount in between the highest and lowest fees proposed. *Id.* Table 21 in the NPRM outlines the proposed fee levels contained in the proposed rule that would result if the ICE transfer of $207.6 million either did or did not occur. Because the estimated amount of the transfer is $112,287,417 million, the resulting fee schedule would, all else remaining the same, be somewhere between those two levels.

Chad F. Wolf,

Acting Secretary.

[FR Doc. 2019–26521 Filed 12–6–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1015; Product Identifier 2018–SW–104–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. This proposed AD would require determining the accumulated hours time-in-service (TIS) of certain part-numbered main gearbox (MGB) suspension bar attachment fittings (fittings) and bolts, and would establish new life limits. This proposed AD is prompted by the outcome of tests and analyses performed by Airbus Helicopters. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 7, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1015; 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 proposed AD, the European Aviation Safety Agency (EASA) AD, the economic 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 service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments that the FAA receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments the FAA receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments the FAA receives.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2018–0260, dated December 3, 2018 (EASA AD 2018–0260), to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale) Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters.

From review of reported Model EC 225 LP data, EASA advises that the installation of the MGB upper deck fittings of the three MGB suspension bars could lead to tightening torque loss on the fittings' attachment screws (bolts). Due to design similarities, Model AS332L2 helicopters could also be affected by the same installation condition. Investigations determined that the life limits in the Airworthiness Limitations Sections for the screws and fittings are valid if an ''add-on penalty factor'' is applied. Based on these findings, EASA issued EASA AD No. 2017–0133 dated July 27, 2017, and then superseded that AD with EASA AD No. 2017–0189, dated September 22, 2017, for Model AS 332 L2 and EC 225 LP helicopters to address this condition.

Airbus Helicopter subsequently performed testing on Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters due to design similarities, and determined a life limit reduction of the MGB suspension bar fittings and screws was necessary for these model helicopters. Accordingly, EASA AD 2018–0260 was issued for these model helicopters to require determining the accumulated service life of the affected parts and to introduce new life limits.

EASA states that this condition, if not corrected, could lead to structural failure of the MGB suspension bar fittings and screws, possibly resulting in detachment of the MGB suspension bars.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin No. AS332–01.00.90, Revision 0, dated November 11, 2018. This service information specifies determining the accumulated hours TIS of certain part-numbered rear MGB suspension bar fittings and screws. This service information further specifies criteria to determine the initial replacement compliance time of those parts and a new life limit for those parts thereafter. This service information also establishes a life limit for the front MGB attachment screws.

Proposed AD Requirements

This proposed AD would require, within 50 hours TIS, reviewing the helicopter records to determine the total hours TIS of the MGB suspension bar right-hand side (RH) rear fitting part number (P/N) 330A22–2702–07 and of the MGB suspension bar left-hand side (LH) rear fitting P/N 330A22–2702–06. This proposed AD would initially require removing from service the RH rear fitting and its bolts P/N 330A22–0135–20 and the LH rear fitting and its bolts P/N 330A22–0135–20 based on the accumulated total hours TIS of the fittings and other conditions. Thereafter, this proposed AD would require removing from service the RH rear fitting and its bolts at intervals not to exceed 1,470 hours TIS, removing from service the LH rear fitting at intervals not to exceed 13,600 hours TIS, and removing from service the LH rear bolts during each Major Inspection ''G.'' This proposed AD would also require removing from service the front bolts P/N 330A22–0134–20 during each Major Inspection ''G.''

Differences Between This Proposed AD and the EASA AD

The EASA AD allows an option for the first MGB RH rear attachment fitting replacement to inspect torque and specifies different replacement compliance times based on the torque inspection results, whereas this proposed AD does not.

Interim Action

The FAA considers this proposed AD to be an interim action. The design approval holder is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this proposed AD affects 14 helicopters of U.S. Registry. Labor costs are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Determining the total hours TIS of the rear MGB fittings would take about 0.5 work-hour for an estimated cost of $43 per helicopter and $602 for the U.S. fleet.

Replacing a rear MGB fitting and its set of four bolts would take about 8 work-hours and parts would cost about $12,937, for an estimated cost of $13,617 per replacement cycle.

Replacing a set of four MGB attachment bolts would take about 4 work-hours and parts would cost about $224, for an estimated cost of $564 per replacement cycle.

Replacing a LH rear MGB fitting would take about 8 work-hours and parts would cost about $12,713, for an estimated cost of $13,393 per replacement cycle.

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.

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, 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.

The FAA prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

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 Helicopters: Docket No. FAA–2019–1015; Product Identifier 2018–SW–104–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category, with a main gearbox (MGB) suspension bar right-hand side (RH) rear attachment fitting (fitting) part number (P/N) 330A22–2702–07 and bolt P/N 330A22–0135–20, MGB suspension bar left-hand side (LH) rear fitting P/N 330A22–2702–06 and bolt P/N 330A22–0135–20, or MGB suspension bar front bolt P/N 330A22–0134–20 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as MGB suspension bar fittings and bolts remaining in service beyond their fatigue life. This condition could result in failure of an MGB attachment assembly, detachment of an MGB suspension bar, and subsequent loss of helicopter control.

(c) Comments Due Date

The FAA must receive comments by February 7, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 50 hours time-in-service (TIS), review records to determine the total hours TIS of each MGB suspension bar RH and LH rear fitting.

(i) For any RH rear fitting that has accumulated 1,470 or more total hours TIS, before further flight, remove from service the RH rear fitting and its bolts.

(ii) For any RH rear fitting that has accumulated less than 1,470 total hours TIS, remove from service the RH rear fitting and its bolts before the fitting accumulates 1,470 total hours TIS.

(iii) For any LH rear fitting that has accumulated 13,600 or more total hours TIS, before further flight, remove from service the LH rear fitting and its bolts.

(iv) For any LH rear fitting that has accumulated less than 13,600 total hours TIS:

(A) If a Major Inspection ''G'' has not been completed since the LH rear fitting has been installed, remove from service the LH rear bolts during the next Major Inspection ''G'' inspection; or

Note 1 to paragraph (e)(iv)(A) of this AD: Major Inspection ''G'' (7,500 hours TIS between overhauls) is defined in Maintenance Manual MET 05–29–00–601.

(B) If a Major Inspection ''G'' has been completed since the LH rear fitting has been installed, before further flight, remove from service the LH rear bolts; and

(C) Remove from service the LH rear fitting before the fitting accumulates 13,600 total hours TIS.

(2) Thereafter following paragraph (e)(1) of this AD, remove from service any RH rear fitting and its bolts at intervals not to exceed 1,470 hours TIS, remove from service any LH rear fitting at intervals not to exceed 13,600 hours TIS, and remove from service any LH rear bolts during each Major Inspection ''G.''

(3) During the next Major Inspection ''G,'' remove from service the MGB suspension bar front bolts. Thereafter, remove from service the front bolts during each Major Inspection ''G.''

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. AS332–01.00.90, Revision 0, dated November 11, 2018, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2018–0260, dated December 3, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

Issued in Fort Worth, Texas, on November 29, 2019.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2019–26428 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0019; Product Identifier 2017–SW–074–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Airbus Helicopters Model AS332L2 and EC225LP helicopters. This proposed AD would require determining the accumulated hours time-in-service (TIS) of certain part-numbered main gearbox (MGB) suspension bar attachment bolts and fittings, applying a life limit add-on factor, and inspecting the torque of certain MGB suspension bar attachment nuts. This proposed AD is prompted by a report of torque loss on an MGB suspension bar bolt. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 7, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.

• *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0019; 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 proposed AD, the European Aviation Safety Agency (EASA) AD, the economic 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 service information identified in this proposed rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2017–0189, dated September 22, 2017, to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale) Model AS 332 L2 and EC 225 LP helicopters. Following review of reported Model EC 225 LP data, EASA advises that the installation of the MGB upper deck fittings of the three MGB suspension bars could lead to tightening torque loss on the fittings' attachment pins (bolts). Due to design similarities, Model AS 332 L2 helicopters could also be affected by the same installation condition. An investigation determined that the life limits in the Airworthiness Limitations Sections for the pins and fittings are valid if an ''add-on penalty factor'' is applied.

EASA states that this condition, if not corrected, could lead to structural failure of the MGB suspension bar attachment pins or fittings. Accordingly, the EASA AD requires applying the add-on penalty factor to the flight hours to re-calculate the life limits and replacing an affected part before exceeding its life limit.

EASA further advises that Airbus Helicopters' initial service information contained an error that may have resulted in the installation of pins or fittings using an incorrect torque value. As a result, the EASA AD also requires replacing pins if an incorrect torque value was applied and reporting the information to Airbus Helicopters.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. 01.00.86 for Model AS332 helicopters and Airbus Helicopters EASB No. 04A013 for Model EC225LP helicopters, both Revision 1 and dated August 25, 2017. This service information specifies applying an add-on factor to the flying hours logged by the pins and fittings and replacing them if the service life limit (SLL) is exceeded. If an incorrect tightening torque value was applied to the pins, the service information specifies replacing the pins and contacting Airbus Helicopters.

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.

Proposed AD Requirements

This proposed AD would require for Airbus Helicopters Model AS332L2 and EC225LP helicopters, within 30 hours time-in-service (TIS) and thereafter following each flight, re-calculating the life limit accumulated by each front bolt part number (P/N) 332A22–1613–21 or 332A22–1613–20 and rear bolt P/N 332A22–1614–20 by applying an add-on factor listed in the applicable service information. If the bolt meets or exceeds its life limit, also known as SLL, this proposed AD would require removing the bolt from service before further flight.

For Model AS332L2 helicopters, within 30 hours TIS and thereafter following each flight, this proposed AD would require re-calculating the life limit accumulated by the front attachment fitting P/N 332A22–1623–01, rear left hand attachment fitting P/N 332A22–1624–02 or 332A22–1624–04, and rear right hand attachment fitting P/N 332A22–1624–03 or 332A22–1624–05 by applying an add-on factor listed in the applicable service information. If the fitting meets or exceeds its life limit, this proposed AD would require removing the fitting from service before further flight.

For Model AS332L2 helicopters, within 150 hours TIS (without applying an add on-factor), this proposed AD would require inspecting the torque of each MGB suspension bar fitting front and rear nut. If the torque on any nut is higher than the maximum allowable limit, the proposed AD would require removing the nut and its bolt from service before further flight. If the torque on any nut is lower than the minimum allowable limit, this proposed AD would require tightening the nut before further flight and removing the nut and its bolt from service within 150 hours TIS.

Differences Between This Proposed AD and the EASA AD

The EASA AD allows an optional 150 hours TIS extension to the life limit of an affected fitting for Model AS 332 L2 helicopters by performing dye-penetrant inspections. This AD does not allow this option. For Model AS 332 L2 helicopters, the EASA AD requires replacing pins (bolts) that are replacement pins installed before the AD's effective date with an incorrect torque value applied. This AD requires inspecting the torque for each nut for Model AS332L2 helicopters instead and depending on the outcome, removing the nut and its bolt from service.

Costs of Compliance

The FAA estimates that this proposed AD affects 23 helicopters of U.S. Registry. Labor costs are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Determining the adjusted life limit for the bolts and fittings would take about 0.5 work-hour for an estimated cost of $43 per helicopter and $989 for the U.S. fleet. Replacing a bolt would take about 4 work-hours and parts would cost about $89 for an estimated cost of $429 per bolt.

There are no costs of compliance for replacing a fitting and inspecting, and if necessary tightening, the torque for Model AS332L2 helicopters by this proposed AD because there are no Model AS332L2 helicopters on the U.S. Registry.

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.

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, 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.

The FAA prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

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 Helicopters: Docket No. FAA–2018–0019; Product Identifier 2017–SW–074–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS332L2 and EC225LP helicopters, certificated in any category, with a main gearbox (MGB) suspension bar front attachment bolt (bolt) part number (P/N) 332A22–1613–21 or 332A22–1613–20, MGB suspension bar rear bolt P/N 332A22–1614–20, MGB suspension bar front attachment fitting (fitting) P/N 332A22–1623–01, MGB suspension bar rear left hand fitting P/N 332A22–1624–02 or 332A22–1624–04, or MGB suspension bar rear right hand fitting P/N 332A22–1624–03 or 332A22–1624–05 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as MGB suspension bar bolts and fittings remaining in service beyond their fatigue life and loose MGB suspension bar bolts or fittings, which could result in structural failure of the MGB suspension bar and loss of helicopter control.

(c) Comments Due Date

The FAA must receive comments by February 7, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 30 hours time-in-service (TIS), review records to determine the total hours TIS of each MGB suspension bar bolt.

(i) Determine the life limit of each bolt by applying the hours TIS by the add-on factor listed in Table No. 1 of Airbus Helicopters Emergency Alert Service Bulletin No. 01.00.86, Revision 1, dated August 25, 2017 (EASB 01.00.86), or Airbus Helicopters Emergency Alert Service Bulletin No. 04A013, Revision 1, dated August 25, 2017, as applicable to your model helicopter.

Note 1 to paragraph (e)(1)(i) of this AD: Airbus Helicopters refers to bolts as ''pins.''

(A) Before further flight, remove from service any bolt that has reached or exceeded its life limit.

(B) For each bolt that has not exceeded its life limit, continue to calculate and record the life limit on its component history card or equivalent record by applying the add-on factor each time the helicopter accumulates hours TIS, and remove from service any bolt before reaching its life limit.

(ii) Thereafter following paragraph (e)(1)(i) of this AD, continue to calculate and record the life limit of each bolt on its component history card or equivalent record by applying the add-on factor each time the helicopter accumulates hours TIS and remove from service any bolt before reaching its life limit.

(2) For Model AS332L2 helicopters, within 30 hours TIS, review records to determine the total hours TIS of each MGB suspension bar fitting.

(i) Determine the life limit of each fitting by applying the hours TIS by the add-on factor listed in Table No. 1 of EASB 01.00.86.

(A) Before further flight, remove from service any fitting that has reached or exceeded its life limit.

(B) For each fitting that has not exceeded its life limit, continue to calculate and record the life limit on its component history card or equivalent record by applying the add-on factor each time the helicopter accumulates hours TIS, and remove from service any fitting before reaching its life limit.

(ii) Thereafter following paragraph (e)(2)(i) of this AD, continue to calculate and record the life limit of each fitting on its component history card or equivalent record by applying the add-on factor each time the helicopter accumulates hours TIS and remove from service any fitting before reaching its life limit.

(3) For Model AS332L2 helicopters, within 150 hours TIS (without the add-on factor), inspect the torque of each MGB suspension bar attachment front and rear nut. The

allowable torque for each front nut is 602–663 lbf. in (6.8–7.5 daN.m) and the allowable torque for each rear nut is 337–398 lbf. in (3.8–4.5 daN.m).

(i) If the torque on any nut is higher than the maximum allowable torque stated in paragraph (e)(3) of this AD, before further flight, remove from service the bolt and nut.

(ii) If the torque on any nut is lower than the minimum allowable torque value stated in paragraph (e)(3) of this AD, before further flight, tighten the nut to the allowable torque stated in paragraph (e)(3) of this AD. Within 150 hours TIS (without the add-on factor), remove from service any bolt and nut that were tightened as required by this paragraph.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0189, dated September 22, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

Issued in Fort Worth, Texas, on November 29, 2019.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2019–26430 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1003; Product Identifier 2018–SW–086–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Leonardo S.p.A. (Leonardo) Model A109E, A109S, A119, AW109SP, and AW119MKII helicopters. This proposed AD would require removing certain main rotor (M/R) floating ring assemblies from service. This proposed AD would also prohibit replacing any washer on any M/R floating ring assembly. This proposed AD is prompted by a report of a washer debonding from the M/R floating ring assembly. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 7, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1003; 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 proposed AD, the European Aviation Safety Agency (EASA) AD, the economic 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 service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aerospace Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2018–0205, dated September 14, 2018, to correct an unsafe condition for Leonardo S.p.A. (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation) Model A109E, A109S, A119, A109LUH, AW109SP, and AW119MKII helicopters with certain part-numbered M/R floating ring assemblies installed. EASA advises of a report of a washer part number (P/N) 109–0111–23–101 that debonded from the M/R floating ring assembly on a Model A109E helicopter. Investigation results revealed that the M/R floating ring assembly had been improperly repaired, and identified a batch of M/R floating ring assemblies that could also be affected. Due to design similarity, some of those M/R floating ring assemblies may be installed on other A109/A119 helicopter models.

EASA further advises that this condition, if not detected and corrected, could lead to failure of an affected M/R floating ring assembly and significant increase of the pilot workload, possibly resulting in reduced control of the helicopter. Accordingly, the EASA AD requires inspecting the M/R floating ring assembly to identify its serial number (S/N), and depending on findings, replacing affected serial-numbered M/R floating ring assemblies. The EASA AD also prohibits installing those serial-numbered M/R floating ring assemblies on any helicopter and prohibits replacing washer P/N 109–0111–23–101 on an M/R floating ring assembly installed on a helicopter.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type designs.

Related Service Information

The FAA reviewed Leonardo Helicopters Alert Service Bulletin (ASB) No. 109EP–163 for Model A109E helicopters; ASB No. 109S–084 for Model A109S helicopters; ASB No.109SP–125 for Model AW109SP helicopters; and ASB No. 119–092 for Model A119 and AW119MKll helicopters, all Revision A and dated September 13, 2018. This service information contains procedures to identify the S/N of the M/R floating ring assembly and provides instructions for replacing the floating ring assembly if necessary. This service information also specifies replacing certain serial-numbered M/R floating ring assemblies and reporting certain information to Leonardo Helicopters.

Proposed AD Requirements

This proposed AD would require removing from service any M/R floating ring assembly P/N 109–0111–09–101 or P/N 109–0111–09–103 with S/N DA53295148–1, F86782, G130924, J31213, L99, L104, L107, L117, L127, L130, M215, P411, R687, R735, R769, R772, or V71, installed on Model A109E, A109S, A119, AW109SP, and AW119MKII helicopters. This proposed AD would also prohibit installing those M/R floating ring assemblies on any helicopter. Lastly, this proposed AD would prohibit replacing any washer P/N 109–0111–23–101 on any M/R floating ring assembly installed on any helicopter.

Differences Between This Proposed AD and the EASA AD

The EASA AD applies to Model A109LUH helicopters, whereas this AD does not because that model is not FAA type-certified.

Costs of Compliance

The FAA estimates that this proposed AD affects 210 helicopters of U.S. Registry. The FAA also estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Inspecting the M/R floating ring assembly would take about 1 work-hour for an estimated cost of $85 per helicopter and $17,850 for the U.S. fleet. Replacing an M/R floating ring assembly would take about 8 work-hours and parts would cost about $5,500 for an estimated cost of $6,180 per floating ring assembly.

According to Leonardo Helicopters, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage by Leonardo Helicopters. Accordingly, the FAA has included all costs in the cost estimate.

Authority for This Rulemaking

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

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.

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, 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.

The FAA prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

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):

Leonardo S.p.A.: Docket No. FAA–2019–1003; Product Identifier 2018–SW–086–AD.

(a) Applicability

This AD applies to Leonardo S.p.A. Model A109E, A109S, A119, AW109SP, and AW119MKII helicopters, certificated in any category, with a main rotor (M/R) floating ring assembly part number (P/N) 109–0111–09–101 or P/N 109–0111–09–103 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as disbonding of the washer from the M/R floating ring assembly. This condition could result in a significant increase of pilot workload and subsequent loss of control of the helicopter.

(c) Comments Due Date

The FAA must receive comments by February 7, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 25 hours time-in-service, remove from service any M/R floating ring assembly P/N 109–0111–09–101 or P/N 109–0111–09–103 with serial number (S/N) DA53295148–1, F86782, G130924, J31213, L99, L104, L107, L117, L127, L130, M215, P411, R687, R735, R769, R772, or V71.

(2) After the effective date of this AD:

(i) Do not install any M/R floating ring assembly P/N 109–0111–09–101 or P/N 109–0111–09–103 with S/N DA53295148–1, F86782, G130924, J31213, L99, L104, L107, L117, L127, L130, M215, P411, R687, R735, R769, R772, or V71 on any helicopter.

(ii) Do not replace any washer P/N 109–0111–23–101 on any M/R floating ring assembly installed on any helicopter.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristi Bradley, Aerospace Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Leonardo Helicopters Alert Service Bulletin (ASB) No. 109EP–163, ASB No. 109S–084, ASB No.109SP–125, and ASB No. 119–092, all Revision A and dated September 13, 2018, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2018–0205, dated September 14, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head.

Issued in Fort Worth, Texas, on November 27, 2019.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2019–26425 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register
Vol. 84, No. 236
Monday, December 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

Rural Utilities Service

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture's Rural Utilities Services (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by February 7, 2020 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, STOP 1522, Room 4233, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email *Thomas.dickson@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by Federal eRulemaking Portal: Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.

Title: Request for Mail List Data, RUS Form 87.

OMB Number: 0572–0051.

Expiration Date of Approval: 08/31/2020.

Type of Request: Revision of a currently approved information collection.

Abstract: The RUS Form 87 is used for both the Rural Utilities Service Electric and Telecommunications programs to obtain the names and addresses of the borrowers' officials with whom they must communicate directly in order to administer the Agency's lending programs. Changes occurring at the borrower's annual meeting (*e.g.,* the selection of board members, managers, attorneys, certified public accountants or other officials) make necessary the collection of information.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.5 hours per response.

Respondents: Business or other for-profit and non-profit institutions.

Estimated Number of Respondents: 985.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 246 hours.

Copies of this information collection can be obtained from Arlette Mussington, Innovation Center—Regulations Management Division, at (202) 720–2825, Email: *arlette.mussington@wdc.usda.gov.*

All 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.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2019–26431 Filed 12–6–19; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Michigan Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting on Wednesday, December 11, 2019, at 11:00 a.m. EST. The purpose of the meeting will be to nominate a vice-chair and continue reviewing a draft of the voting rights report.

DATES: The meeting will be held on Wednesday, December 11, 2019, at 11:00 a.m. EST.

ADDRESSES: Public call information: Dial: 800–353–6461; Conference ID: 1830656.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, DFO, at *afortes@usccr.gov* or 213–894–3437.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above toll-free call-in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing

impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Michigan Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Office at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Elect Vice Chair
III. Review Report Draft
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: December 4, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–26463 Filed 12–6–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a meeting on Tuesday December 17, 2019 at 12:00 p.m. Central time. The Committee will review a draft report on civil rights and prison conditions for incarcerated individuals who are also living with mental illness in Nebraska.

DATES: The meeting will take place on Tuesday December 17, 2019 at 12 p.m. Central.

Public Call Information: Dial: 800–367–2403, Conference ID: 5097779.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Nebraska Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Nebraska: Prisons and Mental Health
Future Plans and Actions
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of ensuring the Nebraska Advisory Committee completes its study in a timely manner.

Dated: December 3, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–26432 Filed 12–6–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Automated Export System Program

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), 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 proposed revisions to the Automated Export System Program, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before February 7, 2020.

ADDRESSES: Direct all written comments to Thomas Smith, PRA Liaison, U.S. Census Bureau, 4600 Silver Hill Road, Room 7K250A, Washington, DC 20233–6700 (or via the internet at *PRAcomments@doc.gov*). You may also submit comments, identified by Docket Number USBC–2019–0017, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit

attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kiesha Downs, Chief, Trade Regulations Branch, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–6700, (301) 763–7079, by fax (301) 763–8835 or by email *kiesha.downs@census.gov*.

SUPPLEMENTARY INFORMATION

I. Abstract

Title 13, United States Code (U.S.C.), Chapter 9, Section 301 authorizes the U.S. Census Bureau (Census Bureau) to collect, compile and publish trade data. Title 15, Code of Federal Regulations (CFR), Part 30, known as the Foreign Trade Regulations (FTR), contains the regulatory provisions for preparing and filing Electronic Export information (EEI) in the Automated Export System (AES). The Census Bureau uses the AES or successor system as the instrument for collecting export trade data from parties exporting commodities from the United States. In addition to the collection of data, the Census Bureau compiles these export data from the AES. These data, along with import data function as the basis for the official U.S. merchandise trade statistics. The Census Bureau publishes import and export statistics that are used to determine the balance of international trade in goods and are designated for use as a principal economic indicator. The Census Bureau together with the Bureau of Economic Analysis releases these statistics monthly according to the U.S. International Trade in Goods and Services Press Release Schedule.

Preliminary Steel Mill Import Statistics

Since 1999, the DOC has released data on imports of steel mill products in advance of the regular monthly trade statistics release. This exception to the normal procedure was initially approved by Office of Management and Budget (OMB) in January 1999 and has been subsequently extended annually through means of a separately submitted memo. This exception has permitted the public release of preliminary monthly data on imports of steel under the provisions of the OMB's Statistical Policy Directive No. 3 on the Compilation, Release and Evaluation of Principal Federal Economic Indicators.

With this planned revision to the AES Program, the Census Bureau will request that provisions for the early release of preliminary steel mill import statistics be included in the clearance, thereby eliminating the need for a separate annual re-approval from OMB for the early release.

The International Trade Administration (ITA) relies heavily on the preliminary import statistics of steel mill products provided by the Census Bureau. In 1999, as a part of the Government's steel initiative, the DOC was instructed by the administration to monitor steel imports so that industry could monitor trends and take appropriate action. Currently, the steel industry faces a similar situation further necessitating the preliminary publication of these statistics. The early release of preliminary statistics on steel mill imports provides the public with an early warning of any potential shifts in trade patterns in this important industry. A variety of parties, including government officials and the public with an interest in imports of steel products continue to use this monitoring system heavily.

Automated Export System

The published export data enable U.S. businesses to develop practical marketing strategies as well as provide a means to assess the impact of exports on the domestic economy. These data are used in the development of U.S. government economic and foreign trade policies, including export control purposes under Title 50, U.S.C., Export Administration Act. The Bureau of Industry and Security (BIS), U.S. Customs and Border Protection (CBP), and other enforcement agencies use these data to detect and prevent the export of certain items by unauthorized parties to unauthorized destinations or end users.

Currently, the Census Bureau is drafting a Notice of Proposed Rulemaking (NPRM) to clarify the responsibilities of parties participating in routed and standard export transactions. The draft rule has received concurrence from the U.S. Department of State (State Department) and the Department of Homeland Security (DHS). Though concurrence was received from State Department and DHS, it is important to note that the BIS administers the Export Administration Regulations (EAR) that also govern routed export transactions. BIS has also drafted a NPRM to revise the EAR as it pertains to routed export transactions. Both rules have required extensive review and coordination with each agency to ensure that there are no discrepancies or contradictory language in either NPRM. The Census Bureau is working with BIS to receive concurrence in order to publish the NPRM. The goal is to publish both NPRMs around the same time in order to allow the trade community an opportunity to review the proposed requirements as they relate to both filing and licensing responsibilities in a routed export transaction.

In addition to providing clarity to the FTR on the standard and routed export transactions, the Census Bureau's NPRM proposes to revise and add several key terms including authorized agent, forwarding agent, standard export transaction and written release. While revisions to the FTR are necessary to improve clarity to the filing requirements for the routed export transaction, it is critical for the Census Bureau to ensure that any revisions made to the FTR will allow for the continued collection of complete, timely, and accurate trade statistics. To achieve this, it is critical that the responsibilities of the U.S. Principal Party in Interest (USPPI) and the U.S. authorized agent are clearly defined to ensure that the EEI is filed by the appropriate party to prevent receiving duplicate filings or in some cases, no filings. The changes proposed in the NPRM will not have an impact on the reporting burden of the export trade community.

II. Method of Collection

Automated Export System

Except as noted in Title 15 CFR, Part 30, Section 30.2(a)(1)(iv), EEI is required for all export shipments of goods valued over $2,500 per Schedule B or Harmonized Tariff Schedule of the United States Annotated commodity classification number from the United States, including Foreign Trade Zones located therein, Puerto Rico, and the U.S. Virgin Islands to foreign countries; for exports between the United States and Puerto Rico; and for exports to the U.S. Virgin Islands from the United States or Puerto Rico. The AES program is unique among Census Bureau statistical collections since it is not sent to respondents to solicit responses, as is the case with surveys. Filing EEI via the AES is a mandatory process under the statutory authority of Title 13 U.S.C., Chapter 9, Section 301. The statutory requirement is implemented by Title 15, CFR, Part 30, also referred to as the FTR. The export trade community can access the AES via a free internet-based system, called AES*Direct,* or they can use software that connects directly with the ACE.

For exports to Canada, a Memorandum of Understanding (MOU) signed by CBP, Canada Border Services Agency, Statistics Canada, and the

Census Bureau enables the United States to substitute Canadian import statistics for U.S. export statistics. Similarly, in accordance with the MOU, Canada substitutes U.S. import statistics for Canadian exports to the United States. This exchange of data eliminates the requirement for the export trade community to file the EEI with the U.S. Government for the majority of export shipments to Canada, thus resulting in the elimination of over eight million EEI records filed in the AES annually. EEI must be filed through the AES for export shipments to Canada that require mandatory EEI filing under Title 15 CFR, Part 30, Section 30.2(a)(1)(iv). In addition, export shipments from the United States through Canada destined to a country other than Canada require EEI filing in the AES.

In most instances, the USPPI or authorized agent must file EEI via the AES and annotate the commercial loading documents with the proof of filing citation prior to the export of a shipment. In instances where the AES filing is not required, the proper exemption or exclusion legend must be noted on the commercial loading documents per Section 30.7 of the FTR.

CBP is currently conducting pilots to test the functionality regarding the filing of export manifests for air, rail, and ocean cargo to the ACE. These pilots will further the CBP initiatives set forth in the SAFE Port Act of 2006 and Executive Order 13659 to move export manifesting from the current paper-based system to an electronic system over the next several years. FTR Sections 30.7 and 30.45, require evidence of the proof of filing, post departure filing citation, AES downtime citation, exemption or exclusion legend on the bill of lading, air waybill, or other commercial loading documents. These annotations will also appear in the electronic manifest submitted to CBP. Since filers use many variations to annotate commercial loading documents, the Census Bureau, CBP, and the trade community developed guidance to ensure that a standard format is reported in the electronic manifest. This information was published in FTR Letter #10 titled *Annotating the Electronic Manifest for U.S. Customs and Border Protection.*

The AES enables the U.S. Government to significantly improve the quality, timeliness, and coverage of export statistics. Since July 1995, the Census Bureau and the CBP have utilized the AES to improve the reporting of export trade information, customer service, increase compliance with and enforcement of export laws, and to provide paperless reports of export information. The AES also enables the U.S. Government to increase its ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users through electronic filing.

Steel Mill Statistics

The importer of record or its licensed customs broker file electronic entry summaries through the Automated Commercial Environment (ACE), and file paper import entry summaries (CBP–7501) or paper records of vessel foreign repair or equipment purchase (CBP–226) directly with CBP in accordance with 19 CFR parts 1–199. The FTR, subpart F addresses the general requirements for filing import entries with CBP in the ACE in accordance with 19 CFR, which is the source of the import data on steel mill products.

III. Data

OMB Control Number: 0607–0152.

Form Number(s): Automated Export System (AES).

Type of Review: Regular submission.

Affected Public: Exporters, Forwarding agents, Export Carriers.

Estimated Number of Respondents: 287,314.

Estimated Time per Response: 3 minutes per AES submission.

Estimated Total Annual Burden Hours: 865,798.

Estimated Total Annual Cost to Public: $15,688,260.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Chapter 9, Section 301.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–26452 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before December 30, 2019. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 19–011. Applicant: University of Chicago Argonne LLC, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL 60439–4873. Instrument: Q1 magnets. Manufacturer: Danfysik A/S, Denmark. Intended Use: According to the applicant, the instrument is a component of a 4th generation synchrotron accelerator, *i.e.,* the Advanced Photon Source Upgrade (APSU) accelerator, which is one of the most technologically complex machines in the world. APSU is a non-profit research facility that will provide ultra-bright, high-energy x-ray beams to more than 5000 (and growing) scientists from across the United States. APSU provides x-ray beams of a broad parameters that allows scientists to collect data in unprecedented detail and in short time frames. The research results users achieve through APS constantly make real and positive impact on our technologies, health, economy, and fundamental understandings of the materials that make up our world.

Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by

Commissioner of Customs: November 20, 2019.

Docket Number: 19–014. Applicant: University of Chicago Argonne LLC, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL 60439–4873. Instrument: Q2 magnets. Manufacturer: SigmaPhi, France. Intended Use: According to the applicant, the instrument is a component of a 4th generation synchrotron accelerator, *i.e.,* the Advanced Photon Source Upgrade (APSU) which will be used to study ultra-bright, high-energy x-ray beams to more than 5000 (and growing) scientists from across the United States. APSU provides x-ray beams of a broad parameters that allow scientists to collect data in unprecedented detail and in amazingly short time frames. The research results our users achieved through APS constantly make real and positive impact on our technologies, health, economy, and fundamental understandings of the materials that make up our world. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: November 2, 2017.

Dated: December 3, 2019.

Gregory W. Campbell,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2019–26458 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–865]

Carbon and Alloy Steel Threaded Rod From Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that carbon and alloy steel threaded rod (steel threaded rod) from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2018 through December 31, 2018. The final estimated weighted-average dumping margins of sales at LTFV are shown in the ''Final Determination'' section of this notice.

DATES: Applicable December 9, 2019.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or William Langley, 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) 482–1395 or (202) 482–3861, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2019, Commerce published the *Preliminary Determination* of this LTFV investigation in which Commerce found that steel threaded rod from Taiwan was sold at LTFV.[1] We invited interested parties to comment on the *Preliminary Determination.* We received no comments from interested parties.

Scope of the Investigation

The products covered by this investigation are steel threaded rod from Taiwan. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

On July 22, 2019, we issued a Preliminary Scope Memorandum.[2] The scope case briefs were due on August 28, 2019.[3] We received no scope case briefs from interested parties. Therefore, Commerce has made no changes to the scope of this investigation since the *Preliminary Determination.*

Verification

Because each of the mandatory respondents in this investigation (*i.e.,* Quintain Steel Co. Ltd. (Quintain Steel), Top Forever Screws Co. Ltd. (Top Forever), Fastenal Asia Pacific Ltd. TW Repres (Fastenal), QST International Corporation (QST), and Ta Chen Steel Pipe Ltd. (Ta Chen)) did not provide the information requested by Commerce, and Commerce determined that each of the examined respondents have been uncooperative, we did not conduct verification.[4]

Analysis of Comments Received

As stated above, we did not receive comments in response to the *Preliminary Determination.* For the final determination, Commerce made no changes to the *Preliminary Determination.*

Use of Adverse Facts Available

We continue to find, as stated in the *Preliminary Determination,* that the mandatory respondents Quintain, Top Forever, Fastenal, QST, and Ta Chen withheld requested information, failed to provide information by the specified deadlines, and significantly impeded the proceeding, pursuant to section 776(a) of the Tariff Act of 1930, as amended (the Act).[5] Further, we continue to find that Quintain Steel, Top Forever, Fastenal, QST, and Ta Chen failed to cooperate to the best of their abilities to comply with our requests for information, and accordingly, we continue to apply an adverse inference when selecting from among the facts otherwise available to determine the relevant dumping margins, in accordance with section 776(b) of the Act.[6] We further continue to select the only dumping margin alleged in the Petition[7] as the rate applicable to Quintain Steel, Top Forever, Fastenal, QST, and Ta Chen.[8]

As discussed in the *Preliminary Determination,* we continue to assign the single dumping margin alleged in the Petition[9] as the all-others rate applicable to all exporters and/or producers not individually examined.[10]

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Quintain Steel Co. Ltd	32.26
Top Forever Screws Co. Ltd	32.26

[1] *See Carbon and Alloy Steel Threaded Rod from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 84 FR 50382 (September 25, 2019) (*Preliminary Determination*).

[2] *See* Memorandum ''Carbon and Alloy Steel Threaded Rod from India, Taiwan, Thailand, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated July 22, 2019 (Preliminary Scope Decision Memorandum).

[3] The scope case briefs were due 30 days after the publication of *Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 36578 (July 29, 2019). *See* Preliminary Scope Decision Memorandum at 3.

[4] *See Preliminary Determination,* 84 FR at 50382.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Carbon and Alloy Steel Threaded Rod from Taiwan,'' dated September 18, 2019 (Preliminary Decision Memorandum)

[6] *Id.*

[7] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand,'' dated February 21, 2019 (Petition).

[8] *See* Preliminary Decision Memorandum. Others Rate

[9] *See* Petition.

[10] For a full description of the methodology underlying Commerce's analysis, *see* Preliminary Decision Memorandum.

Exporter or producer	Estimated weighted-average dumping margin (percent)
Fastenal Asia Pacific Ltd. TW Repres	32.26
QST International Corporation	32.26
Ta Chen Steel Pipe Ltd	32.26
All Others	32.26

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all unliquidated entries of subject merchandise which were entered, or withdrawn from warehouse, for consumption on or after September 25, 2019, which is the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the table above as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final 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 or exporters will be 32.26 percent, the all-others weighted-average dumping margin. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied adverse facts available (AFA) to the individually examined companies in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, there are no calculations to disclose.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section735(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) of steel threaded rod from Taiwan 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, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Administrative Protective Orders (APOs)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition 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 violation subject to sanction.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 352.210(c).

Dated: December 3, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the scope of the investigation is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to the investigation are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A329 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of the investigation, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of the investigation whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of the investigation are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Excluded from the scope of the antidumping investigation on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order, 74 FR 17154 (April 14, 2009).

Specifically excluded from the scope of the investigation is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS

subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2019–26457 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; Building for Environmental and Economic Sustainability (BEES) Please

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 7, 2020.

ADDRESSES: Direct all written comments to Maureen O'Reilly, Management Analyst, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20889-1710, (or via the internet at *PRAcomments@doc.gov*). All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Joshua D. Kneifel, (301) 975–6857 or *joshua.kneifel@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

For more than 25 years, the Engineering Laboratory of the National Institute of Standards and Technology (NIST) has developed and automated an approach for measuring the life-cycle environmental and economic performance of building products. Known as BEES (Building for Environmental and Economic Sustainability), the tool reduces complex, science-based technical content (*e.g.,* over 1000 material and energy flows from raw material extraction through product disposal) to decision-enabling results and delivers them in a visually intuitive graphical format. BEES Please is a voluntary program to collect data from product manufacturers so that the environmental performance of their products may be evaluated scientifically using BEES. NIST will publish in BEES Online (*http://ws680.nist.gov/bees*) an aggregated version of the data collected from manufacturers that protects data confidentiality, subject to manufacturer's review and approval. BEES measures environmental performance using the environmental life-cycle assessment approach specified in the International Organization for Standardization (ISO) 14040 series of standards. All stages in the life of a product are analyzed: Raw material acquisition, manufacture, transportation, installation, use, and recycling and waste management. Economic performance is measured using the ASTM International standard life-cycle cost method (E 917), which covers the costs of initial investment, replacement, operation, maintenance and repair, and disposal.

II. Method of Collection

Data on materials use, energy consumption, waste, and environmental releases will be collected using an electronic, MS Excel-based questionnaire. An electronic, MS Word-based User Manual accompanies the questionnaire to help in its completion.

III. Data

OMB Control Number: 0693–0036.

Form Number(s): None.

Type of Review: Renewal (of a current information collection) with changes.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Response: 62 hours and 30 minutes.

Estimated Total Annual Burden Hours: 1,875.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

NIST invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Office, Commerce Department.

[FR Doc. 2019–26453 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG881

Marine Mammals; File No. 22686

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to the Chicago Zoological Society, Brookfield Zoo (Bill Zeigler, Responsible Party), 3300 Golf Road, Brookfield, IL 60513, to import up to three bottlenose dolphins (*Tursiops truncatus*) for public display.

ADDRESSES: The permit and related documents are available online at *https://www.fisheries.noaa.gov/action/permit-application-import-3-bottlenose-dolphins-file-no-22686-chicago-zoological-society* or upon written request to the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore and Courtney Smith; phone: (301) 427–8401.

SUPPLEMENTARY INFORMATION: On March 19, 2019, notice was published in the **Federal Register** (84 FR 10044) that a request for a public display permit had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes the importation of three captive born bottlenose dolphins from Dolphin Quest Bermuda to either the Brookfield Zoo in Brookfield, Illinois or Coral World Ocean Park in St. Thomas, U.S. Virgin Islands for the purpose of public display. The permit expires on December 1, 2024, or upon the importation of all three dolphins, whichever occurs first.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: December 4, 2019.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–26476 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR073]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Portsmouth Naval Shipyard Dry Dock 1 Modification and Expansion

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the United States Navy for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of five species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Portsmouth Naval Shipyard Dry Dock 1 modification and expansion in Kittery, Maine. The project has been delayed and none of the work covered in the initial IHA has been conducted. The initial IHA was effective from October 1, 2019, through September 30, 2020. The Navy has requested re-issuance with new effective dates of March 1, 2020, through February 28, 2021. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This authorization is effective from March 1, 2020, through February 28, 2021.

ADDRESSES: An electronic copy of the final 2019 IHA previously issued to the Navy, the Navy's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting *www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-dry-dock-expansion-project-portsmouth-naval-shipyard.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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 authorization for incidental takings 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 May 28, 2019, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the Portsmouth Naval Shipyard Dry Dock 1 modification and expansion project (84 FR 24476). The effective dates of that IHA were October 1, 2019, through September 30, 2020. On September 30, 2019, the Navy informed NMFS that the project was delayed. None of the work identified in the initial IHA (*e.g.,* pile driving and removal) has occurred. The Navy submitted a request for a new identical IHA that would be effective from March 1, 2020 through February 28, 2021, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. Therefore, re-issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of the Navy's construction project is to modernize and maximize dry dock capabilities for performing current and future missions efficiently and with maximum flexibility. The need for the proposed action is to modify and expand Dry Dock 1 at the Portsmouth Naval Shipyard by constructing two new dry docking positions capable of servicing Virginia class submarines within the super flood basin of the dry dock. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), hooded seal (*Cystophora cristata*), and harp seal

(*Pagophilus groenlandicus*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2019 IHA for the Navy's construction work (84 FR 24476), the Navy's application, the **Federal Register** notice of the proposed IHA (84 FR 13252), and all associated references and documents.

Determinations

The Navy will conduct activities as analyzed in the initial 2019 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2020 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

However, no incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the Navy for in-water construction activities associated with the specified activity from March 1, 2020, through February 28, 2021. All previously described mitigation, monitoring, and reporting requirements from the initial 2019 IHA are incorporated.

Dated: December 3, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–26418 Filed 12–6–19; 8:45 am]

BILLING CODE 3510–22–P

ELECTION ASSISTANCE COMMISSION

Technical Guidelines Development Committee; Meeting

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of conference call meeting.

DATES: Wednesday, December 18, 2019, 2:00–4:00 p.m. (EDT).

ADDRESSES: EAC Technical Guidelines Development Committee Conference Call.

To Listen and Monitor the Event as an Attendee

1. *Go to: https://zoom.us/j/917491464.*

2. *Enter Meeting ID:* 917 491 464, Password: TGDC1219.

One tap mobile

+16699006833,,917491464# US (San Jose)

+19292056099,,917491464# US (New York)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 929 205 6099 US (New York)

877 853 5247 US Toll-free

888 788 0099 US Toll-free

Meeting ID: 917 491 464.

Find your local number: https://zoom.us/u/aev3sFIp8Q. For assistance: Contact the host, Steve Uyak at *suyak@eac.gov*.

Purpose: In accordance with the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. Appendix 2), the U.S. Election Assistance Commission (EAC) Technical Guidelines Development Committee will conduct a conference call to discuss NIST recommendations and feedback.

Agenda: The Technical Guidelines Development Committee (TGDC) will discuss NIST recommendations and feedback from November meeting.

FOR FURTHER INFORMATION CONTACT: Bert Benavides, Telephone: (301) 563–3937.

SUPPLEMENTARY INFORMATION: Members of the public may submit relevant written statements to the Technical Guidelines Development Committee with respect to the meeting no later than 10:00 a.m. EDT on Wednesday, December 18, 2019. Statements may be sent via email to *facaboards@eac.gov,* via standard mail addressed to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, or by fax at 301–734–3108.

This conference call will be open to the public.

Nichelle S. Williams,

Director of Research, U.S. Election Assistance Commission.

[FR Doc. 2019–26187 Filed 12–6–19; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10674–017]

Kaukauna Utilities; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 10674–017.

c. *Date filed:* February 14, 2019.

d. *Applicant:* Kaukauna Utilities.

e. *Name of Project:* Kimberly Hydroelectric Project (Kimberly Project).

f. *Location:* The Kimberly Project is located at the U.S. Army Corps of Engineers' (Corps) Cedars Dam on the Lower Fox River in the Village of Kimberly in Outagamie County, Wisconsin. The proposed project boundary would include 0.0225 acres of federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mike Pedersen, Manager of Generation and Operations, Kaukauna Utilities, 777 Island Street, P.O. Box 1777, Kaukauna, WI 54130–7077, (902) 766–05721.

i. *FERC Contact:* Colleen Corballis, (202) 502–8598, *colleen.corballis@ferc.gov*.

j. *Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–10674–017.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

l. *The Kimberly Project consists of:* (1) A 161-foot-long, 43-foot-wide, 61-foot-high reinforced concrete and brick masonry powerhouse located at the south abutment of the Corps' Cedars Dam and containing three turbine-generator units each rated at 723 kilowatts for a total installed capacity of 2.170 megawatts; (2) a 2.4-kilovolts (kV) to 34.5-kV step-up transformer; (3) a 320-foot-long, 2.4-kV transmission line; and (4) appurtenant facilities. The project is directly connected to a 34.5-kV local distribution line, which is not part of the project. The average annual generation was 12,324,827 kilowatt-hours for the period 2011 to 2017.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Commission issues Environmental Assessment—June 2020

Comments on Environmental Assessment—July 2020

Dated: December 3, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–26459 Filed 12–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14797–001]

California Department of Water Resources; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 14797–001.

c. *Date filed:* November 20, 2019.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* Devil Canyon Project (currently licensed as part of the South SWP Project No. 2426; proposed to be relicensed as a separate project).

f. *Location:* Along the East Branch of the California Aqueduct, in San Bernardino County, California. The project occupies 220.98 acres of United States lands administered by the U.S. Department of Agriculture, Forest Service, as part of the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Gwen Knittweis, Chief, Hydropower License Planning and Compliance Office, California Department of Water Resources, P.O. Box 924836, Sacramento, California 94236–0001; (916) 557–4554; email—*Gwen.Knittweis@water.ca.gov*.

i. *FERC Contact:* Kyle Olcott at (202) 502–8963; or email at *kyle.olcott@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 20, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14797–001.

m. The application is not ready for environmental analysis at this time.

n. *The project consists of:* (1) A 249-foot-tall, 2,230-foot-long zoned earth and rockfill dam impounding a 995-acre reservoir; (2) intake structures and two 1.3-mile-long steel penstocks; (3) a powerhouse with four turbine-generating units; (4) a switchyard with four step-up transformers; and (5) appurtenant facilities. The project's estimated annual generation is 836 gigawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—January 2020
Request Additional Information—January 2020
Issue Acceptance Letter—April 2020
Issue Scoping Document 1 for comments—May 2020
Request Additional Information (if necessary)—July 2020
Issue Scoping Document 2—August 2020
Issue notice of ready for environmental analysis—August 2020
Commission issues EA—February 2021
Comments on EA—March 2021

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 3, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–26460 Filed 12–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–29–000]

Commission Information Collection Activities (FERC–550); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–550 (Oil Pipeline Rates-Tariff Filings) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due January 8, 2020.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0089, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–29–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp*.

• *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–550, Oil Pipeline Rates—Tariff Filings.

OMB Control No.: 1902–0089.

Type of Request: Three-year extension of the FERC–550 information collection requirements with no changes to the current reporting requirements.

Abstract: On July 30, 2019 (84 FR 36915), the Commission published a Notice in the **Federal Register** in Docket No. IC19–29–000 requesting public comments. The Commission received no public comments and is indicating that in the related submittal to OMB.

FERC–550 is required to implement sections of the Interstate Commerce Act (ICA) (49 U.S.C. 1, *et seq.,* 49 App. U.S.C. 1–85). The Commission's regulatory jurisdiction over oil pipeline includes:

• Regulation of rates and practices of oil pipeline companies engaged in interstate transportation;

• establishment of equal service conditions to provide shippers with equal access to pipeline transportation;

• establishment of reasonable rates for transporting petroleum and petroleum products by pipeline.

The FERC–550 filing requirements for oil pipeline tariffs and rates [1] provide the Commission with the information it needs to analyze proposed tariffs, rates, fares, and charges of oil pipeline and other carriers in connection with the transportation of crude oil and petroleum products. The Commission uses this information to determine whether the proposed tariffs and rates are just and reasonable.

Type of Respondent: Oil Pipeline.

Estimate of Annual Burden: [2] The Commission estimates the annual public reporting burden and cost [3] for the FERC–550 information collection as follows:

FERC–550: OIL PIPELINE RATES—TARIFF FILINGS

Number of respondents	Annual number of responses per respondent	Total number of responses [4]	Average burden hrs. & cost ($) per response	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
219	3.24	710	7 hrs.; $560	4,970 hrs.; $397,600	$1,815.52

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 3, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–26461 Filed 12–6–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10002–79–OA]

Local Government Advisory Committee (LGAC); Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2., the Local Government Advisory Committee (LGAC) is in the public interest and is necessary in connection with the performance of EPA's duties. Accordingly, LGAC will be renewed for an additional two-year period. The purpose of LGAC is to provide advice and recommendations to EPA's Administrator on ways to improve its partnership with Local Governments and provide more efficient and effective environmental protection. Inquiries may be directed to Frances Eargle, Designated Federal Officer, LGAC, U.S. EPA, (Mail Code 1301A), 1200 Pennsylvania Avenue NW, Washington, DC 20460, or *eargle.frances@epa.gov.*

Dated: November 6, 2019.

Jack Bowles,

Director, State and Local Relations, Office of Congressional and Intergovernmental Relations.

[FR Doc. 2019–26467 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10002–98–OAR]

Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2019 Control Periods

AGENCY: Environmental Protection Agency (EPA).

[1] 18 Code of Federal Regulations (CFR) Parts 341–348.

[2] ''Burden'' is 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. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[3] The Commission staff thinks that the hourly cost (for wages and benefits) for industry staff completing the FERC–550 is similar to the cost of FERC employees. The cost figure is the FY2019 FERC average annual salary plus benefits ($167,091/year or $80/hour).

[4] This figure is rounded.

ACTION: Notice of data availability (NODA).

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary lists of units eligible for second-round allocations of emission allowances for the 2019 control periods from the new unit set-asides (NUSAs) established under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has posted spreadsheets containing the lists on EPA's website. EPA will consider timely objections to the lists before determining the amounts of the second-round allocations.

DATES: Objections to the information referenced in this notice must be received on or before January 8, 2020.

ADDRESSES: Submit your objections via email to *CSAPR_NUSA@epa.gov.* Include ''2019 NUSA allocations'' in the email subject line and include your name, title, affiliation, address, phone number, and email address in the body of the email.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Jason Kuhns at (202) 564–3236 or *kuhns.jason@epa.gov* or Andrew Reighart at (202) 564–0418 or *reighart.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO_X Annual), 97.511(b) and 97.512 (NO_X Ozone Season Group 1), 97.611(b) and 97.612 (SO_2 Group 1), 97.711(b) and 97.712 (SO_2 Group 2), and 97.811(b) and 97.812 (NO_X Ozone Season Group 2). Each NUSA allowance allocation process involves up to two rounds of allocations to eligible units, termed ''new'' units, followed by the allocation to ''existing'' units of any allowances not allocated to new units.

This notice concerns EPA's preliminary identification of units eligible to receive allowances in the second round of NUSA allocations for the 2019 control periods. The units eligible for second-round allocations for a given control period are CSAPR-affected units that commenced commercial operation between January 1 of the year before that control period and November 30 of the year of that control period. In the case of the 2019 control periods, an eligible unit therefore must have commenced commercial operation between January 1, 2018 and November 30, 2019 (inclusive). Generally, where a unit is eligible to receive a second-round NUSA allocation under a given CSAPR trading program for a given control period, the unit's maximum potential second-round allocation equals the positive difference (if any) between the unit's emissions during the control period as reported under 40 CFR part 75 and any first-round NUSA allocation the unit received. If the total of such maximum potential allocations to all eligible units would exceed the total allowances remaining in the NUSA, the allocations are reduced on a pro-rata basis. EPA notes that under 40 CFR 97.406(c)(3), 97.506(c)(3), 97.606(c)(3), 97.706(c)(3), and 97.806(c)(3), a unit's emissions occurring before its monitor certification deadline are not considered to have occurred during a control period and consequently are not included in the emission amounts used to determine NUSA allocations.

The preliminary lists of eligible units are set forth in Excel spreadsheets titled ''CSAPR_NUSA_2019_NO_X_Annual_2nd_Round_Prelim_Data,'' ''CSAPR_NUSA_2019_NO_X_Ozone_Season_2nd_Round_Prelim_Data,'' and'' ''CSAPR_NUSA_2019_SO_2_2nd_Round_Prelim_Data'' available on EPA's website at *https://www.epa.gov/csapr/csapr-compliance-year-2019-nusa-nodas.* Each spreadsheet contains a separate worksheet for each state covered by that program showing each unit preliminarily identified as eligible for a second-round NUSA allocation. Each state worksheet also contains a summary showing (1) the quantity of allowances initially available in that state's 2019 NUSA, (2) the sum of the 2019 NUSA allowance allocations that were made in the first round to new units in that state, if any, and (3) the quantity of allowances in the 2019 NUSA available for second-round allocations to new units (or ultimately for allocations to existing units), if any.

Objections should be strictly limited to whether EPA has correctly identified the units eligible for second-round 2019 NUSA allocations according to the criteria established in the regulations and should be emailed to the address identified in **ADDRESSES**. Objections must include: (1) Precise identification of the specific data the commenter believes are inaccurate, (2) new proposed data upon which the commenter believes EPA should rely instead, and (3) the reasons why EPA should rely on the commenter's proposed data and not the data referenced in this notice.

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. EPA also notes that under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which NUSA allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

Dated: November 30, 2019.

Reid P. Harvey,

Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2019–26466 Filed 12–6–19; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2019–3026]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 12–01 Medium-Term Master Guarantee Agreement Disbursement Approval Request.

SUMMARY: The Export-Import Bank of the United States (EXIM Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. EXIM Bank has an electronic disbursement approval processing system for guarantee lenders with transactions documented under Medium-Term Master Guarantee Agreements. After an export transaction has been authorized by EXIM Bank and legal documentation has been completed, the lender will obtain and review the required disbursement documents (*e.g.,* invoices, bills of lading, Exporter's Certificate, etc.) and will disburse the proceeds of the loan for eligible goods and services. In order to obtain approval of the disbursement, the lender will access and complete an

electronic questionnaire through EXIM Bank's online application system (EXIM Online). Using the form, the lender will input key data and request EXIM Bank's approval of the disbursement. EXIM Bank's action (approved or denied) is posted on the lender's history page.

The information collected in the questionnaire will assist EXIM Bank in determining that each disbursement under a Medium-Term Guarantee meets all the terms and conditions for approval.

The information collection tool can be reviewed at: *http://exim.gov/sites/default/files/pub/pending/eib12-01.pdf.*

DATES: Comments must be received on or before January 8, 2020 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048–0049.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 12–01 Medium-Term Master Guarantee Agreement Disbursement Approval Request.

OMB Number: 3048–0049.

Type of Review: Regular.

Need and Use: The information requested enables EXIM Bank to determine that a disbursement under a Medium-Term Guarantee meets all of the terms and conditions for approval.

Affected Public: This form affects lenders involved in the financing of U.S. goods and services exports.

Annual Number of Respondents: 150.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 75 hours.

Frequency of Reporting of Use: Annual.

Government Expenses:

Reviewing time per year: 38 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $1,615.00 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $1,938.

Bassam Doughman,

IT Project Manager.

[FR Doc. 2019–26412 Filed 12–6–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2019–3025]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: New Submission for OMB review and final comments request.

Form Title: EIB 15–04 Exporter's Certificate for Co-Financed Loan, Guarantee & MT Insurance Programs.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Ex-Im Bank's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for Ex-Im Bank support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or Ex-Im Bank. For MT insurance, the completed forms are held by the financial institution, only to be submitted to Ex-Im Bank in the event of a claim filing. Ex-Im Bank uses the referenced form to obtain exporter certifications regarding the export transaction, content sourcing, and their eligibility to participate in USG programs with respect to co-financed transactions. These details are necessary to determine the value and legitimacy of Ex-Im Bank financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

The information collection tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib15-04.pdf.*

DATES: Comments must be received on or before January 8, 2020 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038. Attn: OMB 3048–00XX EIB15–04.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 15–04 Exporter's Certificate for Co-Financed Loan, Guarantee & MT Insurance Programs.

OMB Number: 3048–0052.

Type of Review: Regular.

Need and Use: The information collected will allow Ex-Im Bank to determine compliance and content for transaction requests submitted to Ex-Im Bank under its co-financed insurance, guarantee, and direct loan programs.

Affected Public

This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 30.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 15 hours.

Frequency of Reporting of Use: As required.

Government Expenses

Reviewing time per year: 0.5 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $21.25 *(time * wages).*

Benefits and Overhead: 20%.

Total Government Cost: $25.5.

Bassam Doughman,

IT Project Manager, Office of the Chief Information Officer.

[FR Doc. 2019–26411 Filed 12–6–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice 2019–3028]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 09–01 Payment Default Report OMB 3048–0028.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection allows insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor. To facilitate completion, the form includes many checkboxes and self-populating fields. Also, customers can submit it electronically through EXIM Online, replacing paper reporting. EXIM provides insurance, loans, and loan guarantees for the financing of exports of goods and services.

The form can be viewed at: *https://www.exim.gov/sites/default/files//forms/eib09-01_0.pdf.*

DATES: Comments should be received on or before January 8, 2020, to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or mail to Mr. Gary Allo, Export Import Bank of the United

States, 811 Vermont Ave. NW, Washington, DC 20571. Attn: 3048–0028.

FOR FURTHER INFORMATION CONTACT: Gary Allo, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 09–01, Payment Default Report.

OMB Number: 3048–0028.

Type of Review: Regular.

Need and Use: The information requested enables insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor.

Affected Public

This form affects Insured/guaranteed parties and brokers.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Annual.

Government Expenses

Reviewing time per year: 8.3 hours.

Average Wages per Hour: $42.50.

*Average Cost per Year (time * wages):* $354.02.

Benefits and Overhead: 20%.

Total Government Cost: $424.83.

Bassam Doughman,

IT Specialist.

[FR Doc. 2019–26415 Filed 12–6–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2019–3029]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and final comments request.

Form Title: EIB 92–51 Application for Special Buyer Credit Limit under the Multi-Buyer Export Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (EXIM Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The Application for Special Buyer Credit Limit under the Multi-Buyer Export Credit Insurance Policy is used by policyholders, the majority of whom are U.S. small businesses, who export U.S. goods and services. This application provides EXIM Bank with the credit information necessary to make a determination of eligibility of a transaction for EXIM Bank support with a foreign buyer credit request and to obtain legislatively required assurance of repayment and fulfills other statutory requirements. The application can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib-92-51.pdf* Application for Special Buyer Credit Limit Multi-buyer Credit Insurance Policy.

DATES: Comments should be received on or before January 8, 2020 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038. Attn: OMB 3048–0015.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–51 Application for Special buyer credit Limit Multi-buyer Credit Insurance Policy.

OMB Number: 3048–0015.

Type of Review: Regular.

Need and Use: The information requested enables the applicant to provide EXIM Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

The only changes to this form are to have the summary of credit experience with the buyer mirror the questions of our computer-based program: Ex-Im online. No new information is being collected.

Affected Public

This form affects entities involved in the export of U.S. goods and services.

The number of respondents: 4,300.

Estimated time per respondents: 25 minutes.

The frequency of response: As needed.

Annual hour burden: 1,792 total hours.

Government Expenses

Reviewing time per hour: 1 hour.

Responses per year: 4,300.

Reviewing time per year: 4,300 hours.

Average Wages per hour: $42.50.

*Average cost per year (time * wages):* $182,750.

Benefits and overhead: 20%.

Total Government Cost: $219,300.

Bassam Doughman,

Project Manager, Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–26414 Filed 12–6–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2019–3027]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 12–02 Credit Guarantee Facility Disbursement Approval Request.

SUMMARY: The Export-Import Bank of the United States (EXIM Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM Bank has an electronic disbursement approval processing system for guaranteed lenders with Credit Guarantee Facilities. After a Credit Guarantee Facility (CGF) has been authorized by EXIM Bank and legal documentation has been completed, the lender will obtain and review the required disbursement documents (*e.g.,* invoices, bills of lading, Exporter's Certificate, etc.) and will disburse the proceeds of the loan for eligible goods and services. In order to obtain approval of the disbursement, the lender will access and complete an electronic questionnaire through EXIM Bank's online application system (EXIM Online). Using the form, the lender will input key data and request EXIM Bank's approval of the disbursement. EXIM Bank's action (approved or denied) is posted on the lender's history page.

The information collected in the questionnaire will assist EXIM Bank in determining that each disbursement under a Medium-Term Guarantee meets all the terms and conditions for approval.

The information collection tool can be reviewed at: *http://exim.gov/sites/default/files/pub/pending/eib12-02.pdf.*

DATES: Comments must be received on or before January 8, 2020 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to

Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048–0046.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 12–02 Credit Guarantee Facility Disbursement Approval Request.

OMB Number: 3048–0046.

Type of Review: Regular.

Need and Use: The information requested enables EXIM Bank to determine that a disbursement under a Credit Guarantee Facility meets all of the terms and conditions for approval.

Affected Public

This form affects lenders involved in the financing of U.S. goods and services exports.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 60 minutes.

Annual Burden Hours: 50 hours.

Frequency of Reporting of Use: Annual.

Government Expenses

Reviewing time per year: 25 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $1,062.50 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $1,275.

Bassam Doughman,

IT Project Manager.

[FR Doc. 2019–26413 Filed 12–6–19; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0110; FRS 16299]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 7, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0110.

Title: FCC Form 2100, Application for Renewal of Broadcast Station License, LMS Schedule 303–S.

Form Number: FCC 2100, LMS Schedule 303–S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Governments.

Number of Respondent and Responses: 5,126 respondents, 5,126 responses.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Estimated Time per Response: 1.2–12 hours.

Frequency of Response: Every eight-year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 13,554 hours.

Total Annual Costs: $5,786.268.

Obligation of Response: Required to obtain or retain benefits. The statutory authority for the collection is contained Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Licensing Management System (LMS) Form Schedule 303–S is used in applying for renewal of license for commercial or noncommercial AM, FM, TV, FM translator, TV translator, Class A TV, or Low Power TV, and Low Power FM broadcast station licenses. Licensees of broadcast stations must apply for renewal of their licenses every eight years. The Commission is revising this collection to reflect the adoption of a Report and Order (''R&O'') in MB Docket No. 17–105 and 12–202, FCC 19–67, In the Matter of Children's Television Programming Rules; Modernization of Media Regulation Initiative, adopted and released on July 10, 2019. The R&O modernizes the children's television programming rules in light of changes to the media landscape that have occurred since the rules were first adopted. Among other revisions, the R&O revises the children's television programming rules to expand the Core Programming hours to 6:00 a.m. to 10:00 p.m.; modify the safe harbor processing guidelines for determining compliance with the children's programming rules; requires that broadcast stations air the substantial majority of their Core Programming on their primary program streams, but permit broadcast stations to air up to 13 hours per quarter of regularly scheduled weekly programming on a multicast stream; eliminates the additional processing guideline applicable to stations that multicast; and modify the rules governing preemption of Core Programming. In addition, the R&O eliminates the requirements that the reports include information describing the educational and informational purpose of each Core Program aired during the current reporting period and each Core Program that the licensee expects to air during the next reporting period; eliminating the requirement to identify the program guide publishers who were sent information regarding the licensee's Core Programs; and streamlining the form by eliminating certain fields. The R&O also eliminates the requirement to publicize the Children's Television Programming Reports.

Accordingly, we are revising FCC Form 2100, 303–S in order to clarify the new requirements in accordance with the aforementioned R&O.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–26449 Filed 12–6–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
4382	Citytrust	Bridgeport	CT	12/1/2019
10356	Nexity Bank	Birmingham	AL	12/1/2019

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

Authority: 12 U.S.C. 1819.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on December 3, 2019.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–26417 Filed 12–6–19; 8:45 am]

BILLING CODE 6714–01–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, if any, 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)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 8, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Peoples Bankshares LTD., Pratt, Kansas;* to acquire Osborne Investments, Inc., and thereby indirectly acquire The Farmers Bank of Osborne, Kansas, both of Osborne, Kansas.

Board of Governors of the Federal Reserve System, December 4, 2019.

Yao-Chin Chao

Assistant Secretary of the Board.

[FR Doc. 2019–26474 Filed 12–6–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Request for Information: Family Caregiving Advisory Council

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administrator of the Administration for Community Living and the Advisory Council to Support Grandparents Raising Grandchildren seek information to be used in the development of the Initial Report, as required by the Supporting Grandparents Raising Grandchildren Act.

DATES: Comments on the request for information must be submitted by 11:59 p.m. (EST) December 9, 2019.

ADDRESSES: You may submit information here: *https://acl.gov/form/sgrg-form.*

SUPPLEMENTARY INFORMATION: The Administration for Community Living is requesting information to assist the Advisory Council to Support Grandparents Raising Grandchildren (the Advisory Council) in the development of an initial Report to Congress. Per the ''Supporting Grandparents Raising Grandchildren Act,'' the initial Report to Congress ''shall include best practices, resources, and other useful information for grandparents and other older relatives raising children'' including, if applicable, any information related to the needs of children who have been impacted by the opioid epidemic; an identification of any gaps in resources or information; as well as considerations of the needs of members of Native American tribes.

Please Note: This request is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of the federal government or the Administration for Community Living (ACL). ACL does not intend to make any grant or contract awards based on responses to this invitation, or to otherwise pay for the preparation of any information submitted or for the government's use of such information.

ACL is not authorized to receive personally identifiable information through this public comment opportunity, beyond the contact information of the person submitting input. Please do not include any other personally identifiable information in your comment. For example, do not include the name, address, phone

number or Social Security number of any individual you believe has experienced abuse, neglect or financial exploitation. We will immediately delete and not review any submission that includes personally identifiable information.

Through this Request for Information (RFI), ACL is seeking the following:

- Information, resources, programs and/or best practices you are aware of to help grandparents, other relatives, kinship caregivers and the children they care for:
  - Meet the mental/physical health, educational or nutritional needs of those for whom they provide care.
  - Address other pressing concerns such as legal assistance, financial support and affordable housing associated with this population of caregivers and care recipients.
  - Meet the needs of grandparents, older relatives, kinship caregivers and/or children impacted by the opioid epidemic or related concerns (*e.g.,* fetal alcohol syndrome, chemical exposures, etc.).
  - Meet the needs of Native American tribes.
- Information, resources, programs and/or best practices to help grandparents, older relatives and kinship caregivers maintain their own physical and mental health, and emotional and financial wellbeing.
- Information on gaps and unmet needs that exist with respect to meeting the service and support needs of:
  - Grandparents raising and/or supporting grandchildren.
  - Other older relative or kinship caregivers.
  - Children (under the age of 18) in the care of a grandparent and/or older relative.
- Other recommendations to support grandparents, other relatives or kinship caregivers caring for children.
- Additional Federal legislative authority needed to better support and serve grandparents and older relatives raising children.

How the Information Will Be Used

ACL and the Advisory Council to Support Grandparents Raising Grandchildren are preparing and planning for the Council's future activities, including preparation of an initial Report to Congress as required by the Act. Through this RFI, ACL seeks to gather information from a broad range of public and private stakeholders and entities, Tribal organizations, and individuals and families impacted by the opioid crisis. The information gathered will be synthesized into a report to be submitted to the appropriate Congressional committees, state agencies responsible for carrying out family caregiver support programs; and the public in an online and accessible format.

Background

The ''Supporting Grandparents Raising Grandchildren Act'' (SGRG) became law in 2018. It establishes an Advisory Council to identify, promote, coordinate, and disseminate to the public information, resources, the best practices available to help grandparents and other older relatives meet the health, educational, nutritional, and other needs of the children in their care, maintain their own physical and mental health and emotional well-being. In doing so, the Council is to consider the needs of those affected by the opioid crisis and the needs of members of Native American tribes.

The Secretary has assigned responsibility for implementing the Advisory Council to the Administration for Community Living (ACL). ACL has been at the forefront of efforts to support grandparents and other older relatives raising children better meet the health, educational, nutritional and other needs of the children in their care as well as for the maintenance of their own physical and emotional health, and to consider the needs of those affected by the opioid crisis and the needs of members of Native American tribes.

In addition to the Secretary, the Act provides for inclusion as Council members the Secretary of Education, the Administrator of the Administration for Community Living, the Director of the Centers for Disease Control and Prevention, the Assistant Secretary for Mental Health and Substance Use, the Assistant Secretary for the Administration for Children and Families, a grandparent raising a grandchild, an older relative caregiver of children, as appropriate, the head of other Federal departments, or agencies, identified by the Secretary of Health and Human Services as having responsibilities, or administering programs, relating to current issues affecting grandparents or other older relatives raising children.

The Advisory Council is a federal entity charged with identifying, promoting, coordinating, and disseminating to the public information, resources, and the best practices available to help grandparents and other older relatives meet the health, educational, nutritional, and other needs of the children in their care, maintain their own physical and mental health and emotional well-being, and consider the needs of those affected by the opioid crisis and the needs of members of Native American tribes.

How To Submit a Response to This RFI

Comments should be submitted here.

Submission Due Date

To be assured consideration, all responses to this RFI must be received by 5:00 p.m., EST on Friday, January 31, 2020.

For Further Information

If you have questions about this request, please email them to *SGRG.Act@acl.hhs.gov.* This is a resource mailbox established to receive public input for the Supporting Grandparents Raising Grandchildren Act, and should not be used to request information beyond the scope of this public input opportunity.

Dated: December 2, 2019.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2019–26437 Filed 12–6–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Request for Information: Family Caregiving Advisory Council

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administrator of the Administration for Community Living and the Family Caregiving Advisory Council seek information to be used in the development of the Initial Report, the Family Caregiving Strategy and public listening sessions being planned for 2020.

DATES: Information must be submitted by 11:59 p.m., ESTastern, February 7, 2020.

ADDRESSES: Comments on the request for information must be submitted online at: *https://acl.gov/form/public-input-raise.*

SUPPLEMENTARY INFORMATION: The Administration for Community Living (ACL) is requesting information to: (1) Assist the Family Caregiving Advisory Council (FCAC) in the formulation of goals, objectives and recommendations in support of the development of the Initial Report and the Family Caregiving Strategy (the Strategy); and (2) inform the convening of public listening sessions. The Recognize, Assist, Inform, Support and Engage (RAISE) Family

Caregivers Act of 2017 requires that the Secretary (of HHS) establish a process for public input to inform the development and updating of the Strategy, including a process to submit recommendations to the FCAC and provide public input on the same.

Family caregiving crosses racial, ethnic, socioeconomic, and cultural boundaries. It affects those in rural and urban settings and can span generations in a single household. A robust national strategy to support America's caregivers must take into consideration not only caregivers of older adults, but also those facing long-term care and respite care needs for those of any age resulting from any serious illnesses, conditions or disabilities. The strategy should also address the needs and considerations of caregivers of persons with Alzheimer's disease or a related dementia and people with intellectual or developmental disabilities.

Public Input

Through this RFI, ACL is seeking input from individuals and organizations that capture the breadth of the family caregiving experience. Specifically, we would like to learn from you based on your experience about challenges faced by family caregivers. In this regard, please keep in mind the following:

- All submissions will be considered and reviewed by the Family Caregiving Advisory Council.
- The Council seeks recommendations and actions to optimize solutions for family caregivers for inclusion in the National Strategy. (We may not be able to include all recommendations.)
- If you have multiple needs, concerns and/or recommendations, you may make multiple submissions.
- A *pressing family caregiving need or concern* is something you feel requires consideration for inclusion in the Strategy.
- A *recommendation* proposes a solution to the identified need/concern.
- A *challenge* is a categorization of the recommendation that may be, but not limited to: General, access, finance, health, and other. To the extent possible, please categorize your recommendation as follows: Greater adoption of person/family-centered care; assessment; service planning and/or delivery; care transitions/coordination; information, education, referral, training and advance planning; respite options; financial security; workplace issues; and/or other.

Submission Questions

1. A pressing family caregiving need/concern I would like to see addressed is:
2. I would like to offer this specific recommendation to address my need/concern: The recommendation addresses needed actions that pertain to:

Please Note: This RFI is being issued for information and planning purposes only. It should not be construed as a solicitation or an obligation on the part of the federal government or the Administration for Community Living (ACL). ACL does not intend to issue any grant or contract awards based on responses to this invitation, or to otherwise pay for the preparation of any information submitted or for the government's use of such information. ACL is not authorized to receive personally identifiable information (PII) through this RFI other than the contact information of the person submitting the information. Please do not include any PII in your submission. For example,F do not include names, addresses, phone or Social Security numbers of any individuals. We will immediately delete and not review responses that contain PII.

How the Information Will Be Used

ACL and the FCAC are planning for the Council's future activities, including the preparation of an Initial Report and the Family Caregiving Strategy. Additionally, ACL is developing a series of public listening sessions starting in calendar year 2020 as a way to engage with members of the public, families and family caregivers, stakeholders and other individuals and entities with an interest in understanding and supporting the multi-faceted needs of family caregivers across the age and disability spectrum. The information gathered through this RFI will be used to inform each of these activities and seek feedback from the public where/when appropriate.

Background

The RAISE Family Caregivers Act was signed into law on January 22, 2018. The RAISE Act requires the Secretary of HHS to promote improvement of the Federal, State, and community systems that support family caregivers. The two primary objectives of the RAISE Act are to:

1. Establish a national Family Caregiving Strategy with recommendations for ensuring person- and family-centered care, assessment and service planning, information on accessing hospice and palliative care, respite options, financial security and workplace issues, and delivering services in an effective and efficient manner; and
2. Establish a Family Caregiving Advisory Council of Federal and non-Federal representatives to provide recommendations and identify best practices to recognize and support family caregivers.

Public input is a key expectation of the RAISE Act. This RFI is the first opportunity for ACL to ensure that the activities and products of the FCAC are inclusive of and responsive to, the needs and expectations of a range of stakeholders with an interest in supporting family caregivers.

How To Submit a Response to This RFI

Comments should be submitted online at: *https://acl.gov/form/public-input-raise*.

Submission Due Date

To be assured consideration, all responses to this RFI must be received by 5:00 p.m., EST on February 7, 2020.

For Further Information

If you have questions about this request, please email them to *RAISEAct@acl.hhs.gov*. This is a resource mailbox established to receive public input for the RAISE Act, and should not be used to request information beyond the scope of this public input opportunity.

Dated: December 2, 2019.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2019–26438 Filed 12–6–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–1650]

Magnetic Resonance Coil—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Magnetic Resonance (MR) Coil—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff.'' The device-specific guidance identified in this notice was developed in accordance with the final guidance entitled ''Safety and Performance Based Pathway.'' This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by February 7, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–1650 for ''Magnetic Resonance (MR) Coil—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Magnetic Resonance (MR) Coil—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jason Ryans, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1613, Silver Spring, MD 20993–0002, 301–796–4908.

SUPPLEMENTARY INFORMATION:

I. Background

This draft device-specific guidance document provides performance criteria for premarket notification (510k) submissions to support the optional Safety and Performance Based Pathway, as described in the guidance entitled ''Safety and Performance Based Pathway.'' [1] As described in that guidance, substantial equivalence is rooted in comparisons between new devices and predicate devices. However, the Federal Food, Drug, and Cosmetic Act does not preclude FDA from using performance criteria to facilitate this comparison. If a legally marketed device performs at certain levels relevant to its safety and effectiveness, and a new device meets those levels of performance for the same characteristics, FDA could find the new device as safe and effective as the legally marketed device. Instead of reviewing data from direct comparison testing between the two devices, FDA could support a finding of substantial equivalence with data demonstrating the new device meets the level of performance of an appropriate predicate device(s). Under this optional Safety and Performance Based Pathway, a submitter could satisfy the requirement to compare its device with a legally marketed device by, among other things, independently demonstrating that the device's performance meets performance criteria as established in the above-listed guidance, when finalized, rather than using direct predicate comparison testing for some of the performance characteristics.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on performance criteria for the Safety and Performance Based Pathway for magnetic resonance coils. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if

[1] Available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/safety-and-performance-based-pathway.*

it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Magnetic Resonance (MR) Coil—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff (document number 19011)'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number and complete title to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the following FDA guidance have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket Notification	0910–0120
''Requests for Feedback on Medical Device Submissions: The Q-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-Submissions	0910–0756

Dated: December 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–26470 Filed 12–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–4433]

Development of Locally Applied Corticosteroid Products for the Short-Term Treatment of Symptoms Associated With Internal or External Hemorrhoids; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Development of Locally Applied Corticosteroid Products for the Short-Term Treatment of Symptoms Associated with Internal or External Hemorrhoids.'' This draft guidance will serve as a focus for continued discussions among the Division of Gastroenterology and Inborn Error Products, pharmaceutical sponsors, the academic community, and the public.

DATES: Submit either electronic or written comments on the draft guidance by February 7, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–4433 for ''Development of Locally Applied Corticosteroid Products for the Short-Term Treatment of Symptoms Associated with Internal or External Hemorrhoids.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked

as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Anil Nayyar, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 22, Rm. 5170, Silver Spring, MD 20993–0002, 301–796–7969.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Development of Locally Applied Corticosteroid Products for the Short-Term Treatment of Symptoms Associated with Internal or External Hemorrhoids.'' This draft guidance addresses the recommended attributes of patients for enrollment, efficacy assessments, safety assessments, and additional considerations with respect to development programs and clinical trials for drugs aimed at the short-term treatment of symptoms associated with internal and external hemorrhoids.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Development of Locally Applied Corticosteroid Products for the Short-Term Treatment of Symptoms Associated with Internal and External Hemorrhoids.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 312 have been approved under OMB control number 0910–0014. The collection of information for the protection of human subjects, informed consent, and Institutional Review Boards in 21 CFR parts 50 and 56 have been approved under OMB control numbers 0910–0755 and 0910–0130. The information collection resulting from ''GFI: Clinical Trial Data Monitoring Committees'' has been approved under OMB control number 0910–0581. The information collection in the ''Oversight of Clinical Investigations: A Risk-Based Approach to Monitoring'' has been approved under OMB control number 0910–0733.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: December 4, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–26464 Filed 12–6–19; 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; Data Collection Tool for State Offices of Rural Health Grant Program, OMB No. 0915–0322—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with 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. OMB may act on HRSA's ICR only after the 30-day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than January 8, 2020.

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: Data Collection Tool for State Offices of Rural Health Grant Program, OMB No. 0915–0322—Revision.

Abstract: The mission of the Federal Office of Rural Health Policy (FORHP) is to sustain and improve access to quality care services for rural communities. In its authorizing language (Section 711 of the Social Security Act [42 U.S.C. 912]), Congress charged FORHP with administering grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health care in rural areas. In accordance with the Public Health Service Act, Section 338J (42 U.S.C. 254r), HRSA proposes to continue the State Offices of Rural Health (SORH) Grant Program data collection process.

A 60-day notice published in the **Federal Register** on June 28, 2019, vol. 84, No. 125; pp. 31073–74. There were no public comments.

Need and Proposed Use of the Information: FORHP seeks to continue gathering information from grantees on their efforts to provide technical assistance to clients within their State. SORH grantees submit a Technical Assistance Report that includes: (1) The total number of technical assistance encounters provided directly by the grantee, and (2) the total number of unduplicated clients that received direct technical assistance from the grantee. These measures will continue with additional measures being added in the following three categories: (1) Information disseminated; (2) information created; and (3) collaborative efforts by topic area and

type of audience. These proposed new measures are being added to obtain a more accurate depiction of the breadth of SORH work and are based on recommendations from the grantees. Submission of the Technical Assistance Report is submitted via the HRSA Electronic Handbook no later than 30 days after the end of each 12 month budget period.

Likely Respondents: Fifty State Offices of Rural Health.

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
Technical Assistance Report	50	1	50	13.5	675
Total	50		50		675

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–26440 Filed 12–6–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a meeting. The meeting will be open to the public. For this meeting, the TBDWG will (1) hear presentations from eight subcommittees on findings and potential actions from reports prepared for the TBDWG to consider and (2) further discuss plans for developing the next report to the HHS Secretary and Congress on federal tick-borne activities and research, taking into consideration the 2018 report. The 2020 report will address ongoing tick-borne disease research, including research related to causes, prevention, treatment, surveillance, diagnosis, diagnostics, duration of illness, and intervention for individuals with tick-borne diseases; advances made pursuant to such research; federal activities related to tick-borne diseases; and gaps in tick-borne disease research.

DATES: The meeting will be held on January 28–29, 2020, from 9:00 a.m. to 4:30 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the website for the TBDWG at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-1-28/index.html* when this information becomes available.

ADDRESSES: The meeting will be held at Hyatt Place Washington DC/US Capitol, 33 New York Avenue NE, Washington, DC 20002. Members of the public may also attend the meeting via webcast. Instructions for attending via webcast will be posted one week prior to the meeting at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-1-28/index.html.*

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E Switzer Building, 330 C Street SW, Suite L600, Washington, DC 20024. Email: *tickbornedisease@hhs.gov;* Phone: 202–795–7608.

SUPPLEMENTARY INFORMATION: In-person attendance at the meeting is limited to space available; therefore, preregistration for public members is advisable and can be accomplished by registering at *https://www.eventbrite.com/e/tick-borne-disease-working-group-meeting-january-28-29-2020-meeting-11-tickets-81603750013.* On the day of the meeting, seating will be provided first to persons who have preregistered. People who have not preregistered will be accommodated on a first come, first served basis if additional seats are still available 10 minutes before the meeting starts. Non-U.S. citizens who plan to attend in person are required to provide additional information and must notify the Working Group support staff via email at *tickbornedisease@hhs.gov* before December 28, 2019.

The public will have an opportunity to present their views orally to the TBDWG during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-1-28/index.html* and respond by midnight Tuesday, January 17, 2020, ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the two 30 minute sessions. Written public comments will be accessible to the TBDWG members and made public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: December 3, 2019.

James Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2019–26441 Filed 12–6–19; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice to Announce the National Eye Institute (NEI) Draft Strategic Plan, 2020 Vision for the Future; Request for Information

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to gather broad public input to assist the National Eye Institute (NEI), National Institutes of Health (NIH) in developing its next strategic plan titled, 2020 Vision for the Future. NEI invites input from vison researchers in academia and industry, health care professionals, patient advocates and advocacy organizations, scientific or professional organizations, federal agencies, and other interested members of the public. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and their membership as a whole.

DATES: This Request for Information is open for public comment for a period of 55 days. Comments must be received by January 8, 2020 to ensure consideration.

ADDRESSES: Comments must be submitted at electronically using the web-based form available at *www.nei.nih.gov/form/rfi*.

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to *NEIplan@mail.NIH.gov* and to Nora Wong, 301–496–4308, *nora.wong@NIH.gov*. To learn about strategic planning activities at NEI, please visit *www.nei.nih.gov/about/strategic-planning*.

SUPPLEMENTARY INFORMATION: Last year, NEI celebrated the 50th anniversary since being established by Congress established in 1968. NEI highlighted the multitude of scientific and medical advances made by NEI-supported researchers and the impacts on vision care. Charged to protect and preserve the vision of the American people, NEI continues to support basic and clinical research that unravels the mysteries of how vision works at a fundamental level and provides patients with new therapies and standards of care that maintain and improve quality of life.

The NEI 50th Anniversary also provoked the scientific, medical, and patient communities to reflect upon gaps and opportunities in vision research. The NEI Strategic Plan seeks to distill those reflections into a cohesive document that will guide efforts to address those gaps and opportunities over the next five years. Ultimately, NEI stakeholders provide the catalyst for identifying and implementing the goals. To that end, NEI welcomes feedback from stakeholders in the drafting of the strategic plan.

In accordance with the 21st Century Cures Act, NIH institutes are required to regularly update their strategic plans.

In 2012, NEI released its strategic plan, ''Vision Research: Needs, Gaps, and Opportunities'' ( ), organized around its six core anatomically focused program areas (Retinal Diseases; Corneal Diseases; Lens and Cataract; Glaucoma and Optic Neuropathies; Strabismus, Amblyopia, and Visual Processing; Low Vision and Blindness Rehabilitation). In developing that plan, NEI created panels of scientists and patient representatives for each program. The plan also sparked the Audacious Goals Initiative (AGI), which sought broad-based community input to identify ideas to transform vision research and care. NEI wants to build on some of the ideas generated through AGI and has proposed cross-cutting Areas of Emphasis to organize thinking for the next NEI strategic plan.

NEI is seeking input on the following questions:

- What are the most significant scientific discoveries in vision research since 2012?
- What new opportunities have been enabled by scientific discoveries or technology development?
- What needs and gaps in research, health, and quality-of-life should be addressed by the NEI?

To organize the planning process, NEI has proposed the following seven cross-cutting *Areas of Emphasis* to foster dialogues across traditional vision research disciplines and to best capitalize on recent scientific opportunities. NEI is particularly interested in input relating to these areas of emphasis. However, NEI has always been—and will continue to be—committed to high quality investigator-initiated research and will fund the best science across the broad spectrum of vision research.

Visual System in Health and Disease

- From Genes to Disease Mechanisms
- Biology and Neuroscience of Vision
- Immune System & Eye Health

Capitalizing on Emerging Fields

- Regenerative Medicine
- Data Science

Preventing Vision Loss and Enhancing Well-Being

- Individual Quality of Life
- Public Health & Disparities Research

To ensure consideration, responses must be submitted electronically using the web-based form available at *www.nei.nih.gov/form/rfi*. Responses to this RFI are voluntary and may be submitted anonymously. Providing contact information is optional. Therefore, the web form may not provide confirmation of response submission. Please do not include any personally identifiable or other information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in responses. Comments submitted will be compiled for discussion and incorporated into the strategic plan as appropriate. Any personal identifiers (personal names, email addresses, etc.) will be removed when responses are compiled.

This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the United States (U.S.) Government to provide support for any ideas identified in response to it. Please note that the U.S Government will not pay for the preparation of any information submitted or for use of that information.

The responses will be reviewed by NIH staff, and individual feedback will not be provided to any responder. The Government will use the information submitted in response to this RFI at its discretion. The Government reserves the right to use any submitted information on public NIH websites, in reports, in summaries of the state of the science, in any possible resultant solicitation(s), grant(s), or cooperative agreement(s), or in the development of future funding opportunity announcements.

Dated: December 3, 2019.

Shefa Gordon,

Associate Director for Science Policy and Legislation, National Eye Institute, National Institutes of Health.

[FR Doc. 2019–26451 Filed 12–6–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 19–12]

Western Hemisphere Travel Initiative: Designation of an Approved Native American Tribal Card Issued by the Puyallup Tribe of Indians as an Acceptable Document To Denote Identity and Citizenship for Entry in the United States at Land and Sea Ports of Entry

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Commissioner of U.S. Customs and Border Protection is designating an approved Native American tribal card issued by the Puyallup Tribe of Indians to U.S. and Canadian citizens as an acceptable travel document for purposes of the Western Hemisphere Travel Initiative. The approved card may be used to denote identity and citizenship of Puyallup Tribe of Indians members entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

DATES: This designation will become effective on December 9, 2019.

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, Executive Director, Planning, Program Analysis, and Evaluation, Office of Field Operations, U.S. Customs and Border Protection, via email at *Colleen.M.Manaher@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Western Hemisphere Travel Initiative

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108–458, as amended, required the Secretary of Homeland Security (Secretary), in consultation with the Secretary of State, to develop and implement a plan to require U.S. citizens and individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)) to present a passport or other document or combination of documents as the Secretary deems sufficient to denote identity and citizenship for all travel into the United States. *See* 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of State promulgated a joint final rule, effective on June 1, 2009, that implemented the plan known as the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. *See* 73 FR 18384 (the WHTI Land and Sea Final Rule). It amended various sections in the Code of Federal Regulations (CFR), including 8 CFR 212.0, 212.1, and 235.1. The WHTI Land and Sea Final Rule specifies the documents that U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico are required to present when entering the United States at land and sea ports of entry.

Under the WHTI Land and Sea Final Rule, one type of citizenship and identity document that may be presented upon entry to the United States at land and sea ports of entry from contiguous territory or adjacent islands [1] is a Native American tribal card that has been designated as an acceptable document to denote identity and citizenship by the Secretary, pursuant to section 7209 of IRTPA. Specifically, 8 CFR 235.1(e), as amended by the WHTI Land and Sea Final Rule, provides that upon designation by the Secretary of Homeland Security of a United States qualifying tribal entity document as an acceptable document to denote identity and citizenship for the purposes of entering the United States, Native Americans may be permitted to present tribal cards upon entering or seeking admission to the United States according to the terms of the voluntary agreement entered between the Secretary of Homeland Security and the tribe. It provides that the Secretary of Homeland Security will announce, by publication of a notice in the **Federal Register**, documents designated under this paragraph. It further provides that a list of the documents designated under this section will also be made available to the public.

A United States qualifying tribal entity is defined as a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards. *See* 8 CFR 212.1.[2] Native American tribal cards are also referenced in 8 CFR 235.1(b), which lists the documents U.S. citizens may use to establish identity and citizenship when entering the United States. *See* 8 CFR 235.1(b)(7).

The Secretary has delegated to the Commissioner of U.S. Customs and Border Protection (CBP) the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including certain United States Native American Tribal Cards. *See* DHS Delegation Number 7105 (Revision 00), dated January 16, 2009.

Tribal Card Program

The WHTI Land and Sea Final Rule allowed U.S. federally recognized Native American tribes to work with CBP to enter into agreements to develop tribal ID cards that can be designated as acceptable to establish identity and citizenship when entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP has been working with various U.S. federally recognized Native American tribes to facilitate the development of such cards.[3] As part of the process, CBP will enter into one or more agreements with a U.S. federally recognized tribe that specify the requirements for developing and issuing WHTI-compliant Native American tribal cards, including a testing and auditing process to ensure that the cards are produced and issued in accordance with the terms of the agreements.

After production of the cards in accordance with the specified requirements, and successful testing and auditing by CBP of the cards and program, the Secretary of Homeland Security or the Commissioner of CBP may designate the Native American tribal card as an acceptable WHTI-compliant document for the purpose of establishing identity and citizenship when entering the United States by land or sea from contiguous territory or adjacent islands. Such designation will be announced by publication of a notice in the **Federal Register**. More information about WHTI-compliant documents is available at *www.cbp.gov/travel.*

The Pascua Yaqui Tribe of Arizona became the first Native American tribe to have its Native American tribal card designated as a WHTI-compliant document by the Commissioner of CBP. This designation was announced in a notice published in the **Federal Register** on June 9, 2011 (76 FR 33776). Subsequently, the Commissioner of CBP announced the designation of several other Native American tribal cards as WHTI compliant documents. *See, e.g.,* the Native American tribal cards of the

[1] ''Adjacent islands'' is defined in 8 CFR 212.0 as ''Bermuda and the islands located in the Caribbean Sea, except Cuba.'' This definition applies to 8 CFR 212.1 and 235.1.

[2] This definition applies to 8 CFR 212.1 and 235.1.

[3] The Native American tribal cards qualifying to be a WHTI-compliant document for border crossing purposes are commonly referred to as ''Enhanced Tribal Cards'' or ''ETCs.''

Kootenai Tribe of Idaho, 77 FR 4822 (January 31, 2012); the Seneca Nation of Indians, 80 FR 40076 (July 13, 2015); the Hydaburg Cooperative Association of Alaska, 81 FR 33686 (May 27, 2016); and the Pokagon Band of Potawatomi Indians, 82 FR 42351 (September 7, 2017).

Puyallup Tribe of Indians WHTI-Compliant Native American Tribal Card Program

The Puyallup Tribe of Indians (Puyallup Tribe) has voluntarily established a program to develop a WHTI-compliant Native American tribal card that denotes identity and U.S. or Canadian citizenship. On July 10, 2015, CBP and the Puyallup Tribe entered into a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate tribal cards to be used for border crossing purposes. Pursuant to this MOA, the cards are issued to members of the Puyallup Tribe who can establish identity, tribal membership, and U.S. or Canadian citizenship. The cards incorporate physical security features acceptable to CBP as well as facilitative technology allowing for electronic validation of identity, citizenship, and tribal membership by CBP.[4]

CBP has tested the cards developed by the Puyallup Tribe pursuant to the above MOA and related agreements, and has performed an audit of the tribe's card program. On the basis of these tests and audit, CBP has determined that the Native American tribal cards meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports of entry from contiguous territory or adjacent islands.[5] CBP's continued acceptance of the Native American tribal cards as a WHTI-compliant document is conditional on compliance with the MOA and related agreements.

Acceptance and use of the WHTI-compliant Native American tribal cards is voluntary for tribe members. If an individual is denied a WHTI-compliant Native American tribal card, he or she may still apply for a passport or other WHTI-compliant document.

Designation

This notice announces that the Commissioner of CBP designates the Native American tribal card issued by the Puyallup Tribe in accordance with the MOA and all related agreements between the tribe and CBP as an acceptable WHTI-compliant document pursuant to section 7209 of the IRTPA and 8 CFR 235.1(e). In accordance with these provisions, the approved card, if valid and lawfully obtained, may be used to denote identity and U.S. or Canadian citizenship of Puyallup Tribe members for the purposes of entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

Dated: December 2, 2019.

Mark A. Morgan,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2019–26444 Filed 12–6–19; 8:45 am]

BILLING CODE 9111–14–P

[4] In 2017, CBP and the Puyallup Tribe entered into additional agreements related to the MOA. CBP and the Puyallup Tribe entered into a Service Level Agreement (SLA) on May 4, 2017, concerning technical requirements and support for the production, issuance, and verification of the Native American Tribal Cards. CBP and the Puyallup Tribe also entered into an Interconnection Security Agreement on July 28, 2017, with respect to individual and organizational security responsibilities for the protection and handling of unclassified information.

[5] The Native American tribal card issued by the Puyallup Tribe may not, by itself, be used by Canadian citizen tribal members to establish that they meet the requirements of section 289 of the Immigration and Nationality Act (INA) [8 U.S.C. 1359]. INA § 289 provides that nothing in this title shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race. While the tribal card may be used to establish a card holder's identity for purposes of INA § 289, it cannot, by itself, serve as evidence of the card holder's Canadian birth or that he or she possesses at least 50% American Indian blood, as required by INA § 289.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs & Border Protection

Modifications to the Section 321 Data Pilot

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: On July 23, 2019, U.S. Customs and Border Protection (CBP) published a general notice in the **Federal Register** (84 FR 35405) announcing the Section 321 Data Pilot, a voluntary pilot in which participants agree to electronically transmit certain advance data elements related to *de minimis* value shipments potentially eligible for release under section 321 of the Tariff Act of 1930, as amended. The purpose of the pilot is to improve CBP's ability to effectively and efficiently identify and target high-risk shipments, including for narcotics, counter-proliferation, and health and safety risks, in the e-commerce environment. This notice announces that CBP is modifying the Section 321 Data Pilot to include shipments arriving by ocean and to include international mail shipments. This notice also modifies the provisions governing misconduct under the pilot and extends the duration of the pilot an additional twelve months (through August 2021).

DATES: The voluntary pilot began on August 22, 2019, and will run for a total of approximately 24 months, through August 2021. CBP will accept applications from prospective pilot participants at any time until CBP has identified a sufficient number of eligible participants. At this time, the pilot is limited to a maximum of nine participants.

ADDRESSES: Prospective pilot participants should submit an email to *e-commercesmallbusinessbranch@cbp.dhs.gov.* In the subject line of your email please indicate ''Application for Section 321 Data Pilot.'' For information on what to include in the email, see section II.D (Application Process and Acceptance) of the notice published in the **Federal Register** on July 23, 2019 (84 FR 35405).

FOR FURTHER INFORMATION CONTACT: Laurie Dempsey, Director, IPR & E-Commerce Division at *laurie.b.dempsey@cbp.dhs.gov* or 202–615–0514 and Daniel Randall, Branch Chief, Manifest & Conveyance Security at 202–344–3282.

SUPPLEMENTARY INFORMATION:

I. Section 321 Data Pilot

On July 23, 2019, CBP published a general notice in the **Federal Register** (84 FR 35405) (hereafter referred to as the July 2019 notice) announcing the voluntary Section 321 Data Pilot. Participants in the Section 321 Data Pilot agree to electronically transmit certain data elements related to *de minimis* value shipments potentially eligible for release under section 321 of the Tariff Act of 1930, as amended (''section 321 shipments''). Section 321 provides for an administrative exemption from duty and taxes for shipments of merchandise imported by one person on one day having an aggregate fair retail value in the country of shipment of an amount specified by the Secretary by regulation, but not less than $800. The July 2019 notice provided a description of the Section 321 Data Pilot, the eligibility requirements, and the application process for participation.

The Section 321 Data Pilot is intended to improve CBP's ability to effectively and efficiently assess the security risks of shipments potentially eligible for

release under section 321 of the Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(C)). The Section 321 Data Pilot tests the feasibility of collecting data elements, beyond those currently required by regulations, and of collecting data from non-traditional entities, such as online marketplaces. The July 2019 notice stated that the pilot would initially be limited to 9 participants and invited participation from all stakeholders in the e-commerce environment, including carriers, brokers, freight forwarders, and online marketplaces. Pilot participants agree to electronically transmit certain advance data elements to CBP regarding section 321 shipments arriving by air, truck, or rail. CBP excluded from the scope of the pilot shipments arriving by ocean, mail shipments covered by 19 CFR part 145, and shipments destined for a Foreign Trade Zone. CBP uses the advance information transmitted through the pilot to identify and target high-risk shipments, including for narcotics, counter-proliferation, and health and safety risks. The results of the Section 321 Data Pilot will help CBP determine whether additional mandatory advance reporting requirements are necessary in the e-commerce environment.

II. Modifications to the Section 321 Data Pilot

This notice announces that CBP is modifying the Section 321 Data Pilot to include shipments arriving by ocean and international mail shipments. This document also modifies the provisions governing misconduct under the pilot and extends the duration of the pilot an additional twelve months.

A. Expansions of the Section 321 Data Pilot To Include Shipments Arriving by Ocean

In the July 2019 notice, CBP stated that the pilot applied to section 321 shipments arriving in the United States by air, truck, or rail. CBP is now expanding the pilot to include shipments arriving by ocean.

As described in detail in the July 2019 notice, CBP receives certain advance electronic data for shipments arriving in the United States by ocean. For example, regulations promulgated pursuant to the Trade Act of 2002 (Pub. L. 107–210, 116 Stat. 933 (Aug. 6, 2002)) require ocean carriers to transmit for each shipment the shipper's name and address, the consignee name and address, a description of the cargo, including the cargo's quantity and weight, and information regarding the vessel's voyage, including carrier code, date of arrival, and point of origin. *See* 19 CFR 4.7a. Additionally, regulations promulgated pursuant to the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 120 Stat. 1884, October 13, 2006 (SAFE Port Act)) require importers and carriers to submit additional data before the cargo is brought to the United States. *See* 19 CFR part 149 (Importer Security Filing or ISF regulations). The data required by the ISF regulations include name and address of the seller, buyer, and manufacturer or supplier, the consignee identifying number, the ship to party (the first deliver-to-party scheduled to receive goods after the goods have been released from custody), country of origin, Harmonized Tariff Schedule of the United States (HTSUS) number, container stuffing location, and the name and address of the consolidator. 19 CFR 149.3(a).

These existing regulatory requirements do not provide CBP with the information necessary to effectively and efficiently assess the security risks of section 321 shipments arriving by ocean. This is because they generally apply to carriers and importers, who may not possess all of the relevant information relating to an e-commerce shipment's supply chain. In addition, the required information does not always adequately identify the entity causing the shipment to cross the border, the final recipient, or the contents of the package. For instance, under the ISF regulations, an importer may list a domestic deconsolidator as the ''ship to party''. There is no specific requirement to identify the final recipient of the shipment in the United States. This hinders CBP's ability to effectively target or identify high-risk shipments and CBP officers must use additional time and resources to inspect section 321 shipments. Expansion of the Section 321 Data Pilot to include shipments arriving by ocean will enable CBP to more effectively target or identify high-risk shipments by requiring additional data elements related to such shipments.

Such expansion will also enable CBP to test the feasibility of collecting advance data from typically non-regulated entities utilizing ocean transportation. It will also enable CBP to collect data regarding additional relevant shipments. Based on the initial operation of the pilot, CBP has learned that many e-commerce entities utilize all modes of transportation and that excluding ocean shipments from the pilot would exclude a substantial number of relevant shipments of potential participants. By expanding the scope of the pilot to include all modes of shipment (air, rail, truck, and ocean), the results of the pilot will be more relevant to possible future regulatory effects, trade facilitation benefits, or other initiatives in the e-commerce environment as a whole. For these reasons, CBP is expanding the Section 321 Data Pilot to include shipments arriving in the United States by ocean.

B. Expansion of the Section 321 Data Pilot To Include International Mail Shipments

The July 2019 notice stated that the Section 321 Data Pilot would not apply to mail shipments covered by 19 CFR part 145. Part 145 applies to mail importations that are subject to Customs examination. CBP has determined that excluding these mail shipments from the pilot decreases CBP's ability to develop strategies for section 321 shipments as a whole because it is common in the e-commerce environment for entities to use international mail to ship section 321 shipments. CBP has also learned through the initial operation of the pilot that excluding international mail shipments may impose an additional burden on pilot participants because they would need to separate data relating to mail shipments from data relating to other section 321 shipments.

Accordingly, CBP is expanding the pilot to include section 321 shipments covered by 19 CFR part 145.[1] (Shipments destined for a Foreign Trade Zone continue to be excluded from the scope of the pilot.)

C. New Misconduct Section

The July 2019 notice included a section VI, entitled ''Misconduct Under the Pilot'', which described the penalties CBP may impose on pilot participants for misconduct and the applicable procedures. CBP is revising the section VI language to clarify that those pilot participants who are unable to provide data elements contemplated by this test will not be subject to civil or criminal penalties, administrative sanctions, or liquidated damages solely for such inability. However, the revised language clarifies that test participants who repeatedly provide false, inaccurate or misleading data will be subject, at CBP's discretion, to civil and criminal penalties, administrative sanctions, liquidated damages or removal from participation. Additionally, the revised

[1] Under current regulations, there is no requirement to submit advance electronic data to CBP for mail shipments. However, section 8003 of the Synthetics Trafficking and Overdose Prevention Act of 2018 (Pub. L. 115–271, 123 Stat. 4073) (STOP Act of 2018), requires CBP to issue regulations requiring the U.S. Postal Service to transmit certain advance electronic data to CBP for international mail shipments. CBP is in the process of drafting those regulations.

language clarifies that CBP may immediately remove a participant from the pilot for the repeated failure to provide data or the repeated submission of false, inaccurate or misleading data. CBP is also replacing the phrase ''discontinuance from participation'' with ''removal from participation'' for clarity. The language below replaces in full the misconduct section in the July 2019 notice and reads as follows:

VI. Misconduct Under the Pilot

A pilot participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or removal from participation in the Section 321 Data Pilot for any of the following:

(1) Failure to follow the rules, terms, and conditions of this pilot;

(2) Failure to exercise reasonable care in the execution of participant obligations; or

(3) Failure to abide by applicable laws and regulations.

Test participants who are unable to provide data elements contemplated by this test will not be subject to civil and criminal penalties, administrative sanctions, or liquidated damages solely for such inability. Test participants who repeatedly provide false, inaccurate or misleading data will be subject, at CBP's discretion, to civil and criminal penalties, administrative sanctions, liquidated damages or removal from participation.

If the Director, Intellectual Property Rights and E-Commerce Division, Office of Trade, finds that there is a basis for removal of pilot participation privileges, the pilot participant will be provided a written notice proposing the removal with a description of the facts or conduct warranting the action. The pilot participant will be offered the opportunity to appeal the decision in writing within 10 calendar days of receipt of the written notice. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing *e-commercesmallbusinessbranch@cbp.dhs.gov.*

The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed removal of a pilot participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the pilot participant.

In cases of willfulness, the repeated failure to provide data, the repeated submission of false, inaccurate or misleading data, or those in which public health, interest, or safety so requires, the Director, Intellectual Property Rights and E-Commerce Division, Office of Trade, may immediately remove the pilot participant's privileges upon written notice to the pilot participant. The notice will contain a description of the facts or conduct warranting the immediate action. The pilot participant will be offered the opportunity to appeal the decision within 10 calendar days of receipt of the written notice providing for immediate removal from participation. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing *ecommercesmallbusinessbranch@cbp.dhs.gov.*

The immediate removal will remain in effect during the appeal period. The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing on the removal within 15 working days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

D. Twelve Month Extension

The Section 321 Data Pilot was originally intended to run for approximately one year. CBP is extending the pilot to run an additional twelve months, through August 2021. The additional time is necessary in order for pilot participants to modify their communication systems in order to execute the provisions of the pilot and for CBP to collect a sufficient amount of data from the participants.

Subject to the amendments herein, all other provisions of the July 2019 notice, except for section ''VI. Misconduct Under the Pilot,'' remain applicable to the Section 321 Data Pilot. CBP reiterates that it is not waiving any regulations for purposes of the pilot. All of the existing regulations, including the Trade Act of 2002 requirements and the ISF regulations described above, continue to apply to pilot participants.

Dated: December 4, 2019.

Robert E. Perez,

Deputy Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2019–26445 Filed 12–6–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to

section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado:					
Adams (FEMA Docket No.: B–1958).	City of Commerce City (19–08–0227P).	The Honorable Sean Ford, Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	City Hall, 5291 East 60th Avenue, Commerce City, CO 80022.	Oct. 30, 2019	080006
Denver (FEMA Docket No.: B–1952).	City and County of Denver (19–08–0639P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	Nov. 8, 2019	080046
Jefferson (FEMA Docket No.: B–1952).	City of Westminster (19–08–0502P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	Nov. 8, 2019	080008
Weld (FEMA Docket No.: B–1958).	Town of Firestone (18–08–1233P).	The Honorable Bobbi Sindelar, Mayor, Town of Firestone, P.O. Box 100, Firestone, CO 80520.	Town Hall, 151 Grant Avenue, Firestone, CO 80520.	Oct. 28, 2019	080241
Weld (FEMA Docket No.: B–1958).	Town of Frederick (18–08–1233P).	The Honorable Tony Carey, Mayor, Town of Frederick, P.O. Box 435, Frederick, CO 80530.	Town Hall, 401 Locust Street, Frederick, CO 80530.	Oct. 28, 2019	080244
Florida:					
Broward (FEMA Docket No.: B–1952).	City of Hollywood (19–04–0557P).	Mr. Wazir Ishmael, Manager, City of Hollywood, 2600 Hollywood Boulevard, Room 419, Hollywood, FL 33022.	Public Utilities Department, 2600 Hollywood Boulevard, Room 308, Hollywood, FL 33022.	Nov. 4, 2019	125113
Hillsborough (FEMA Docket No.: B–1952).	Unincorporated areas of Hillsborough County (19–04–1062P).	Mr. Mike Merrill, Hillsborough County Administrator, 601 East Kennedy Boulevard, Tampa, FL 33602.	Hillsborough County Development Services Department, 1400 North Boulevard, Tampa, FL 33607.	Nov. 4, 2019	120112
Lee (FEMA Docket No.: B–1948).	Town of Fort Myers Beach (19–04–0629P).	The Honorable Anita Cereceda, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Oct. 28, 2019	120673
Lee (FEMA Docket No.: B–1948).	Town of Fort Myers Beach (19–04–1744P).	The Honorable Anita Cereceda, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Oct. 22, 2019	120673
Manatee (FEMA Docket No.: B–1952).	City of Bradenton Beach (19–04–3423P).	The Honorable John Chappie, Mayor, City of Bradenton Beach, 107 Gulf Drive North, Bradenton Beach, FL 34217.	Building Department, 107 Gulf Drive North, Bradenton Beach, FL 34217.	Nov. 12, 2019	125091

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Monroe (FEMA Docket No.: B–1952).	City of Marathon (19–04–3625P).	The Honorable John Bartus, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	Nov. 12, 2019	120681
Monroe (FEMA Docket No.: B–1948).	Unincorporated areas of Monroe County (19–04–3275P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 28, 2019	125129
Monroe (FEMA Docket No.: B–1952).	Unincorporated areas of Monroe County (19–04–3471P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Nov. 4, 2019	125129
Monroe (FEMA Docket No.: B–1952).	Village of Islamorada (19–04–3477P).	The Honorable Deb Gills, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	Nov. 12, 2019	120424
Orange (FEMA Docket No.: B–1948).	City of Ocoee (19–04–0035P).	The Honorable Rusty Johnson, Mayor, City of Ocoee, 150 North Lakeshore Drive, Ocoee, FL 34761.	Planning and Zoning Division, 150 North Lakeshore Drive, Ocoee, FL 34761.	Nov. 4, 2019	120185
Sarasota (FEMA Docket No.: B–1952).	Unincorporated areas of Sarasota County (19–04–2523P).	The Honorable Charles D. Hines, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Nov. 12, 2019	125144
North Carolina: Surry (FEMA Docket No.: B–1939).	City of Mount Airy (18–04–4879P).	The Honorable David Rowe, Mayor, City of Mount Airy, 300 South Main Street, Mount Airy, NC 27030.	City Hall, 300 South Main Street, Mount Airy, NC 27030.	Sep 12, 2019	370226
Pennsylvania:					
Lancaster (FEMA Docket No.: B–1958).	Township of East Lampeter (19–03–1025P).	Mr. Ralph Hutchison, Manager, Township of East Lampeter, 2250 Old Philadelphia Pike, Lancaster, PA 17602.	Planning, Zoning and Building Department, 2250 Old Philadelphia Pike, Lancaster, PA 17602.	Oct. 28, 2019	421771
Lancaster (FEMA Docket No.: B–1958).	Township of Leacock (19–03–1025P).	The Honorable Frank Howe, Chairman, Township of Leacock Board of Supervisors, P.O. Box 558, Intercourse, PA 17534.	Zoning Department, 3545 West Newport Road, Intercourse, PA 17534.	Oct. 28, 2019	420958
Lancaster (FEMA Docket No.: B–1958).	Township of Paradise (19–03–1025P).	The Honorable Donald L. Ranck, Chairman, Township of Paradise Board of Supervisors, P.O. Box 40, Paradise, PA 17562.	Zoning Department, 2 Township Drive, Paradise, PA 17562.	Oct. 28, 2019	421777
Union (FEMA Docket No.: B–1952).	Borough of Lewisburg (18–03–1763P).	The Honorable Judith T. Wagner, Mayor, Borough of Lewisburg, 127 Spruce Street, Lewisburg, PA 17837.	Borough Hall, 55 South 5th Street, 127 Spruce Street, Lewisburg, PA 17837.	Nov. 12, 2019	480831
Union (FEMA Docket No.: B–1952).	Township of East Buffalo (18–03–1763P).	The Honorable Char Gray, Chairman, Township of East Buffalo Board of Supervisors, 589 Fairground Road, Lewisburg, PA 17837.	Township Hall, 589 Fairground Road, Lewisburg, PA 17837.	Nov. 12, 2019	421011
South Carolina: Lexington (FEMA Docket No.: B–1948).	Unincorporated areas of Lexington County (18–04–6164P).	The Honorable Scott Whetstone, Chairman, Lexington County Council, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	Lexington County Community Development Department, 212 South Lake Drive, Suite 401, Lexington, SC 29072.	Oct. 25, 2019	450129
Texas:					
Bexar (FEMA Docket No.: B–1967).	City of San Antonio (18–06–3650P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Nov. 12, 2019	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Bexar (FEMA Docket No.: B–1958).	City of San Antonio (19–06–0514P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Nov. 4, 2019	480045
Denton (FEMA Docket No.: B–1952).	City of Frisco (19–06–0120P).	The Honorable Jeff Cheney, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Engineering Services Department, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Nov. 12, 2019	480134
Denton (FEMA Docket No.: B–1952).	City of The Colony (19–06–1578P).	The Honorable Joe McCourry, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056.	Engineering Department, 6800 Main Street, The Colony, TX 75056.	Nov. 12, 2019	481581
Denton (FEMA Docket No.: B–1952).	Town of Little Elm (19–06–0120P).	The Honorable David Hillock, Mayor, Town of Little Elm, 100 West Eldorado Parkway, Little Elm, TX 75068.	Development Services Department, 100 West Eldorado Parkway, Little Elm, TX 75068.	Nov. 12, 2019	481152
Denton (FEMA Docket No.: B–1952).	Unincorporated areas of Denton County (19–06–0120P).	The Honorable Andy Eads, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Public Works, Engineering Department, 1505 East McKinney Street, Suite 175, Denton, TX 76201.	Nov. 12, 2019	480774
Harris (FEMA Docket No.: B–1958).	Unincorporated areas of Harris County (19–06–0808P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	Oct. 28, 2019	480287
Potter (FEMA Docket No.: B–1952).	Unincorporated areas of Potter County (19–06–0488P).	The Honorable Nancy Tanner, Potter County Judge, 500 South Fillmore Street, Suite 103, Amarillo, TX 79101.	Potter County Courthouse, 500 South Fillmore Street, Amarillo, TX 79101.	Nov. 4, 2019	481241
Tarrant (FEMA Docket No.: B–1954).	City of Keller (19–06–1585P).	The Honorable Pat McGrail, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	Public Works Department, 1100 Bear Creek Parkway, Keller, TX 76248.	Oct. 24, 2019	480602

[FR Doc. 2019–26420 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1975]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before March 9, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1975, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://*

www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Black Hawk County, Iowa and Incorporated Areas Project: 17–07–0295S Preliminary Date: January 10, 2019	
City of Cedar Falls	City Hall Department of Finance and Business Operations, 220 Clay Street, Cedar Falls, IA 50613.
City of Dunkerton	City Hall, 200 Tower Street, Dunkerton, IA 50626.
City of Elk Run Heights	City Hall, 5042 Lafayette Road, Elk Run Heights, IA 50707.
City of Gilbertville	City Hall, 1321 5th Street, Gilbertville, IA 50634.
City of Hudson	City Hall, 525 Jefferson Street, Hudson, IA 50643.
City of La Porte City	City Hall, 202 Main Street, La Porte City, IA 50651.
City of Raymond	City Hall, 101 1st Street, Raymond, IA 50667.
City of Waterloo	City Hall, 715 Mulberry Street, Waterloo, IA 50703.
Unincorporated Areas of Black Hawk County	Black Hawk County Courthouse, 316 East 5th Street, Waterloo, IA 50703.
Dickinson County, Kansas and Incorporated Areas Project: 17–07–0009S Preliminary Date: August 14, 2019	
City of Abilene	Office of the City Inspector, 419 North Broadway, Abilene, KS 67410.
City of Chapman	City Hall, 466 North Marshall Street, Chapman, KS 67431.
City of Enterprise	City Hall, 206 South Factory Street, Enterprise, KS 67441.
City of Herington	City Office, 17 North Broadway, Herington, KS 67449.
City of Hope	City Office, 113 North Main Street, Hope, KS 67451.
City of Manchester	City Office, 610 Lina Avenue, Manchester, KS 67410.
City of Solomon	City Office, 116 West Main Street, Solomon, KS 67480.
Unincorporated Areas of Dickinson County	Dickinson County Courthouse, 109 East 1st Street, Suite 202, Abilene, KS 67410.
Emmet County, Michigan (All Jurisdictions) Project: 14–05–3357S Preliminary Date: June 4, 2019	
City of Harbor Springs	City Hall, 160 Zoll Street, Harbor Springs, MI 49740.
City of Petoskey	City Hall, 101 East Lake Street, Petoskey, MI 49770.
Little Traverse Bay Bands of Odawa Indians	Little Traverse Bay Bands of Odawa Indians, 7500 Odawa Circle, Harbor Springs, MI 49740.
Township of Bear Creek	Bear Creek Township Hall, 373 North Division Road, Petoskey, MI 49770.
Township of Bliss	Township of Bliss Town Hall, 41 West Lakeview Road, Levering, MI 49755.
Township of Cross Village	Cross Village Township Hall, 5954 Wadsworth Street, Harbor Springs, MI 49740.

Community	Community map repository address
Township of Friendship	Clerk's Office, 88774 Kawegoma Road, Harbor Springs, MI 49740.
Township of Littlefield	Littlefield Township Hall, 7631 Burr Avenue, Alanson, MI 49706.
Township of Little Traverse	Little Traverse Township Hall, 8288 Pleasant View Road, Harbor Springs, MI 49740.
Township of Readmond	Readmond Township Hall, 6034 Wormwood Lane, Harbor Springs, MI 49740.
Township of Resort	Resort Township Hall, 2232 Resort Pike Road, Petoskey, MI 49770.
Township of Wawatam	Wawatam Township Hall, 119 West Etherington Street, Mackinaw City, MI 49701.
Township of West Traverse	West Traverse Township Hall, 8001 M–119, Harbor Springs, MI 49740.
Village of Mackinaw City	Village Hall, 102 South Huron Avenue, Mackinaw City, MI 49701.
Niagara County, New York (All Jurisdictions) **Project: 17–02–0294S Preliminary Date: April 5, 2019**	
City of North Tonawanda	City Hall, 216 Payne Avenue, North Tonawanda, NY 14120.

[FR Doc. 2019–26422 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of May 15, 2020 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov*.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Hendry County, Florida and Incorporated Areas **Docket No.: FEMA–B–1823**	
City of Clewiston	Community Development Department, 121 Central Avenue, Clewiston, FL 33440.
Unincorporated Areas of Hendry County	Hendry County Engineering Department, 99 East Cowboy Way, LaBelle, FL 33935.

Community	Community map repository address
Coffee County, Tennessee and Incorporated Areas Docket No.: FEMA–B–1905	
City of Manchester	City Hall, Health and Codes Department, 200 West Fort Street, Manchester, TN 37355.
Unincorporated Areas of Coffee County	Coffee County Administration Plaza, Zoning and Codes Department, 1329 McArthur Street, Suite 2, Manchester, TN 37355.
Bandera County, Texas and Incorporated Areas Docket No.: FEMA–B–1861	
City of Bandera	City Hall, 511 Main Street, Bandera, TX 78003.
Unincorporated Areas of Bandera County	Bandera County Engineer's Office, 502 11th Street, Bandera, TX 78003.
Kendall County, Texas and Incorporated Areas Docket No.: FEMA–B–1861	
Unincorporated Areas of Kendall County	Kendall County Courthouse, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.
Kerr County, Texas and Incorporated Areas Docket No.: FEMA–B–1861	
Unincorporated Areas of Kerr County	Kerr County Engineering Office, 3766 State Highway 27, Kerrville, TX 78028.
Medina County, Texas and Incorporated Areas Docket No.: FEMA–B–1861	
City of Castroville	City Hall, 1209 Fiorella Street, Castroville, TX 78009.
Unincorporated Areas of Medina County	Medina County Environmental Health Group, 925 Avenue Y, Hondo, TX 78861.

[FR Doc. 2019–26424 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1977]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before March 9, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1977, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or

pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Logan County, Colorado and Incorporated Areas Project: 19–08–0005S Preliminary Date: April 12, 2019	
City of Sterling	Public Works Office, 421 North 4th Street, Sterling, CO 80751.
Town of Crook	Town Hall, 212 4th Street, Crook, CO 80726.
Town of Iliff	Town Hall, 405 West 2nd Avenue, Iliff, CO 80736.
Town of Merino	Town Hall, 208 Colorado Avenue, Merino, CO 80741.
Unincorporated Areas of Logan County	Logan County Planning and Zoning Department, 315 Main Street, Sterling, CO 80751.
Morgan County, Colorado and Incorporated Areas Project: 19–08–0007S Preliminary Date: May 29, 2019	
City of Fort Morgan	Planning and Zoning Office, 710 East Railroad Avenue, Fort Morgan, CO 80701.
Unincorporated Areas of Morgan County	Morgan County Planning and Zoning Department, 231 Ensign Street, Fort Morgan, CO 80701.
Sedgwick County, Colorado and Incorporated Areas Project: 19–08–0008S Preliminary Date: May 29, 2019	
Town of Julesburg	Town Hall, 100 West 2nd Street, Julesburg, CO 80737.
Town of Ovid	Town Hall, 211 Main Street, Ovid, CO 80744.
Town of Sedgwick	Town Hall, 29 Main Avenue, Sedgwick, CO 80749.
Unincorporated Areas of Sedgwick County	Sedgwick County Courthouse, 315 Cedar Street, Julesburg, CO 80737.
Washington County, Colorado and Incorporated Areas Project: 19–08–0009S Preliminary Date: May 29, 2019	
Town of Akron	Town Hall, 245 Main Avenue, Akron, CO 80720.
Town of Otis	Town Hall, 102 South Washington Street, Otis, CO 80743.
Unincorporated Areas of Washington County	Washington County Courthouse, 150 Ash Avenue, Akron, CO 80720.
Gulf County, Florida and Incorporated Areas Project: 11–04–1985S Preliminary Date: May 2, 2016 and August 9, 2019	
City of Port St. Joe	City Hall, 305 Cecil G. Costin, Sr. Boulevard, Port St. Joe, FL 32456.
City of Wewahitchka	City Hall, 318 South 7th Street, Wewahitchka, FL 32465.
Unincorporated Areas of Gulf County	Gulf County Planning Department, 1000 Cecil G. Costin, Sr. Boulevard, Room 312, Port St. Joe, FL 32456.
Northumberland County, Pennsylvania (All Jurisdictions) Project: 15–03–0140S Preliminary Date: April 9, 2019	
Borough of Herndon	Borough Building, 278 North Main Street, Herndon, PA 17830.
Borough of Northumberland	Borough Building, 175 Orange Street, Northumberland, PA 17857.
Borough of Riverside	Borough Building, 415 Dewart Street, Riverside, PA 17868.
Borough of Snydertown	Snydertown Borough Building, 61 South Main Street, Sunbury, PA 17801.

Community	Community map repository address
City of Shamokin	City Hall, 47 East Lincoln Street, Shamokin, PA 17872.
City of Sunbury	Municipal Building, 225 Market Street, Sunbury, PA 17801.
Township of Coal	Municipal Building, 805 West Lynn Street, Coal Township, PA 17866.
Township of Jackson	Jackson Township Hall, 145 Jackson Township Road, Herndon, PA 17830.
Township of Jordan	Jordan Township Building, 444 Jordan Township Road, Herndon, PA 17830.
Township of Lower Augusta	Lower Augusta Township Building, 609 Hallowing Run Road, Sunbury, PA 17801.
Township of Lower Mahanoy	Lower Mahanoy Township Building, 550 Hickory Road, Dalmatia, PA 17017.
Township of Mount Carmel	Township Office, 300 Laurel Street, Mount Carmel, PA 17851.
Township of Point	Point Township Building, 759 Ridge Road, Northumberland, PA 17857.
Township of Ralpho	Ralpho Municipal Building, 206 South Market Street, Suite 1, Elysburg, PA 17824.
Township of Rockefeller	Rockefeller Municipal Building, 538 Seven Points Road, Sunbury, PA 17801.
Township of Rush	Rush Municipal Building, 2303 Center Road, Danville, PA 17821.
Township of Shamokin	Shamokin Township Municipal Building, 138 Old Reading Road, Sunbury, PA 17801.
Township of Upper Augusta	Upper Augusta Township Building, 2087 Snydertown Road, Sunbury, PA 17801.
Township of West Chillisquaque	West Chillisquaque Township Building, 485 Railroad Street, Montandon, PA 17850.
Snyder County, Pennsylvania (All Jurisdictions) Project: 15–03–0140S Preliminary Date: March 29, 2019	
Borough of Selinsgrove	Borough Office, 1 North High Street, Selinsgrove, PA 17870.
Borough of Shamokin Dam	Municipal Building, 42 West 8th Avenue, Shamokin Dam, PA 17876.
Township of Chapman	Chapman Township Municipal Office, 1151 Wagner Hill Road, Port Trevorton, PA 17864.
Township of Monroe	Monroe Township Municipal Building, 39 Municipal Drive, Selinsgrove, PA 17870.
Township of Penn	Penn Township Municipal Building, 228 Clifford Road, Selinsgrove, PA 17870.
Township of Perry	Perry Town Hall, 18 Hoffman Hill Road, Mount Pleasant Mills, PA 17853.
Township of Union	Union Township Municipal Building, 1510 McNess Road, Port Trevorton, PA 17864.

[FR Doc. 2019–26423 Filed 12–6–19; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1978]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Avondale (19–09–1332X).	The Honorable Kenneth N. Weise, Mayor, City of Avondale, 11465 West Civic Center Drive, Avondale, AZ 85323.	Development & Engineering Services Department, 11465 West Civic Center Drive, Avondale, AZ 85323.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 28, 2020	040058
Maricopa	Unincorporated Areas of Maricopa County (19–09–0243P).	The Honorable Bill Gates, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 2020	040037
Maricopa	Unincorporated Areas of Maricopa County (19–09–1332X).	The Honorable Bill Gates, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 28, 2020	040037
Mohave	City of Bullhead City (18–09–2079P).	The Honorable Tom Brady, Mayor, City of Bullhead City, 2355 Trane Road, Bullhead City, AZ 86442.	Public Works Department, 2355 Trane Road, Bullhead City, AZ 86442.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 26, 2020	040125
Yavapai	City of Prescott (19–09–1057P).	The Honorable Greg Mengarelli, Mayor, City of Prescott, 201 South Cortez Street, Prescott, AZ 86303.	Public Works Department, 433 North Virginia Street, Prescott, AZ 86301.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 2, 2020	040098
California:						
Contra Costa ..	City of Brentwood (19–09–0148P).	The Honorable Robert Taylor, Mayor, City of Brentwood, 150 City Park Way, Brentwood, CA 94513.	Community Development, Building Division, 150 City Park Way, Brentwood, CA 94513.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 24, 2020	060439
San Bernardino.	City of San Bernardino (19–09–2084P).	The Honorable John Valdivia, Mayor, City of San Bernardino, 290 North D Street, San Bernardino, CA 92401.	City Hall, 300 North D Street, San Bernardino, CA 92418.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 25, 2020	060281
Florida: Duval	City of Jacksonville (19–04–4237P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 19, 2020	120077
Illinois:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
DuPage	City of West Chicago (19–05–4566P).	The Honorable Ruben Pineda, Mayor, City of West Chicago, 475 Main Street, West Chicago, IL 60185.	City Hall, 475 Main Street, West Chicago, IL 60185.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 2020	170219
DuPage	Unincorporated Areas of DuPage County (19–05–4566P).	The Honorable Dan Cronin, Chairman, DuPage County Board, 421 North County Farm Road, Wheaton, IL 60187.	DuPage County Administration Building, Stormwater Management, 421 North County Farm Road, Wheaton, IL 60187.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 2020	170197
DuPage	Village of Winfield (19–05–4566P).	The Honorable Erik Spande, Village President, Village of Winfield, 27W465 Jewell Road, Winfield, IL 60190.	Village Hall, 27W465 Jewell Road, Winfield, IL 60190.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 2020	170223
Kane	City of Elgin (19–05–0133P).	The Honorable Dave Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL 60120.	Public Works Department, Engineering Department, 150 Dexter Court, Elgin, IL 60120.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 27, 2020	170087
Michigan: Bay	Township of Bangor (19–05–2130P).	The Honorable Glenn Rowley, Supervisor, Township of Bangor, Township Hall, 180 State Park Drive, Bay City, MI 48706.	Township Hall, 180 State Park Drive, Bay City, MI 48706.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 28, 2020	260019
Minnesota:						
Carver	City of Watertown (19–05–1618P).	The Honorable Steve Washburn, Mayor, City of Watertown, City Hall, 309 Lewis Avenue South, Watertown, MN 55388.	City Hall, 309 Lewis Avenue South, Watertown, MN 55388.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 2020	270056
Carver	Unincorporated Areas of Carver County (19–05–1618P).	The Honorable Randy Maluchnik, Board Chairman, Carver County, 600 East 4th Street, Chaska, MN 55318.	Carver County Public Health and Environment, 600 East 4th Street, Chaska, MN 55318.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 6, 202	270049
Nevada:						
Clark	Unincorporated Areas of Clark County (19–09–1583P).	The Honorable Marilyn Kirkpatrick, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89106.	Clark County, Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 21, 2020	320003
Washoe	City of Reno (19–09–0750P).	The Honorable Hillary Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 2, 2020	320020
Washoe	Unincorporated Areas of Washoe County (19–09–0750P).	The Honorable Vaughn Hartung, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 2, 2020	320019
New Jersey:						
Middlesex	Township of Woodbridge (19–02–1082P).	The Honorable John E. McCormac, Mayor, Township of Woodbridge, Township Municipal Building, 1 Main Street, Woodbridge, NJ 07095.	Township Municipal Building, 1 Main Street, Woodbridge, NJ 07095.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 4, 2020.	
Morris	Town of Dover (19–02–0681P).	The Honorable James P. Dodd, Mayor, Town of Dover, 37 North Sussex Street, Dover, NJ 07801.	Engineering Department, 100 Princeton Avenue, Dover, NJ 07801.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 7, 2020	340340
Texas:						
Dallas	City of Dallas (19–06–1433P).	The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	Trinity Watershed Management Department, Floodplain and Drainage Management, 320 East Jefferson Boulevard, Room 307, Dallas, TX 75203.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 26, 2020	480171

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Tarrant	City of Fort Worth (19–06–2078P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 21, 2020	480596
Tarrant	City of Richland Hills (19–06–2078P).	The Honorable Edward Lopez, Mayor, City of Richland Hills, 3200 Diana Drive, Richland Hills, TX 76118.	City Hall, 3200 Diana Drive, Richland Hills, TX 76118.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 21, 2020	480608
Wisconsin:						
Brown	Village of Ashwaubenon (19–05–1474P).	The Honorable Mary Kardoskee, Village President, Village of Ashwaubenon, 2410 South Ridge Road, Green Bay, WI 54304.	Village Hall, 2155 Holmgren Way Ashwaubenon, WI 54304.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 24, 2020	550600
Brown	Unincorporated Areas of Brown County (19–05–1474P).	The Honorable Patrick Moynihan Jr., Board Chairman, Brown County, 305 East Walnut Street, Green Bay, WI 54305.	Brown County Zoning Office, 305 East Walnut Street, Green Bay, WI 54301.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 24, 2020	550020
Ozaukee	Village of Thiensville (19–05–4351X).	The Honorable Van A. Mobley, President, Village of Thiensville Board, Village Hall, 250 Elm Street, Thiensville, WI 53092.	Village Hall, 250 Elm Street, Thiensville, WI 53092.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 21, 2020	550318

[FR Doc. 2019–26421 Filed 12–6–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N111; FXES11140000–189–FF08E00000]

Proposed Upper Santa Ana River Habitat Conservation Plan and Draft Environmental Impact Statement; San Bernardino County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of permit applications and request for public comments; notice of public meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications from the San Bernardino Valley Water Conservation District (District) and the San Bernardino County Flood Control District (SBCFCD) for incidental take permits under the Endangered Species Act. We advise the public of the availability of an accompanying proposed habitat conservation plan (HCP), which covers two federally listed animal species and other covered species, and a draft environmental impact statement (EIS), for public review and comment. The HCP covers activities for water conservation, aggregate mining, recreation, flood control and other public services in San Bernardino County, California. The draft EIS is a joint Environmental Impact Statement/Supplemental Environmental Impact Report (EIS/SEIR). The draft SEIR portion of the joint document was prepared by the District in compliance with the California Environmental Quality Act.

DATES:

Public Comments: We will receive public comments on the HCP and DEIS/SEIR until January 23, 2020. Comments received or postmarked after this date will be considered to the extent practicable.

Meetings: We will conduct two public meetings, both on January 9, 2020. Both meetings are intended to cover the same material. The first meeting is 2–4 p.m., and the second is 6:30–9:30 p.m.

Public Accommodations: We are committed to providing meeting access for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation to Karin Cleary-Rose, TTY 800–877–8339 by close of business on January 6, 2020.

ADDRESSES: *Obtaining Documents:* You may obtain the documents by the following methods.

- *Internet: https://www.fws.gov/carlsbad/HCPs/HCP_Docs.html* or *https://sbvwcd.org.*
- *Public Libraries:* Copies are available for public viewing at the following libraries:
  - A.K. Smiley Library at 125 West Vine St., Redlands, CA.
  - Highland Branch Library, 7863 Central Ave., Highland, CA.
- *San Bernardino Water Conservation District:* Copies are available for public viewing at the San Bernardino Valley Water Conservation District, 1630 W Redlands Blvd., Ste. A, Redlands, CA. Digital copies of the documents will be provided on CD at the District office upon request.

Submitting Comments: You may submit comments by one of the following methods. Please include your contact information.

- *Email: fw8psfwocomments@fws.gov.*
- *U.S. Mail or Hand-Delivery:* Karin Cleary-Rose, Santa Ana River Wash Project, Palm Springs Fish and Wildlife Service Office, 777 E. Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

Meetings: Our scheduled public meetings will take place at the San Bernardino Valley Water Conservation District Office, 1630 West Redlands Avenue, Redlands, CA 92373. See **DATES** and **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Contact either of the two following individuals for more information:

- Karin Cleary-Rose, USFWS, by mail at Palm Springs Fish and Wildlife Office, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262; or via email to *karin_cleary-rose@fws.gov;* or
- Daniel Cozad, San Bernardino Valley Water Conservation District, by mail at 1630 W Redlands Blvd., Ste. A,

Redlands, CA 92373; or via email to *dcozad@sbvwcd.org.*

TTY users can contact the above individuals by calling 800–877–8339.

SUPPLEMENTARY INFORMATION: The San Bernardino Valley Water Conservation District (District, applicant), and the San Bernardino County Flood Control District (SBCFCD, applicant) have each applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit under section 10 (a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). We, the Service, advise the public of the availability of the applicants' proposed habitat conservation plan (HCP), which covers two federally listed animal species and other covered species, and the Service-prepared draft environmental impact statement (EIS), for public review and comment. The HCP covers activities for water conservation, aggregate mining, recreation, flood control and other public services in San Bernardino County, California. The draft EIS is a joint Environmental Impact Statement/Supplemental Environmental Impact Report (EIS/SEIR). The draft SEIR portion of the joint document was prepared by the District in compliance with the California Environmental Quality Act. The draft EIS/SEIR evaluates the direct, indirect, and cumulative impacts of several alternatives for the Service's issuance of ESA permits to applicants. The project area lies within San Bernardino County, primarily in the cities of Highland and Redlands, as well as within the unincorporated County area. The plan area encompasses approximately 4,892 acres. Pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public of the availability of our draft environmental impact statement (EIS), which analyzes several alternatives related to the Service's decision whether to issue incidental take permits in response to the District's and the SBCFCD's applications.

Background

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the ''take'' of fish and wildlife species federally listed as endangered or threatened without special exemption. Take of federally listed fish or wildlife is defined under the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct (16 U.S.C. 1538). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize take that is incidental to and not the purpose of otherwise lawful activities.

Habitat Conservation Plan Covered Activities

The Service is considering the issuance of incidental take permits consistent with the Upper Santa Ana River Wash HCP. The HCP covers two types of activities in the Upper Santa Ana River Wash Plan project area:

- Activities related to the operations and maintenance of existing facilities or land uses already in operation in the Wash, covering an area totaling 166.9 acres; and
- Expansion or enhancement of facilities planned for the Wash area, totaling 634.1 acres.

Habitat Conservation Plan Covered Species

The proposed incidental take permits would cover five species. Incidental take authorization would be provided under the permits for the wildlife species; the plant species are included in recognition of the conservation measures provided under the HCP and to provide No Surprises assurances to the applicants for the covered plants under 50 CFR 17.22(b)(5). The applicant's HCP includes the following species:

Species	Federal listing status
Coastal California gnatcatcher (*Polioptila californica californica*)	Threatened.
San Bernardino kangaroo rat (*Dipodomys merriami parvus*)	Endangered.
Cactus wren (*Campylorhynchus brunneicapillus*)	Not listed.
Santa Ana River woolly-star (*Eriastrum densifolium* ssp. *sanctorum*)	Endangered.
Slender-horned spineflower (*Dodecahema leptoceras*)	Endangered.

The HCP proposes conservation measures considered necessary to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental taking of covered species in the HCP.

National Environmental Policy Act Compliance

The draft EIS/SEIR addresses the Federal and local actions in approving and implementing the project, and the proposed issuance of incidental take permits consistent with the HCP. On March 3, 2015 (80 FR 11463), the Bureau of Land Management (BLM) and the U.S Fish and Wildlife Serve (FWS) published a notice of intent to prepare an environmental impact statement, as Federal co-leads, and later hosted two scoping meetings to solicit public comments on the preparation of an Environmental Impact Statement (EIS) to analyze the proposed land exchanges with the San Bernardino Valley Water Conservation District (District) and issuance of incidental take permits by FWS. The land exchange would include up to 400 acres of BLM-managed public lands within the Upper Santa Ana River Wash Area.

On March 12, 2019, the President signed the Natural Resources Management Act (S. 47), which included specific guidelines directing the land exchanges between the BLM and the Conservation District (section 1003). As a result, the BLM no longer has a discretionary action on the land exchange and is withdrawing as the co-lead in the preparation of the EIS. The BLM will now serve as a cooperating agency in the development of this EIS. The BLM is required to implement actions in the legislation to initiate/facilitate the land exchanges, but is no longer required to conduct an analysis under the National Environmental Policy Act.

The FWS will continue to serve as the Federal lead agency in the development of the EIS/SEIR, in collaboration with the District, a political subdivision of the State of California. The District is the lead agency for the SEIR, under the California Environmental Quality Act.

Environmental Impact Statement

The EIS evaluates three alternatives in detail:

''*No action*'' *alternative:* Current management activities would be assumed to continue. The Service would not issue Federal ESA permits to the applicants.

Proposed action: Consistent with the proposed Upper Santa Ana River Wash Plan HCP, the Service issues 30-year ITPs to the applicants for the five covered species, under section 10(a)(1)(B) of the ESA.

''*Action*'' *alternative 1:* The Service would issuance 30-year ITPs to the applicants for four covered species (excluding cactus wren) with reduced conservation, consistent with the 2008 Land Management Plan prepared by the District.

Public Review

Any comments we receive will become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that 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.*) and its implementing regulations (50 CFR 17.22), and NEPA (42 U.S.C. 4321 *et seq.*) and NEPA implementing regulations (40 CFR 1506.6).

Michael Fris,

Assistant Regional Director, Pacific Southwest Region, U.S. Fish and Wildlife Service, Sacramento, California.

[FR Doc. 2019–26478 Filed 12–6–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029195; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Sam Noble Oklahoma Museum of Natural History, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Sam Noble Oklahoma Museum of Natural History at the University of Oklahoma has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organization, 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 Sam Noble Oklahoma Museum of Natural History. If no additional requesters 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: 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 Sam Noble Oklahoma Museum of Natural History at the address in this notice by January 8, 2020.

ADDRESSES: Dr. Marc Levine, Associate Curator of Archaeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.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 Sam Noble Oklahoma Museum of Natural History, Norman, OK. The human remains and associated funerary objects were removed from McIntosh and Wagoner Counties, OK.

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 Sam Noble Oklahoma Museum of Natural History professional staff in consultation with representatives of the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma (hereafter referred to as ''The Tribes'').

History and Description of the Remains

From 1973 to 1976, human remains representing, at minimum, 17 individuals were removed from the Plantation site (34Mi63) in McIntosh County, OK. The site was recorded by the Oklahoma Archeological Survey in 1973 as a part of a survey along Highway 69. Excavations were carried out by the Oklahoma Highway Archeological Survey in 1975, and the associated materials were subsequently turned over to the Museum. The human remains include the mostly complete skeleton of one young adult male, 25–35 years old; the partial skeletons of four adults—one female, two males, and one adult of indeterminate sex—all over 20 years old; and fragmentary skeletons of one adult female over 20 years old; two middle adult males, 35–50 years old; five adults of indeterminate sex, all over 20 years old; one adolescent, 12–20 years old; and three children, 2–7 years old. No known individuals were identified. The 824 associated funerary objects include two charcoal samples, 71 faunal bone fragments, two stone biface fragments, two stone core fragments, 586 stone flakes, two stone projectile points, one stone scraper, four fire cracked rocks, seven stone beads, 96 groundstone fragments, three unmodified sandstone fragments, five daub fragments, 36 ceramic sherds, one reconstructed Williams Plain ceramic vessel, and six soil samples.

Diagnostic artifacts and radiocarbon dates associated with the Plantation site (34Mi63) burials indicate interment during the Mississippian Period, specifically the local Harlan through Spiro phases (A.D. 1100–1450).

Between 1933–1935 and 1947–1948, human remains representing, at minimum, 83 individuals were removed from the Norman site (34Wg2) in Wagoner County, OK. Beginning in 1933, this site, which includes multiple mounds and a habitation area, was excavated three times under the auspices of the University of Oklahoma and with the support of the Works Progress Administration and the Civilian Works Administration. Further excavations were conducted in 1948 as a cooperative project between the University of Oklahoma, the Smithsonian River Basin Surveys, and the Tulsa District of the U.S., Corps of Engineers before the construction of the Fort Gibson Reservoir, which

subsequently flooded most of the site. The associated materials from the site were turned over to the Museum after each excavation season. The human remains include the complete skeletons of two adult females, 20–35 years old; one adult female, 35–50 years old; and one adult male, 20–35 years old. Partial skeletons include one infant, 1–3 years old; three children, 2–12 years old; one adolescent, 15–20 years old; one adult female over 20 years old; two adult females, 20–35 years; four adult females, 35–50 years old; three adults of indeterminate sex, one adult 20–35 years old and two adults 35–50 years old; two adult males over 20 years old; two adult males, 20–35 years old; six adult males, 35–50 years old; one adult male over 50 years old; five adults of indeterminate sex, each over 20 years old. Fragmentary skeletons include one adult female over 20 years old; two adult females, 20–35 years old; one adult female, 35–50 years old; one adult female over 50 years old; two adult males over 20 years old; two adult males, 20–35 years old; four adult males, 35–50 years old; eleven adults of indeterminate sex, each over 20 years old; three adolescents, 12–20 years old; ten children, 2–12 years old; and seven infants, each less than 3 years old. The human remains also include commingled human remains of three individuals discovered among isolated finds and the partial skeleton of an adult of indeterminate sex, over 20 years old. No known individuals were identified. The 1,590 associated funerary objects are three charcoal samples, 87 faunal bone fragments, nine chipped stone flakes, five stone bifaces, 32 stone projectile points, one stone scraper, two stone celts, 12 stone copper-covered ear spools, two decorated stone ear spools, one gray stone ear spool, one mano, one stone pipe, one unmodified sandstone block, two stone abraders, six ochre samples, one stone effigy pipe, three unmodified rocks, one quartzite rock, two copper bodkins (pins), one copper plate with raptor motif, one copper plate fragment with cross and bird motif, one clay bead, 80 decorated ceramic vessels, 311 ceramic decorated sherd fragments, 18 undecorated ceramic vessels, three partially reconstructed undecorated ceramic vessels with 19 associated sherds, 806 undecorated ceramic sherds, one ceramic pipe, three green clay samples, seven clay samples, 12 unidentified fired clay fragments, 76 seeds, 26 shell beads, one shell ornament, 30 shell fragments, one sample of burial matrix, two textile fragments, six cedar wood beads, six wood bodkins, and seven wood fragments.

Diagnostic artifacts and radiocarbon dates associated with the burials from the Norman site indicate interment during the Mississippian Period, specifically the local Harlan and Norman phases (A.D. 1100–1350).

In 1975, human remains representing, at minimum, two individuals were removed from the Mathews site (34Mi71) in McIntosh County, OK. The human remains and associated funerary objects were discovered eroding from the ground surface, and were collected by the Oklahoma Archeological Survey. All of the cultural materials were subsequently transferred to the Museum. The human remains include the fragmentary skeletons of two adults of indeterminate sex, 17–30 years old. No known individuals were identified. The four associated funerary objects are four faunal bone fragments. The Mathews site includes several pre-contact components, from the Late Archaic Period (1500–300 B.C.) through the Mississippian Period (A.D. 1000–1500). The human remains and associated funerary objects were probably interred during the latter period.

All of the human remains detailed in this notice were determined to be Native American based on their archeological context and collection history. Furthermore, all of the human remains and associated funerary objects were most likely buried during the Mississippian Period (A.D. 1000–1500). Diagnostic artifacts from these sites (*e.g.,* ceramics, chipped stone, ground stone, shell, ornaments) are consistent with cultural patterns in the Arkansas River Valley. The archeological data, together with ethnohistoric data, ethnographic data, and tribal oral histories, support the finding that the human remains and associated funerary objects in this notice can be culturally affiliated with the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Determinations Made by the Sam Noble Oklahoma Museum of Natural History

Officials of the Sam Noble Oklahoma Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 102 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2,418 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 that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requesters 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 Dr. Marc Levine, Associate Curator of Archaeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.edu,* by January 8, 2020. 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 Sam Noble Oklahoma Museum of Natural History is responsible for notifying The Tribes that this notice has been published.

Dated: October 24, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–26434 Filed 12–6–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1167]

Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof; Notice of Correction Concerning Commission Determination Not To Review an Initial Determination Granting Complainants' Unopposed Motion To Amend the Complaint, Case Caption, and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Correction of notice.

SUMMARY: Correction is made to notice 84 FR 65174, which was published on November 26, 2019, to replace the investigation number listed as ''337–TA–1100'' in the case caption, with ''337–TA–1167.''

By order of the Commission.

Issued: December 3, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–26462 Filed 12–6–19; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19–080)]

Extension of Comment Period for Draft Supplemental Environmental Impact Statement (SEIS) for Soil Cleanup Activities at the Santa Susana Field Laboratory (SSFL)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Thirty (30) day comment period extension for the SSFL SEIS.

SUMMARY: Notice of Availability (NOA) of the Draft Supplemental Environmental Impact Statement (SEIS) for Soil Cleanup Activities at the Santa Susana Field Laboratory (SSFL) was published in the **Federal Register** by the U.S. Environmental Protection Agency (EPA) on October 25, 2019, (Document Number 2019–23364, pages 57490–57491). The forty-five (45) day comment period is extended for thirty (30) days.

DATES: Interested parties are encouraged to submit comments on environmental issues and concerns related to the Draft SEIS, via email or traditional mail, on or before January 8, 2020. This is a thirty (30) calendar day extension from the original public comment end date.

ADDRESSES: Comments may be submitted via email to *msfc-ssfl-eis@mail.nasa.gov* or by mail to Peter Zorba, SSFL Project Director, 5800 Woolsey Canyon Road, Canoga, Park, CA 91304.

SUPPLEMENTARY INFORMATION: The Draft SEIS is available electronically for public review and comment at *https://www.nasa.gov/feature/environmental-impact-statement-eis-for-demolition-and-environmental-cleanup-activities* and at the following public libraries.

1. Simi Valley Library, 2969 Tapo Canyon Road, Simi Valley, CA 93063, Phone: (805) 526–1735.

2. Platt Library, 23600 Victory Blvd., Woodland Hills, CA 91367, Phone: (818) 340–9386.

3. California State University, Northridge Oviatt Library, 18111 Nordhoff Street, 2nd Floor, Room 265, Northridge, CA 91330, Phone: (818) 677–2285.

4. Department of Toxic Substances Control, 9211 Oakdale Avenue, Chatsworth, CA 91311, Phone: (818) 717–6521.

Calvin F. Williams,

Assistant Administrator for Office of Strategic Infrastructure.

[FR Doc. 2019–26398 Filed 12–6–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–19–0017; NARA–2020–011]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by January 23, 2020.

ADDRESSES: You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001

FOR FURTHER INFORMATION CONTACT: Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers

prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Rural Development Agency, Audits and Investigations (DAA–0572–2019–0001).

2. Department of Health and Human Services, National Institutes of Health, Management Support Records (DAA–0443–2019–0005).

3. Department of Health and Human Services, Office of the Assistant Secretary for Health, Commissioned Corps Officers Records (DAA–0514–2018–0001).

4. Department of Homeland Security, Transportation Security Administration, Program Management Files (DAA–0560–2019–0001).

5. Department of Justice, Office of Policy and Legislation, Policy and Legislation Records (DAA–0060–2018–0005).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2019–26410 Filed 12–6–19; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, December 12, 2019

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's 2020–2021 Budget.
2. NCUA's Rules and Regulations, Risk-Based Capital.
3. 2020 Share Insurance Fund Normal Operating Level.

CONTACT PERSON FOR MORE INFORMATION: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2019–26568 Filed 12–5–19; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Awardee Reporting Requirements for the Established Program To Stimulate Competitive Research (EPSCoR) Research Infrastructure Improvement Programs

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by February 7, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Awardee Reporting Requirements for the Established Program to Stimulate Competitive Research (EPSCoR) Research Infrastructure Improvement Programs.

OMB Number: 3145–0243.

Expiration Date of Approval: January 31, 2020.

Type of Request: Intent to seek approval to renew an information collection.

Proposed Project: The mission of the National Science Foundation (NSF) is to promote the progress of science; to advance the national health, welfare, and prosperity; and to secure the national defense, while avoiding the undue concentration of research and education. In 1977, in response to congressional concern that NSF funding was overly concentrated geographically, a National Science Board task force analyzed the geographic distribution of NSF funds, which resulted in the creation of an NSF Experimental Program to Stimulate Competitive Research (EPSCoR). The American Innovation and Competitiveness Act (Pub. L. 114–329, Sec 103 D) effectively changed the program's name from ''Experimental'' to ''Established'' in FY 2016. Congress specified two objectives for the EPSCoR program in the National Science Foundation Authorization Act of 1988: (1) To assist States that historically have received relatively little Federal research and development funding; and (2) to assist States that have demonstrated a commitment to develop their research bases and improve science and engineering

research and education programs at their universities and colleges.

The EPSCoR Research Infrastructure Improvement (RII) Investment Strategies advance science and engineering capabilities in EPSCoR jurisdictions for discovery, innovation and overall knowledge-based prosperity. These projects build human, cyber, and physical infrastructure in EPSCoR jurisdictions, stimulating sustainable improvements in their Research & Development (R&D) capacity and competitiveness.

EPSCoR projects are unique in their scope and complexity; in their integration of individual researchers, institutions, and organizations; and in their role in developing the diverse, well-prepared, STEM-enabled workforce necessary to sustain research competitiveness and catalyze economic development. In addition, these projects are generally inter- or multi-disciplinary and involve effective jurisdictional and regional collaborations among academic, government, and private sector stakeholders that advance scientific research, promote innovation, and provide multiple societal benefits. They also broaden participation in science and engineering by engaging multiple institutions and organizations at all levels of research and education, and people within and among EPSCoR jurisdictions. These projects usually involve between 100 to 300 participants per year over the performance period, and the projects reach thousands more through their extensive STEM outreach activities. The American Innovation and Competitiveness Act of 2016, Section 103 (Pub. L. 114–329) requires NSF EPSCoR to submit annual reports to both Congress and OSTP that contain data detailing project progress and success (new investigators, broadening participation, dissemination of results, new workshops, outreach activities, proposals submitted and awarded, mentoring activities among faculty members, collaborations, researcher participating on the review process, etc.).

EPSCoR RII Track-1 and Track-2 projects are required to submit annual reports on progress and plans, which are used as a basis for performance review and determining the level of continued funding. To support this review and the management of EPSCoR RII projects, teams are required to develop a set of performance indicators for building sustainable infrastructure and capacity in terms of a strategic plan for the project; measure performance and revise strategies as appropriate; report on the progress relative to the project's goals and milestones; and describe changes in strategies, if any, for submission annually to NSF. These indicators are both quantitative and descriptive and may include, for example, the characteristics of project personnel and students; aggregate demographics of participants; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; workforce development activities; external engagement activities; patents and patent licenses; publications; degrees granted to students involved in project activities; and descriptions of significant advances and other outcomes of the EPSCoR project's efforts. Part of this reporting takes the form of several spreadsheets to capture specific information to demonstrate progress towards achieving the goals of the program. Such reporting requirements are included in the cooperative agreement which is binding between the awardee institution and NSF.

Each project's annual report addresses the following categories of activities: (1) Research, (2) education, (3) workforce development, (4) partnerships and collaborations, (5) communication and dissemination, (6) sustainability, (7) diversity, (8) management, and (9) evaluation and assessment.

For each of the categories the report is required to describe overall objectives for the year; specific accomplishments, impacts, outputs and outcomes; problems or challenges the project has encountered in making progress towards goals; and anticipated problems in performance during the following year.

Use of the Information: NSF will use the information to continue its oversight of funded EPSCoR RII projects, and to evaluate the progress of the program.

The change would facilitate reporting better aligned with program goals and provides data as legislatively required for NSF EPSCoR.

Estimate of Burden: 100 hours per project for twenty-eight projects for a total of 2,800 hours.

Respondents: Non-profit institutions; federal government.

Estimated Number of Responses per Report: One.

Dated: December 4, 2019.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2019–26443 Filed 12–6–19; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's External Engagement Committee's Subcommittee on Honorary Awards, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: December 12, 2019, from 10:30–11:30 a.m. EST.

PLACE: This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) Subcommittee Chair's opening remarks; (2) Review and discuss candidates for the 2020 National Science Board Vannevar Bush Award; and Subcommittee Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Faith Hixson, 2415 Eisenhower Ave., Alexandria, VA 22314, *fhixson@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website *www.nsf.gov/nsb* for general information.

Chris Blair,

Executive Assistant to the NSB Office.

[FR Doc. 2019–26606 Filed 12–5–19; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0125]

Information Collection: Suspicious Activity Reporting Using the Protected Web Server

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Suspicious Activity Reporting Using the Protected Web Server.''

DATES: Submit comments by February 7, 2020. 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: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0125. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: 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.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0125 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–2019–0125.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML19242C053.
- *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–2019–0125 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Suspicious Activity Reporting Using the Protective Web Server.
2. *OMB approval number:* 3150–0219.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* N/A.
5. *How often the collection is required or requested:* On occasion. Reporting is done on a voluntary basis, as suspicious incidents occur.
6. *Who will be required or asked to respond:* Nuclear power reactor licensees provide the majority of reports, but other entities that may voluntarily send reports include fuel facilities, independent spent fuel storage installations, decommissioned power reactors, power reactors under construction, research and test reactors, agreement states, non-agreement states, as well as users of byproduct material (*e.g.* departments of health, medical centers, steel mills, well loggers, and radiographers.)
7. *The estimated number of annual responses:* 124.
8. *The estimated number of annual respondents:* 62.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 248.
10. *Abstract:* NRC licensees voluntarily report information on suspicious incidents on an ad-hoc basis, as these incidents occur. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using PWS. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 4th day of December 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–26469 Filed 12–6–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0226]

Agency Action Regarding the Exploratory Process for the Development of an Advanced Nuclear Reactor; Generic Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Gather information that would be used to determine whether to prepare a generic environmental impact statement for the construction and operation of advanced nuclear reactors; extension of comment period.

SUMMARY: On November 15, 2019 and November 20, 2019, the U.S. Nuclear Regulatory Commission (NRC) held public meetings and solicited comments on the exploratory process to determine

whether to proceed with the development of generic environmental impact statement for the construction and operation of advanced nuclear reactors (ANR GEIS). The public comment period was originally scheduled to close on December 31, 2019. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments. The NRC originally planned to hold a workshop on the exploratory process in December 2019. The workshop has been rescheduled for January 8, 2020. The meeting information will be posted on the NRC's public website.

DATES: The due date of comments requested in the document published on November 15, 2019 (84 FR 62599) is extended. Comments should be filed no later than January 24, 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. Workshop date rescheduled for January 8, 2020.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0226. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jack Cushing, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1424, email: *Jack.Cushing@nrc.gov* or Mallecia Sutton, Office of Nuclear Reactor Regulation, telephone: 301–415–0673, email: *Mallecia.Sutton@nrc.gov*. Both are staff 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–2019–0226 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–2019–0226.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The original notice was issued on November 15, 2019 and is available in ADAMS under Accession No. ML19302G126.

• *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–2019–0226 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. Discussion

On November 15, 2019 (84 FR 62599), the NRC solicited comments on the exploratory process to determine whether to proceed with the development of generic environmental impact statement for the construction and operation of advanced nuclear reactors (ANR GEIS). The intent of an ANR GEIS is to improve the efficiency of the environmental review process. The public comment period was originally scheduled to close on December 31, 2019. The NRC has decided to extend the public comment period on this process until January 24, 2019, to allow more time for members of the public to submit their comments. The NRC is also rescheduling the workshop on the exploratory process from December 2019 to January 8, 2020. The meeting information will be posted on the NRC's public website at *https://www.nrc.gov/pmns/mtg*.

Dated at Rockville, Maryland, this 4th day of December 2019.

For the Nuclear Regulatory Commission.

Joseph P. Doub,

Acting Chief, Environmental Review New Reactors Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–26442 Filed 12–6–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–44 and CP2020–42]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 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:

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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).:* MC2020–44 and CP2020–42; *Filing Title:* USPS Request to Add Priority Mail Express Contract 79 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 3, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 11, 2019.

[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).

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–26439 Filed 12–6–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–43 and CP2020–41]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 10, 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).:* MC2020–43 and CP2020–41; *Filing Title:* USPS Request to Add Priority Mail Contract 567 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 2, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 10, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–26390 Filed 12–6–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express 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.

[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).

DATES: *Date of required notice:* December 9, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 3, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 79 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–44, CP2020–42.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26416 Filed 12–6–19; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., December 18, 2019.

PLACE: 8th Floor Board Conference Room, 844 North Rush Street, Chicago, Illinois, 60611.

STATUS: The initial part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Update from the SCOTUS Working Group
2. Discussion of Disability Determinations and Procedures
3. Oversight of the National Railroad Retirement Investment Trust

Portions Closed to the Public

4. Senior Executive Service Performance Evaluations

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, Phone No. 312–751–4920.

Authority: 5 U.S.C. 552b.

Dated: December 5, 2019.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2019–26613 Filed 12–5–19; 4:15 pm]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a meeting on December 20, 2019, at 10:00 a.m. at the office of the Chief Actuary of the U. S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 28th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the assumptions to be used in the 28th Actuarial Valuation. A report containing recommended assumptions and the experience on which the recommendations are based will have been sent by the Chief Actuary to the Committee before the meeting.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U. S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Dated: December 3, 2019.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2019–26388 Filed 12–6–19; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87647; File No. SR–IEX–2019–13]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 11.380 To Expand the Exchange's Optional Aggregate Risk Controls Mechanism To Include a Net Notional Exposure Risk Check in Addition to the Gross Notional Exposure Risk Check

December 3, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 27, 2019, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend Rule 11.380 to offer an optional net notional exposure risk check to Members and their clearing firms as part of the Exchange's Aggregate Risk Controls mechanism. The Exchange has designated this rule change as non-controversial under Section 19(b)(3)(A) of the Act [6] and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) thereunder.[7]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.380 to offer an optional net notional exposure risk check to Members and their clearing firms as part of the Exchange's Aggregate Risk Controls (''ARC'') mechanism. Rule 11.380, entitled Risk Management, describes the Exchange's current optional ARC mechanism that is designed to assist IEX Members [8] and their clearing firms in their risk management efforts. IEX does not charge a fee for use of the ARC mechanism. As described in the rule, the ARC mechanism currently can be configured to provide trading limits based on the gross notional exposure for matched and

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] *See* Rule 1.160(s).

routed trades for a Member or clearing firm's broker correspondent across MPIDs, by MPID, by FIX session or in combination, per clearing firm relationship or Member, as applicable (''Gross Notional Exposure''). Once the Gross Notional Exposure, as elected and configured by a Member or its clearing firm, has exceeded the pre-determined limit, IEX will automatically reject new orders and cancel all open orders for the applicable MPID(s) and/or FIX session specified. Further, the Gross Notional Exposure risk control may be increased or decreased on an intra-day basis by a Member or the clearing firm of a Member, as applicable. As specified in paragraph (a)(2)(A) of Rule 11.380, Gross Notional Exposure is calculated as the absolute sum of the notional value of all buy and sell trades (*i.e.,* equal to the value of executed buys plus the absolute value of executed long sells plus the absolute value of executed short sells). There is no netting of buys and sales in the same symbol or across symbols. And the Gross Notional Exposure resets for each new trading day.

IEX proposes to revise the rule to provide Members or the clearing firms of Members with an additional option of configuring an ARC trading limit on the net notional exposure for matched and routed trades for a Member or clearing firm's broker correspondent across MPIDs, by MPID, by FIX session or in combination, per clearing firm relationship or Member as applicable (''Net Notional Exposure''). IEX notes that other exchanges offer their members the option of a risk control based upon the member's net notional exposure.[9] As proposed, once the Net Notional Exposure, as elected and configured by a Member or its clearing firm, has exceeded the pre-determined limit, IEX will automatically reject new orders and cancel all open orders for the applicable MPID(s) and/or FIX session specified. However, just as with the existing Gross Notional Exposure risk control, the proposed new Net Notional Exposure risk control may be increased or decreased on an intra-day basis by a Member or the clearing firm of a Member, as applicable. As specified in the proposed new paragraph (a)(2)(B) of Rule 11.380, Net Notional Exposure will be calculated as the absolute net sum of the notional value of all buy and sell trades (*i.e.,* equal to the value of executed buys minus the absolute value of executed long sells minus the absolute value of executed short sells). Netting will be calculated across all symbols. And, as with Gross Notional Exposure risk controls, the proposed Net Notional Exposure risk control would reset for each new trading day.

Under the proposed rule change, Members or their clearing firms, if they choose to avail themselves of IEX's ARC mechanism, may elect to configure the ARC mechanism to accumulate and specify a limit or limits on either the Gross Notional Exposure, the newly-offered Net Notional Exposure, or both (collectively defined in the proposed new rule as the ''ARC Limit'').[10]

IEX believes that adding a Net Notional Exposure risk control to its existing ARC mechanism will enhance the risk management tools available to IEX Members. The Exchange notes, however, that use of an ARC Limit by a Member or the clearing firm of a Member does not automatically constitute compliance with IEX rules or SEC rules, nor does it replace Member-managed and clearing firm-managed risk management solutions. The Exchange does not propose to require Members or their clearing firms to use the ARC mechanism, and Members and their clearing firms may use any other appropriate risk-management tool or service instead of, or in combination with, IEX's ARC mechanism. The Exchange will not provide preferential treatment to Members or clearing firms using IEX's ARC mechanism, nor will the use of the ARC mechanism impact a Member's or clearing firm's use of IEX other than when it results in orders being rejected or cancelled pursuant to the ARC Limit. In addition, IEX will continue to provide the ARC mechanism to Members and clearing firms without charge.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Sections 6(b)[11] of the Act in general, and furthers the objectives of Section 6(b)(5)[12] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by enhancing the risk management protections available to Exchange Members and their clearing firms. The Exchange believes that the proposed rule change supports these objectives because it is designed to enable all IEX Members an additional option for how to manage and limit their own trading exposure (whether on the basis of the Member's Gross Notional Exposure, Net Notional Exposure, or both) on IEX, in addition to enabling clearing firms an additional option to monitor their correspondent Members' trading exposure as well as their own trading exposure (whether on the basis of the clearing firm's Gross Notional Exposure, Net Notional Exposure, or both), including by intra-day increases or decreases in the limits.

Further, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it provides an additional mechanism to enable IEX Members and clearing firms of IEX Members to manage their risk by preventing trading that exceeds a Member's, or clearing firm of a Member's, financial resources on a net notional basis (as well as the currently available gross notional basis risk control), and thereby contributes to the stability of the equities markets. Thus, the Exchange believes the addition of a Net Notional Exposure risk control offers Members and their clearing firms an important compliance tool that Members and their clearing firms may use to help maintain the regulatory integrity of the markets.

The Exchange notes that other exchanges' rules provide for similar functionality, as discussed in the Purpose section, and accordingly IEX does not believe that the proposed rule change raises any new or novel issues not already considered by the Commission.[13]

In addition, the Exchange believes that the proposal is consistent with just and equitable principles of trade and not unfairly discriminatory because the ARC mechanism is available to all IEX Members and their clearing firms without charge.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not

[9] *See e.g.,* Nasdaq Stock Market (''Nasdaq'') Rule 6130; Cboe BZX Exchange, Inc. (''Cboe'') Rule 11.13 Interpretations and Policies .01(h); *see also* New York Stock Exchange LLC (''NYSE'') Technology FAQ and Best Practices: Equities (November 2019) Section 5.7, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Group_Equities_Technology_FAQ.pdf.*

[10] In the case of a Member that is subject to ARC Limits set by its clearing firm, the Member will be advised of such limits by IEX. In the event a Member that is subject to ARC Limits set by its clearing firm also elects to set ARC Limits for its own trading, the Exchange will apply both such limits with the lower of the ARC Limits being applicable since it will trigger first.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 9.

necessary or appropriate in furtherance of the purposes of the Act. The proposal is designed to expand the Exchange's existing, optional, ARC mechanism by adding a new Net Notional Exposure risk control as described in the Purpose section. The Exchange is not proposing to charge any fee for use of any aspect of its ARC mechanism, which as proposed, is available to all Members and clearing firms of Members without charge. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition because other exchanges offer similar functionality.[14] The Exchange also does not believe that the proposal will impose an burden on intramarket competition because it is available to all Members, and clearing firms of Members, and provides a mechanism to enable IEX Members and clearing firms to manage their risk by preventing trading that is erroneous or exceeds a Member's or clearing firm's financial resources, thereby contributing to the stability of the equities markets. Accordingly, the Exchange does not believe that this proposal will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[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–IEX–2019–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2019–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2019–13 and should be submitted on or before December 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26409 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

[14] *See supra* note 9.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87650; File No. SR–NYSECHX–2019–24]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule of NYSE Chicago, Inc.

December 3, 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 November 29, 2019 the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to (a) adopt the same billing dispute practice as the Exchange's affiliates and other exchanges, (b) adopt the same policy regarding the aggregation of affiliated Participants' activity as applied by the Exchange's affiliates and other exchanges, and (c) delete text referencing fees and services that became obsolete upon the Exchange's transition to the Pillar trading platform. 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.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to (a) adopt the same billing dispute practice as the Exchange's affiliates and other exchanges, (b) adopt the same policy regarding the aggregation of affiliated Participants'[4] activity as applied by the Exchange's affiliates and other exchanges, and (c) delete text referencing fees and services that became obsolete upon the Exchange's transition to the Pillar trading platform (''Pillar'').[5]

Proposed Billing Procedure

The Exchange proposes to amend its Fee Schedule to adopt a billing procedure to prevent Participants from contesting their bills long after they have received an invoice. The proposed provision would be based on those in the fee schedules of the Affiliate SROs,[6] and substantially the same as that in place at other equities and options exchanges.[7]

Under the proposed billing procedure, all disputes concerning fees billed by the Exchange would have to be submitted to the Exchange in writing and accompanied by supporting documentation. Further, all fee disputes would have be submitted no later than sixty (60) days after receipt of a billing invoice. After sixty days, all fees assessed by the Exchange would be considered final. The Exchange believes that this requirement, which is the same as that in place at the Exchange's equities and options market affiliates,[8] will streamline the billing dispute process.

The Exchange believes it is reasonable for Participants to become aware of any potential billing errors within sixty calendar days of receiving an invoice. Requiring that Participants dispute an invoice within this time period will encourage Participants to review their invoices promptly and allow disputed charges to be addressed while the information and data underlying those charges (*e.g.,* applicable fees and order information) are still easily and readily available. This practice would avoid issues that may arise when Participants do not dispute an invoice in a timely manner and conserve Exchange resources that would be expended to resolve untimely billing disputes.[9]

In order for Participants to be fully aware of this rule regarding fee disputes, the Exchange proposes to include the proposed Fee Schedule language in each customer invoice.

To effect this change, the Exchange proposes to amend Section P of the Fee Schedule, which is currently designated as ''Reserved,'' to title it ''Billing Disputes'' and add text describing the billing procedure. The Exchange also proposes a non-substantive change to add a heading of ''Q. Minor Rule Violation Plan'' before the next section of the Fee Schedule.

Aggregation of Affiliate Activity

The Fee Schedule currently provides that activity of affiliated Participants may be aggregated for specified purposes.[10] The Exchange proposes to amend its Fee Schedule to replace the current method of aggregation of affiliated Participant activity with the method used by the Affiliated SROs to aggregate activity of affiliated Participants.[11] Other exchanges also include similar provisions in their rules.[12]

The proposed rule change would provide that for purposes of applying any provision of the Exchange's Fee Schedule where the charge assessed, or credit provided, by the Exchange

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[4] As defined in Article 1, Rule 1(s) of the Exchange's Rules, ''Participants'' refers to persons who are permitted to trade on the Exchange. *See* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345, 55346 n.25 (October 16, 2019) (SR–NYSECHX–2019–08) (Approval Order).

[5] Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange's affiliates New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE National, Inc. (''NYSE National'' and, together, the ''Affiliate SROs''). *See* Securities and Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR–NYSECHX–2019–12).

[6] *See* New York Stock Exchange Price List 2019 (''NYSE Price List''), available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf* (''All fee disputes concerning fees billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All fee disputes must be submitted no later than sixty (60) days after receipt of a billing invoice.''); NYSE American Equities Price List (''NYSE American Equities Price List''), available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf* (same); NYSE American Options Fee Schedule (''NYSE American Options Fee Schedule''), available at *https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf* (same); NYSE Arca Equities Fees and Charges (''NYSE Arca Equities Fee Schedule''), available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf* (same); NYSE Arca Options Fees and Charges (''NYSE Arca Options Fee Schedule''), available at *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (same); and NYSE National, Inc. Schedule of Fees and Rebates (''NYSE National Fee Schedule''), at *https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Schedule_of_Fees.pdf (same).*

[7] *See* NASDAQ Equity Rules, Equity 7 (Pricing Schedule), Section 70(b) (all fee disputes must be submitted no later than 60 days after receipt of billing invoice, in writing and accompanied by supporting documentation); NASDAQ Options Rules, Options 7 (Pricing Schedule), Section 7(a)–(b) (same); NASDAQ BX Equity Rules, Equity 7 (Pricing Schedule), Section 111(b) (Collection of Exchange Fees and Other Claims and Billing Policy) (same); NASDAQ BX Options Rules, Options 7 (Pricing Schedule), Section 7(a)–(b) (BX Options Fee Disputes) (same); NASDAQ PHLX Equity Rules, Equity 7 (Pricing Schedule), Section 1(a) (same); NASDAQ PHLX Options Rules, Options 7 (Pricing Schedule), Section 1(a) (same); NASDAQ ISE Options Rules, Options 7 (Pricing Schedule), Section 1(b) (same); NASDAQ GEMX Options Rules, Options 7 (Pricing Schedule), Section 1(b) (same); NASDAQ MRX Options Rules, Options 7 (Pricing Schedule), Section 1(b) (same); MIAX Options Fee Schedule, available at *https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_10222019.pdf* (same); MIAX Pearl Fee Schedule, available at *https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_PEARL__Fee__Schedule_10222019.pdf* (same); and MIAX Emerald Fee Schedule, available at *https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Emerald_Fee_Schedule_10222019.pdf* (same).

[8] *See* note 6, *supra.*

[9] The same rationale has been advanced by other exchanges that have adopted the Exchange's proposed billing procedure. *See, e.g.,* Securities and Exchange Act Release Nos. 79061 (October 6, 2016), 81 FR 70721 (October 13, 2016) (SR–ISE–2016–23); 74895 (May 7, 2015), 80 FR 27352 (May 13, 2015) (SR–NASDAQ–2015–50); and 73452 (October 28, 2014), 79 FR 65279 (November 3, 2014) (SR–BX–2014–54).

[10] *See* Section O of the Fee Schedule.

[11] *See, e.g.,* NYSE Price List available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf*; NYSE American Equities Price List, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf*; NYSE Arca Equities Price List, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*; and NYSE National Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Schedule_of_Fees.pdf.*

[12] *See, e.g.,* NASDAQ Equity Rules, Equity 7, Section 127; NASDAQ Options Rules, Options 7, Section 127; NASDAQ BX Equity Rules, Equity 7, Section 127; NASDAQ BX Options Rules, Options 7; NASDAQ PHLX Equity Rules, Equity 7, Section 3; NASDAQ PHLX Options Rules, Options 7, Section 1.

depends on the volume of a Participant's activity (*i.e.,* where a volume threshold or volume percentage is required to obtain the pricing), a Participant may request that the Exchange aggregate its eligible activity with the eligible activity of its affiliates. The Exchange further proposes that a Participant requesting aggregation of eligible affiliate activity would be required to (1) certify to the Exchange which affiliate(s) it seeks to aggregate prior to receiving approval for aggregation, and (2) inform the Exchange immediately of any event that causes an entity to cease being an affiliate(s). The Exchange would review available information regarding the entities and reserves the right to request additional information to verify the affiliate status of an entity. The Exchange would approve a request, unless it determines that the certificate is not accurate.

The Exchange also proposes to establish a standard practice for determining an affiliation as of the month's beginning or close in time to when the affiliation occurs, provided the Participant submits a timely request. Specifically, if two or more Participants become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request would be deemed to be effective as of the first day of that month. If two or more Participants become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty second day of the month, an approval of the request would be deemed to be effective as of the first day of the next calendar month. The Exchange believes that this requirement, which is based on the requirements of the Affiliate SROs without any substantive differences, would be a fair and objective way to apply the aggregation rule to fees and streamline the billing process.

The Exchange further proposes to provide that for purposes of applying any provision of the Fee Schedule where the charge assessed, or credit provided, by the Exchange depends upon the volume of a Participant's activity, references to an entity would be deemed to include the entity and its affiliates that have been approved for aggregation. Consistent with the requirements of the Affiliate SROs,[13] the Exchange proposes to provide that Participants may not aggregate volume wherever the Fee Schedule may specify that aggregation is not permitted.

Finally, the Exchange proposes to simplify its definition of ''affiliate'' for purposes of the Fee Schedule. Currently, the term ''affiliate'' is defined in the Fee Schedule as any wholly owned subsidiary, parent, or sister of the Participant that is also a Participant, with the terms ''wholly owned subsidiary,'' ''parent,'' and ''sister'' also individually defined. The proposed change would define ''affiliate'' as any Participant under 75% common ownership or control of that Participant. This proposed definition is consistent with rules adopted by the Affiliate SROs and other exchanges.[14]

To effect this change, the Exchange proposes to delete the text currently set forth in Section O of the Fee Schedule, replace it with the above-described rule, and amend the title of that section to ''Aggregate Billing of Affiliated Participants.''

Removal of Obsolete Fees

Because the Exchange does not offer the Connect service in Pillar, in connection with the transition to Pillar, the Exchange deleted Article 4, Rule 2 relating to the Connect service in its entirety.[15] The Exchange proposes to similarly delete reference to the Connect service in the Fee Schedule by deleting the text set forth in Section ''L'' of the Fee Schedule and designating that section as ''Reserved.''

The Exchange also proposes to delete certain text in the Fee Schedule referencing fees for services that have become obsolete because of the Exchange's move to the Mahwah data center. Specifically, the Exchange proposes to delete Section D.2 of the Fee Schedule, which sets forth Cross Connection Charges for physical connections that are no longer used by Participants now that the Exchange has moved to the Mahwah data center. The Exchange also proposes to delete Section G of the Fee Schedule, which sets forth fees for co-location services that were provided prior to the migration to Pillar, and not for co-location services provided in the Mahwah data center.[16] The Exchange proposes to designate Section G of the Fee Schedule as ''Reserved.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[18] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities and does not unfairly discriminate among customers, issuers, brokers, or dealers, and because 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.

With respect to the proposed billing procedure, the Exchange believes that the requirement to submit all billing disputes in writing, and with supporting documentation, within sixty days from receipt of the invoice, is reasonable because the Exchange provides Participants with ample tools to monitor and account for various charges incurred in a given month. The proposed provision also promotes the protection of investors and the public interest by providing a clear and concise mechanism in Exchange Rules for Participants to dispute fees and for the Exchange to review such disputes in a timely manner. In addition, the proposed 60-day limitation is fair, equitable, and not unfairly discriminatory because it will apply equally to all Participants and be implemented prospectively on all Participants, only applying to invoices issued after the proposed rule change becomes operative. Moreover, the proposed billing dispute language, which will lower the Exchange's administrative burden, is based on billing dispute language of the Affiliate SROs without any substantive differences, and is substantially similar to billing dispute language of other exchanges.[19]

With respect to the proposed billing aggregation, the Exchange believes that this policy implements a reasonable and clear process for the Exchange to group together affiliated Participants for purposes of assessing charges or credits that are based on volume. The provision is equitable because all Participants seeking to aggregate their activity are subject to the same parameters, in accordance with a standard that recognizes an affiliation as of the month's beginning or close in time to when the affiliation occurs, provided the Participant submits a timely request.

[13] *See* note 11, *supra.*

[14] *See* notes 11–12, *supra.*

[15] *See* 84 FR 55345, *supra* note 4, at 55346 n.19.

[16] *See* Securities Exchange Act Release No. 49728 (May 19, 2004), 69 FR 29988 (May 26, 2004) (SR–CHX–2004–15). The Exchange sets forth fees for the co-location services it currently offers under the heading of ''Co-Location Fees'' on page 13 of the Fee Schedule.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4)–(5).

[19] *See* notes 6–7, *supra.*

In addition, the Exchange believes that the proposed change would reduce disparity of treatment between Participants with regard to the pricing of different services and reduce any potential for confusion on how activity can be aggregated. For example, the proposed rule change avoids disparate treatment of Participants that have divided their various business activities between separate corporate entities as compared to Participants that operate those business activities within a single corporate entity. The Exchange also believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market by harmonizing the process by which Participants can seek to aggregate volume with the practices of the Affiliate SROs and other exchanges.[20]

With respect to the proposed deletion of obsolete fees, the Exchange believes that the proposed change would remove impediments to and perfect the mechanisms of a free and open market by eliminating references to services that are no longer offered, thereby improving the clarity of the Exchange's rules and enabling market participants to more easily navigate the Exchange's fee schedule. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of obsolete text would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[21] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

With respect to the billing procedure and billing aggregation policy, the proposed rule change would establish a clear process that would apply equally to all Participants and is based on the rules of the Affiliate SROs without any substantive differences, and is substantially similar to rules of other exchanges. The Exchange does not believe such proposed changes would impair the ability of Participants or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because the proposed changes would apply equally to all Participants, the proposal does not impose any burden on competition.

With respect to the proposed deletion of text referencing outdated functionalities and services, the changes would not have any impact on competition, because they are solely designed to eliminate obsolete text to accurately reflect the services that the Exchange currently offers.

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[22] and Rule 19b–4(f)(6) thereunder.[23] 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.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange asserts that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement a defined process for billing disputes and the revised rules for how activity of affiliates can be aggregated, and more quickly remove obsolete text from its Fee Schedule. Further, the Exchange states that waiver of the operative delay will allow the Exchange to implement these changes beginning December 2, 2019, which is the first business day in December. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[27]

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)[28] 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–NYSECHX–2019–24 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–NYSECHX–2019–24. 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/*

[20] *See* notes 11–12, *supra.*

[21] 15 U.S.C. 78f(b)(8).

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] 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).

[28] 15 U.S.C. 78s(b)(2)(B).

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–NYSECHX–2019–24 and should be submitted on or before December 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26404 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87648; File No. SR–NASDAQ–2019–059]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Requirements for the Nasdaq Capital and Global Markets Applicable to Direct Listings

December 3, 2019.

I. Introduction

On August 15, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt requirements for the Nasdaq Capital and Global Markets applicable to direct listings. The proposed rule change was published for comment in the **Federal Register** on September 4, 2019.[3] On October 17, 2019, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On November 26, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.[6] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Exchange's Description of the Proposal, as Modified by Amendment No. 1

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is filing this amendment to SR–NASDAQ–2019–059,[7] which was published for comment by the Commission on August 28, 2019, in order to: (i) Specify that to constitute compelling evidence under the proposed Listing Rules IM–5405–1(a)(3) and IM–5505–1(a)(3), a tender offer by the company or an unaffiliated third party needs to be for cash and be commenced and completed within the prior six months; (ii) clarify that for affiliate participation to be considered de minimis under the proposed Listing Rules IM–5405–1(a)(3) and IM–5505–1(a)(3), the transaction must comply with the requirements of Listing Rules IM–5405–1(a)(3)(ii)(C) or IM–5505–1(a)(3)(ii)(C) and the company must certify such compliance to Nasdaq in writing; (iii) update the preamble to proposed Listing Rules IM–5405–1 and IM–5505–1 to clarify that this Interpretative Material describes when a company whose stock is not previously registered under the Exchange Act may list on the Nasdaq Global or Capital Market, where such company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements; (iv) require that the examples of transactions that could constitute compelling evidence for purposes of Listing Rules IM–5405–1(a)(3) and IM–5505–1(a)(3) are exhaustive; (v) clarify that references to third parties mean unaffiliated third parties; and (vi) make minor technical changes to improve the structure, clarity and readability of the proposed rules.

For purposes of these proposed rule changes, all references to the term ''affiliate'' and derivatives of this term rely on the definition of ''affiliate'' in SEC Rule 10A–3(e). *See* 17 CFR 240.10A–3(e). This amendment supersedes and replaces the Initial Proposal in its entirety.

Nasdaq recognizes that some companies, whose stock was not previously registered under the Exchange Act, that have sold common equity securities in private placements, which have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, may wish to list those securities to allow existing shareholders to sell their shares. Nasdaq previously adopted requirements applicable to such Direct Listings listing on the Nasdaq Global Select Market[8] and now

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86792 (August 28, 2019), 84 FR 46580 (September 4, 2019) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 87328, 84 FR 56868 (October 23, 2019). The Commission designated December 3, 2019, as the date by which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-nasdaq-2019-059/srnasdaq2019059-6482012-199454.pdf*.

[7] Securities Exchange Act Release No. 86792 (August 28, 2019), 84 FR 46580 (September 4, 2019) (the ''Initial Proposal'').

[8] Securities Exchange Act Release No. 85156 (February 15, 2019), 84 FR 5787 (February 22, 2019) (SR–NASDAQ–2019–001) (the ''2019 Rule Change''). Nasdaq proposes to insert the defined term ''Direct Listing'' into the existing language of Listing Rule IM–5315–1 as follows: ''Nasdaq recognizes that some companies that have sold common equity securities in private placements, which have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, may wish to list those securities on Nasdaq (a ''Direct Listing'').'' Nasdaq also proposes to update the title of Listing Rule IM–5315–1 without further modification to that rule section. Nasdaq intends to submit a subsequent rule filing to adopt a global definition for Direct Listings that will include the substantive provisions from the preamble to Listing Rule IM–5315–1 and proposed Listing Rules IM–5405–1 and IM–5505–1.

proposes to adopt requirements for the Nasdaq Global and Capital Markets.

The proposed Listing Rules IM–5405–1 and IM–5505–1 describe when a company whose stock is not previously registered under the Exchange Act may list on the Nasdaq Global and Capital Markets, where such company is listing without a related underwritten offering upon effectiveness of a registration statement registering only the resale of shares sold by the company in earlier private placements, set forth the additional listing requirements for Direct Listings on the Nasdaq Global and Capital Markets and describe how the Exchange will calculate compliance with the Nasdaq Global and Capital Markets initial listing standards related to the requirements based on the price of a security, including the bid price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares.[9]

Nasdaq also proposes to modify Nasdaq Rule 4753 to clarify that the securities listed pursuant to Listing Rules IM–5405–1 and IM–5505–1 can use the same crossing mechanism available for IPOs outlined in Rule 4120(c)(8) and Rule 4753 (the ''IPO Cross'').

Finally, the proposed Listing Rules IM–5405–1 and IM–5505–1 require that such securities must begin trading on Nasdaq following the initial pricing through the IPO Cross. To allow such initial pricing, the company must: (i) In accordance with Rule 4120(c)(9), have a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed, who is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering; and (ii) list upon effectiveness of a Securities Act of 1933 registration statement filed solely for the purpose of allowing existing shareholders to sell their shares.

Calculation of Price-Based Initial Listing Requirements

Direct Listings are subject to all initial listing requirements applicable to equity securities and, subject to applicable exemptions, the corporate governance requirements set forth in the Rule 5600 Series. To provide transparency to the initial listing process, the Exchange proposes to adopt Listing Rules IM–5405–1 and IM–5505–1, which will state how the Exchange calculates the initial listing requirements based on the price of a security, including the bid price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held shares for a Direct Listing on the Nasdaq Global and Capital Markets.[10]

Unless Nasdaq determines to accept evidence of the security's price based on a tender offer for cash by the company or an unaffiliated third party, a sale between unaffiliated third parties involving the company's equity securities, or equity security sales by the company, as described in more detail below, under Listing Rules IM–5405–1 and IM–5505–1, Nasdaq would generally require that a company listing on the Nasdaq Global and Capital Markets through a Direct Listing provide Nasdaq an independent third-party valuation (a ''Valuation''), as defined in Listing Rule IM–5315–1, that meets the requirements of Listing Rules IM–5315–1(e) and (f).

Under Listing Rule IM–5315–1(e), any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. Nasdaq will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. Nasdaq may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.[11]

Under Listing Rule IM–5315–1(f), Nasdaq requires that a valuation agent will not be considered independent if:

- At the time it provides such Valuation, the valuation agent or any affiliated person or persons beneficially own in the aggregate as of the date of the valuation, more than 5% of the class of securities to be listed, including any right to receive any such securities exercisable within 60 days.
- The valuation agent or any affiliated entity has provided any investment banking services to the listing applicant within the 12 months preceding the date of the Valuation. For purposes of this provision, ''investment banking services'' includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting.
- The valuation agent or any affiliated entity has been engaged to provide investment banking services to the listing applicant in connection with the proposed listing or any related financings or other related transactions.

For a security that has had sustained recent trading in a Private Placement Market[12] prior to listing, Nasdaq will determine a company's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held shares based on the lesser of: (i) The value calculable based on the Valuation[13] and (ii) the value calculable based on the most recent trading price in a Private Placement Market.[14]

Under Proposed Listing Rules IM–5405–1(a)(5) and IM–5505–1(a)(5), to determine compliance with the price-based requirements and suitability for listing on the Exchange, Nasdaq will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a

[9] On March 21, 2019, Nasdaq filed with the Commission a proposed rule change to revise the initial listing standards related to liquidity that, among other changes, added three new definitions to define ''restricted securities,'' ''unrestricted publicly held shares'' and ''unrestricted securities.'' This rule change was approved by the Commission effective July 5, 2019 and operative August 5, 2019. *See* Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102 (July 11, 2019).

[10] Substantive provisions of Listing Rules IM–5405–1 and IM–5505–1 are identical.

[11] In addition, under Listing Rule 5101 Nasdaq has broad discretionary authority to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

[12] Nasdaq defines ''Private Placement Market'' in Listing Rule 5005(a)(34) as a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer.

[13] As described in more detail below, under proposed Listing Rules IM–5405–1(a)(3) and IM–5505–1(a)(3), in lieu of a Valuation, Nasdaq may accept certain other compelling evidence of the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares.

[14] Proposed Listing Rules IM–5405–1(a)(1) and IM–5505–1(a)(1).

market value in excess of Nasdaq's market value requirement. Nasdaq believes that the price from such sustained trading in a Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq.

Alternatively, in the absence of any recent sustained trading in a Private Placement Market over a period of several months,[15] to determine that such company has met the applicable price-based initial listing requirements, Nasdaq proposes to require, under proposed Listing Rules IM–5405–1(a)(2) and IM–5505–1(a)(2) that a Valuation must evidence a price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares that exceed 200% of the otherwise applicable requirement. Thus, to list on the Nasdaq Global Market, the Valuation must evidence a minimum bid price of at least $8 per share; Market Value of Unrestricted Publicly Held Shares of $16 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $36 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $40 million and Market Value of Listed Securities of $150 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $40 million under the Total Assets/Total Revenue Standard.[16]

To list on the Nasdaq Capital Market, the Valuation must generally evidence a minimum bid price of at least $8 per share; [17] Market Value of Unrestricted Publicly Held Shares of $10 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $30 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $30 million and Market Value of Listed Securities of $100 million under the Market Value Standard.[18]

Nasdaq believes that some companies, that are clearly large enough to be suitable for listing on the Exchange, do not have sustained trading in their securities on a Private Placement Market prior to going public. Nasdaq believes that for these companies a recent Valuation indicating that the company exceeds 200% of the otherwise applicable price-based requirement will give a significant degree of comfort that the company will meet the applicable initial listing price-based requirements upon commencement of trading. Nasdaq believes that it is unlikely that any Valuation would reach a conclusion that is incorrect to the degree necessary for a company using this provision to fail to meet the applicable initial listing requirement upon listing, in particular because any Valuation used for this purpose must be provided by a valuation agent that meets the independence requirements of proposed Listing Rule IM–5315–1(f) and has significant experience and demonstrable competence in the provision of such valuations, as required by Listing Rule IM–5315–1(e).

Nasdaq further believes that in certain unique circumstances a company that is clearly large enough to be suitable for listing on the Exchange may provide other compelling evidence, subject to limitations described below, to demonstrate that it meets all applicable price-based requirements without a Valuation. In such cases, Nasdaq under Proposed Listing Rules IM–5405–1(a)(3) and IM–5505–1(a)(3) may (but is not required to) accept other compelling evidence of the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares, including, a tender offer for cash by the company or an unaffiliated third party, a sale between unaffiliated third parties involving the company's equity securities, or equity security sales by the company.[19]

In order to be considered compelling evidence of the company's value, Nasdaq proposes to require that such transactions were recent, completed (and, in the case of a tender offer, commenced and completed) within the prior six months, and substantial in size, representing sales of at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares requirement.[20] In addition, to help assure that such transactions adequately support the value of the company, Nasdaq proposes to require that such transactions cannot involve affiliates of the company unless such participation is de minimis. To be considered de minimis, the transaction must comply with the requirement that and the company must certify to Nasdaq in writing that: Any affiliate's participation must be less than 5% of the transaction (and all affiliates' participation collectively must be less than 10% of the transaction), such participation must have been suggested or required by unaffiliated investors and the affiliates must not have participated in negotiating the economic terms of the transaction. The examples of transactions that could constitute compelling evidence for purposes of Listing Rules IM–5405–1 and IM–5505–1 are meant to be exhaustive. Finally, Nasdaq will examine any such evidence produced by the company to assure that it is indicative of the company's overall value. If, based on facts and circumstances, Nasdaq determines that such evidence is not reliable, Nasdaq will require a Valuation that meets the requirements of Listing Rules IM–5315–1(e) and (f) and the company must then satisfy the other standards in the rule that require a Valuation.

In order to determine that such company has met the applicable price-based initial listing requirements and to list on Nasdaq based on such evidence without a Valuation, Nasdaq proposes to require such evidence to show that the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares exceed 250% of the otherwise applicable requirement. Thus, to list on the Nasdaq Global Market, the compelling evidence provided by the company must show a minimum bid

[15] Limited trading in the Private Placement Market may not be sufficient for the Exchange to reach a conclusion that the company meets the applicable price-based requirements.

[16] *See* Listing Rules 5405(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million and Market Value of Listed Securities of $75 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard.

[17] A company listing equity securities under Listing Rule IM–5505–1 is not eligible to rely on the reduced bid price requirement of Listing Rule 5505(a)(1)(B) given that such securities do not trade in a continuous market prior to listing while Listing Rule 5505(a)(1)(B) requires that such security ''must meet the applicable closing price requirement for at least five consecutive business days prior to approval.''

[18] *See* Listing Rules 5505(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million and Market Value of Listed Securities of $50 million under the Market Value Standard.

[19] *See also,* footnote 11 above.

[20] Listing Rule 5405(b) generally requires, for a company listing on the Nasdaq Global Market, Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; Market Value of Unrestricted Publicly Held Shares of $20 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard. Listing Rule 5505(b) generally requires, for a company listing on the Nasdaq Capital Market, Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Market Value Standard.

price of at least $10 per share; Market Value of Unrestricted Publicly Held Shares of $20 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $45 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $50 million and Market Value of Listed Securities of $187.5 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $50 million under the Total Assets/Total Revenue Standard.[21]

To list on the Nasdaq Capital Market, such evidence must show a minimum bid price of at least $10 per share; Market Value of Unrestricted Publicly Held Shares of $12.5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $37.5 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $37.5 million and Market Value of Listed Securities of $125 million under the Market Value Standard.[22]

Nasdaq believes that sales of the company's equity securities representing at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares on the Nasdaq Capital Market thus demonstrating a payment in excess of $1 million for a company listing under the Net Income Standard or in excess of $3 million for a company listing under other standards,[23] is compelling evidence that the sale is substantial enough in size to be indicative of the company's overall value.

Similarly, Nasdaq believes that sales of the company's equity securities representing at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares on the Nasdaq Global Market thus demonstrating a payment in excess of $1.6 million for a company listing under the Net Income Standard, or in excess of $3.6 million for a company listing under the Equity Standard, or in excess of $4 million for a company listing under other standards,[24] is compelling evidence that the sale is substantial enough in size to be indicative of the company's overall value.

Nasdaq believes that recent, substantial in size, arm's-length tender offers for cash by an unaffiliated third party, sales between unaffiliated third parties involving the company's equity securities, or equity security sales by the company, with de minimis insider participation, indicating the company exceeds 250% of the otherwise applicable price-based requirements will give a significant degree of comfort that the company will meet the applicable price-based requirements upon commencement of trading. Nasdaq also believes that recent, substantial in size (representing at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares) tender offers for cash by the company indicating the company exceeds 250% of the otherwise applicable price-based requirements is compelling evidence of the company's value notwithstanding the company's involvement in the pricing of the transaction, because it is, in Nasdaq's view, unlikely that the company would misprice the securities purchased in a tender offer for cash to the degree necessary for a company using this provision to fail to meet the applicable initial listing requirement upon listing, in particular because of the substantial size of the transaction. In addition, Nasdaq believes that the new requirement that such securities must begin trading on Nasdaq following the initial pricing through the IPO Cross will help assure these securities begin trading close to their inherent value.

Foreign Exchange Listings

For a company transferring from a foreign regulated exchange where there is a broad, liquid market for the company's shares, or listing on Nasdaq while trading on such exchange, Nasdaq will determine that the company has met the applicable price-based requirements based on the recent trading in such market. Nasdaq believes that the price of the issuer's securities from such broad and liquid trading is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq. While this is consistent with Nasdaq's current practice, Listing Rules IM–5405–1(a)(4) and IM–5505–1(a)(4) will clarify that a company transferring from a foreign regulated exchange where there is a broad, liquid market for the company's shares or listing on the Nasdaq Global or Capital Markets while trading on such exchange is not subject to the new requirements applicable to Direct Listings.

Clarification of the Role of a Financial Advisor in a Direct Listing

In 2014, Nasdaq first adopted rules to allow the use of the Nasdaq IPO Cross to initiate trading in securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing and described the role of financial advisors in that process.[25] At that time, the Exchange added Rule 4120(c)(9)[26] to set forth the process by which trading commences in such securities. Under that rule, securities of companies that have not previously been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to listing on Nasdaq can be launched for trading using the IPO Cross. Prior to that rule change, securities of companies that were not conducting IPOs were released using the Halt Cross outlined in Rule 4120(c)(7), which differed from the IPO Cross.[27]

The 2014 Rule Change extended the safeguards contained in the IPO Cross to securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing and established that a broker-dealer serving in the role of financial advisor to the issuer could serve in the same capacity for such securities as the underwriter does for

[21] *See* Listing Rules 5405(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million and Market Value of Listed Securities of $75 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard.

[22] *See* Listing Rules 5505(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million and Market Value of Listed Securities of $50 million under the Market Value Standard.

[23] *Id.*

[24] *See* footnote 21 above.

[25] Securities Exchange Act Release No. 71931 (April 11, 2014), 79 FR 21829 (April 17, 2014) (SR–NASDAQ–2014–032) (the ''2014 Rule Change''). Nasdaq stated that ''an advisor, with market knowledge of the book and an understanding of the company and its security, would be well placed to provide advice on when the security should be released for trading.'' The 2014 Rule Change at 21830.

[26] In 2014, Nasdaq filed SR–NASDAQ–2014–081 modifying the functions that are performed by an underwriter with respect to an initial public offering and renumbered certain paragraphs of Rule 4120. Securities Exchange Act Release No. 73399 (October 21, 2014), 79 FR 63981 (October 27, 2014) (approving SR–NASDAQ–2014–081). All references in this filing are to the renumbered rules, as currently in effect.

[27] The Halt Cross process has a shorter quoting period (five minutes) and provides no ability to extend the quoting period in the event trading interest or volatility in the market appears likely to have a material impact on the security, unless there is an order imbalance as defined in the rule. *See* the 2014 Rule Change for additional details on the differences between the Halt Cross and the IPO Cross.

IPOs. Specifically, Rule 4120(c)(9) provides that the IPO Cross process described in Rules 4120 and 4753 is available to securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing where ''a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering.'' [28]

Rule 4753 provides the definition of Current Reference Price and a description of the calculation of the price at which the Nasdaq Halt Cross will occur.[29] In each case, the applicable price could be determined based on the issuer's IPO price.[30] In the absence of an IPO price from the underwriter, Nasdaq believes that the only viable options are to rely on a price from recent sustained trading the Private Placement Market [31] or one provided by the financial advisor to the company.

Nasdaq has successfully employed, in limited circumstances, the IPO Cross for securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing since 2014 [32] and following the 2019 Rule Change. Nasdaq continues to believe that financial advisors to issuers seeking to utilize that process are well placed to perform the functions that are currently performed by underwriters with respect to an initial public offering.

In the 2019 Rule Change, Nasdaq elaborated on the role of a financial advisor to the issuer of a security that is listing under IM–5315–1.[33] Nasdaq now proposes to amend Rule 4753 to allow for securities listed pursuant to Listing Rules IM–5405–1 and IM–5505–1 to be launched for trading using the IPO Cross, subject to additional requirements in the proposed Listing Rules IM–5405–1 and IM–5505–1.

Nasdaq also proposes to require that all securities listed under Listing Rules IM–5405–1 and IM–5505–1 must begin trading on Nasdaq following the initial pricing through the IPO Cross. To that end, Nasdaq proposes to cross reference Rule 4120(c)(8) in Listing Rules IM–5405–1 and IM–5505–1 to require that the company, in accordance with Rule 4120(c)(9), must have a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed, who is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering. In addition, Nasdaq proposes to require that each company qualified for listing under Listing Rules IM–5405–1 and IM–5505–1 must list its securities upon effectiveness of a Securities Act of 1933 registration statement filed solely for the purpose of allowing existing shareholders to sell their shares.

Finally, Nasdaq proposes to define ''Direct Listing'' in Listing Rule IM–5315–1 and update the title without further modification to that rule section. Nasdaq also proposes to update the reference to ''direct listings under IM–5315–1'' in Listing Rule IM–5900–7 as a defined term without changing the substance of this rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[34] in general, and furthers the objectives of Section 6(b)(5) of the Act,[35] in particular, in that it is designed 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 transaction 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.

Calculation of Price-Based Initial Listing Requirements

The proposed rule change to require a Valuation and describe how Nasdaq will calculate compliance with the price-based requirements for listing on the Nasdaq Global and Capital Markets is designed to protect investors and the public interest because any company relying solely on a Valuation will have to demonstrate that the company exceeds 200% of the otherwise applicable price-based requirement, which will give a significant degree of comfort that upon commencement of trading the company will meet the applicable price-based requirements.[36] In addition, having in place independence standards for the party providing a Valuation will ensure that the entity providing a Valuation for purposes of listing on Nasdaq will have a significant level of independence from the listing applicant and thereby enhance the reliability of such Valuation.

Finally, in addition to the proposed new requirements, Direct Listings are subject to all initial listing requirements applicable to equity securities and, subject to applicable exemptions, the corporate governance requirements set forth in the Rule 5600 Series. Nasdaq's existing requirements are designed to protect investors and serve to help assure that securities listed on Nasdaq have sufficient investor interest and will trade in a liquid manner. As such, Nasdaq believes these provisions protect investors and the public interest in accordance with Section 6(b)(5) of the Exchange Act.

The proposed rule change also protects investors and the public interest by requiring that there be sustained recent trading in the Private Placement Market in order for a Direct Listing to rely on such price to demonstrate compliance with the applicable price-based requirements. Nasdaq believes that the price from such sustained trading in the Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq and that qualifying a company based on the lower of such

[28] Subsequent to the 2014 Rule Change, Nasdaq expanded and elaborated the functions that are performed by an underwriter with respect to an initial public offering. *See* footnote 26, above. Rule 4120(c)(9) requires a broker-dealer serving in the role of a financial advisor to the issuer of the securities being listed to perform all such functions in order for the issuer to utilize the IPO Cross for the initial pricing of the security.

[29] Rules 4753(a)(3)(A) and 4753(b)(2)(D).

[30] Rules 4753(a)(3)(A)(iv)a. and 4753(b)(2)(D)(i). The price closest to the ''Issuer's Initial Public Offering Price'' is the fourth tie-breaker in these rules, applicable when no single price is determined from the three prior tests.

[31] As described above, Nasdaq believes that the price from such recent sustained trading in a Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq. *See also* proposed Listing Rules IM–5405–1(a)(5) and IM–5505–1(a)(5).

[32] Among other instances, Nasdaq utilized the IPO Cross for the initial pricing of the common stock of American Realty Capital Healthcare Trust, Inc. as indicated in the 2014 Rule Change.

[33] Specifically, Nasdaq amended Rules 4753(a)(3)(A)(iv) and 4753(b)(2)(D) to state that in the case of the initial pricing of a Direct Listing for a security qualifying for listing under Listing Rule IM–5315–1, the fourth tie-breaker in calculating each of the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator and the price at which the Nasdaq Halt Cross will occur, respectively, shall be: (i) For a security that has had recent sustained trading in a Private Placement Market prior to listing, the most recent transaction price in that market or, (ii) if there is not such sustained trading in a Private Placement Market, a price determined by the Exchange in consultation with the financial advisor to the issuer identified pursuant to Rule 4120(c)(9). *See* 2019 Rule Change.

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

[36] *See* footnotes 21 and 22 above. The Commission notes that footnotes 16–18 above discuss the applicable requirements.

trading price or the Valuation helps assure that the company satisfies Nasdaq's requirements. In the absence of recent sustained trading in the Private Placement Market, the requirement to demonstrate that the company exceeds 200% of the otherwise applicable price-based requirement, similarly helps assure that the company satisfies Nasdaq's requirement by imposing a standard that is double the otherwise applicable standard.[37]

The proposed rule change to allow a company in certain unique circumstances to list without a Valuation is designed to protect investors and the public interest because it requires such company to produce compelling evidence that the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares exceed 250% of the otherwise applicable requirement. Moreover, in order to be considered compelling, such evidence of the company's value must be based on a tender offer for cash by the company or an unaffiliated third party or on a sale between unaffiliated third parties involving the company's equity securities, or equity security sales by the company. In addition, such transactions must be recent, completed (and, in the case of a tender offer, commenced and completed) within the prior six months, and substantial in size, representing sales of at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares requirement which helps assure, in Nasdaq's view, that the company satisfies the applicable price-based requirement upon commencement of trading on Nasdaq. Finally, recent, substantial in size (representing at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares) tender offers for cash by the company indicating the company exceeds 250% of the otherwise applicable price-based requirements is compelling evidence of the company's value notwithstanding the company's involvement in the pricing of the transaction, because, in Nasdaq's view, it is unlikely that the company would misprice the securities purchased in a tender offer for cash to the degree necessary for a company using this provision to fail to meet the applicable initial listing requirement upon listing, in particular because of the substantial size of the transaction.

The proposed rule change also protects investors and the public interest by requiring that for a company to demonstrate compliance with the applicable price-based requirements based on a tender offer for cash by the company or an unaffiliated third party, a sale between unaffiliated third parties involving the company's equity securities, or equity security sales by the company, because such transactions, in addition to being recent and substantial in size, must also have been conducted in a manner that helps assure that such transactions adequately support the value of the company. To that end, Nasdaq proposes to require that such transactions cannot involve affiliates of the company unless such participation is de minimis. To be considered de minimis, the transaction must comply with the requirement that and the company must certify to Nasdaq in writing that: Any affiliate's participation must be less than 5% of the transaction (and all affiliates' participation collectively must be less than 10% of the transaction), such participation must have been suggested or required by unaffiliated investors and the affiliates must not have participated in negotiating the economic terms of the transaction.

The proposed requirement that a company that lists on the Nasdaq Global or Capital Markets through a Direct Listing must list at the time of effectiveness of a registration statement filed under the Securities Act of 1933 solely for the purpose of allowing existing shareholders to sell their shares is designed to protect investors and the public interest, because it will ensure such companies satisfy the rigorous disclosure requirements under the Securities Act of 1933 and are subject to review by Commission staff.

Finally, the proposal to rely on the price from the existing trading market for a company transferring from a foreign regulated exchange or listing on Nasdaq while trading on such exchange is consistent with the protection of investors because the price from the broad and liquid trading market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq. This provision applies only where there is a broad, liquid market for the company's shares in its country of origin and is designed to clarify that a company transferring from a foreign regulated exchange or listing on Nasdaq while trading on such exchange that satisfies Listing Rules IM–5405–1(a)(4) or IM–5505–1(a)(4) is not subject to the new requirements applicable to Direct Listings. Enhancing transparency around this requirement will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest.[38]

Clarification of the Role of a Financial Advisor in a Direct Listing

Nasdaq believes that the proposed rule change to modify the fourth tie-breaker used in calculating the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator and the price at which the Nasdaq Halt Cross will occur, protects investors and the public interest. The 2019 Rule Change established that, in using the IPO Cross to initiate the initial trading in the company's securities, the Current Reference Price and price at which the Nasdaq Halt Cross will occur may be based on the most recent transaction price in a Private Placement Market where the security has had recent sustained trading in such a market over several months; otherwise the price will be determined by the Exchange in consultation with a financial advisor to the issuer. The proposed rule change simply provides that in addition to the initial pricing of a security listing under Listing Rules IM–5315–1 the same process will occur for securities listing under IM–5405–1 or IM–5505–1.

Where there has been sustained recent trading on a Private Placement Market over several months, Nasdaq believes the most recent price from such trading is predictive of the price that will develop upon listing of the securities on Nasdaq. Where there has not been such sustained recent trading, Nasdaq notes that financial advisors have been performing the functions of the underwriter in the IPO Cross on a limited basis since 2014 and following the 2019 Rule Change and have market knowledge of buying and selling interest and an understanding of the company and its security. As such, Nasdaq believes that the rule change will promote fair and orderly markets because these mechanisms of establishing the Current Reference Price and the price at which the Nasdaq Halt Cross will occur will help protect against volatility in the pricing and initial trading of the securities covered by the proposed rule change.

[37] *See* footnotes 21 and 22, above. The Commission notes that footnotes 16–18 above discuss the applicable requirements.

[38] Provisions of Listing Rules IM–5405–1(a)(4) and IM–5505–1(a)(4) are identical to Listing Rule IM–5315–1(c) applicable to Direct Listings on the Nasdaq Global Select Market, which was adopted in the 2019 Rule Change.

Similarly, the proposed requirement that a company that lists on the Nasdaq Global or Capital Markets through a Direct Listing must begin trading of the company's securities following the initial pricing through the IPO Cross will promote fair and orderly markets by protecting against volatility in the pricing and initial trading of unseasoned securities covered by the proposed rule change. Accordingly, Nasdaq believes these changes, as required by Section 6(b)(5) of the Exchange Act, are reasonably designed to protect investors and the public interest and promote just and equitable principles of trade for the opening of securities listing in connection with a Direct Listing on the Nasdaq Global or Capital Markets.

Finally, Nasdaq believes that the proposed rule change to update the title of Listing Rule IM–5315–1, to insert the defined term ''Direct Listing'' into the existing language of this rule and to update the reference to ''direct listings under IM–5315–1'' in Listing Rule IM–5900–7 using a defined term, does not change the substance of these rules and protects investors and the public interest by clarifying the applicability of these rules and making it easier to understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change to adopt Listing Rules IM–5405–1 and IM–5505–1 is designed to provide transparency to the mechanism of listing securities in connection with a Direct Listing on the Nasdaq Global or Capital Markets that is appropriately protective of investors and is not designed to limit the ability of the issuers of those securities to list them on any other national securities exchange.

In addition, the proposed change is designed to extend the availability of the IPO Cross to securities listing on Nasdaq under IM–5405–1 or IM–5505–1 and thus impacts the determination of the initial pricing of securities upon listing Nasdaq and 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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[39] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Exchange Act,[40] which requires, among other things, that the rules of a national securities exchange 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. Section 6(b)(5) of the Exchange Act[41] also requires that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has consistently recognized the importance of exchange listing standards. Among other things, such listing standards help ensure that exchange listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.[42]

The Exchange has stated that it recognizes that some companies whose stock was not previously registered under the Exchange Act and that have sold common equity securities in private placements, and which have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, may wish to list those securities on the Exchange to allow existing shareholders to sell their shares in an initial listing on the Exchange.[43] The Exchange therefore has proposed to adopt listing requirements to permit it to list on the Nasdaq Global and Capital Markets securities of a company whose stock has not previously been registered under the Exchange Act and is listing, without a related underwritten offering, upon the effectiveness of a registration statement under the Securities Act of 1933 (''Securities Act'') that is registering only the resale of shares sold by the company in earlier private placements (''Direct Listing'').[44] The Exchange's listing standards currently contain requirements applicable to Direct Listings listed on the Nasdaq Global Select Market.[45]

The Commission believes that the proposed rule change will provide a means for a category of companies with securities that have not previously been traded on a public market that are listing only upon effectiveness of a selling shareholder registration statement, without a related underwritten offering, and that would not qualify to list under the Nasdaq Global Select Market standards, to list on the Exchange's other tiers.[46] In

[39] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78f(b)(5).

[41] *Id.*

[42] The Commission has stated in approving exchange listing requirements that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to the financial markets and the investing public. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.,* Securities Exchange Act Release Nos. 81856 (October 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR–NYSE–2017–31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR–NYSE–2017–11). The Commission notes that, in general, adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Exchange Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest.

[43] *See supra* note 8 and accompanying text.

[44] *See* proposed Nasdaq Rules IM–5405–1 and IM–5505–1. For purposes of this Discussion and Commission Findings section, the Commission refers to ''Direct Listing'' as defined in this paragraph. The Commission notes that Nasdaq has agreed to submit a subsequent proposed rule change that would adopt a global definition for Direct Listings that includes these characteristics as described in the preamble to Nasdaq Rule IM–5315–1 and proposed Nasdaq Rules IM–5405–1 and IM–5505–1. *See supra* note 8.

[45] *See* Nasdaq Rule IM–5315–1. *See also* Securities Exchange Act Release No. 85156 (February 15, 2019), 84 FR 5787 (February 22, 2019) (SR–NASDAQ–2019–001) (notice of filing and immediate effectiveness of proposed rule change to adopt Nasdaq Rule IM–5315–1). The Exchange's listing standards pertaining to Direct Listings on the Nasdaq Global Select Market are substantially similar to listing standards that the Commission approved for another exchange. *See* Securities Exchange Act Release Nos. 82627 (February 2, 2018), 83 FR 5650 (February 8, 2018) (SR–NYSE–2017–30) (''2018 Order'') (approving listing standards for companies that list without a prior Exchange Act registration and that are not listing in connection with an underwritten initial public offering); 58550 (September 15, 2008), 73 FR 54442 (September 19, 2008) (SR–NYSE–2008–68) (''2008 Order'') (approving proposal to allow the exchange to determine that a company meets the exchange's market value listing requirements by relying on a third-party valuation of the company).

[46] The Nasdaq Global Select Market has the highest quantitative listing requirements to list on Nasdaq, followed by the Nasdaq Global Market and then the Nasdaq Capital Market.

particular, for companies that otherwise meet the Exchange's listing standards for the Nasdaq Global Market or Nasdaq Capital Market, respectively,[47] the proposed rule change sets forth how the Exchange will determine whether a company satisfies the initial listing requirements for these markets that are based on the price of security, which are currently the bid price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held Shares requirements.[48]

Under the proposal, the Exchange would generally require a company listing securities under the proposed Direct Listing standards to provide an independent third-party Valuation that would be used as described below, with certain differences depending on whether or not there is sustained trading in a Private Placement Market, to determine whether the company has met the price-based initial listing requirements.[49]

For a company whose security has had sustained recent trading in a Private Placement Market, the Exchange generally will attribute a price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held Shares to the company equal to the lesser of (i) the value calculable based on a Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market.[50] The Commission believes that using the lesser of these values to determine whether the company has met the Exchange's price-based initial listing requirements provides a reasonable means of assessing these metrics in the special circumstances where a company's stock is not previously registered under the Exchange Act and is listing upon effectiveness of a selling shareholder registration statement, without a related underwritten offering. The Commission has recognized that the most recent trading price in a Private Placement Market may be an imperfect indication as to the value of a security upon listing, in part because Private Placement Markets generally do not have the depth and liquidity and price discovery mechanisms found on public trading markets.[51] The proposed rule requires, however, the Exchange to examine the trading price trends in the Private Placement Market over a period of several months prior to listing and specifies that the Exchange will only rely on a Private Placement Market price it if is consistent with a sustained history over a several month period evidencing a market value in excess of Nasdaq's market value requirement.[52] The Commission therefore agrees with the Exchange that consideration of both of these values (*i.e.,* the Valuation and trading on a Private Placement Market) should provide the Exchange with an estimation of a company's Market Value of Listed Securities, Market Value of Unrestricted Publicly Held Securities, and bid price that can support qualifying the company's securities for Exchange listing under the initial listing standards.[53] Further, by assessing whether a company meets price-based initial listing requirements using the *lesser* of the Valuation and a value based on the most recent Private Placement Market trading, the Exchange will be using the more conservative estimate to determine whether the company qualifies to list under the Nasdaq Global or Capital Market standards.

For a company whose security has not had sustained recent trading in a Private Placement Market, the Exchange generally will determine that the company has met its bid price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held Shares requirements if the company provides a Valuation evidencing that these metrics exceed 200% of the otherwise applicable requirements.[54] According to the Exchange, ''a recent Valuation indicating that the company exceeds 200% of the otherwise applicable price-based requirement will give a significant degree of comfort that the company will meet the applicable initial listing price-based requirements upon commencement of trading.'' [55] The Commission believes that requiring a company that does not have a recent and sustained history of trading its securities in a Private Placement Market to provide a Valuation that shows that the company exceeds 200% of the otherwise applicable price-based initial listing requirements could provide the Exchange with a reasonable level of assurance that the company will meet the Market Value of Listed Securities, Market Value of Unrestricted Publicly Held Shares, and bid price requirements to support listing on the Exchange and the maintenance of fair and orderly markets in accordance with the Exchange Act.

The Commission has previously recognized that a Valuation used to qualify a company for listing is only an estimate of what a company's true market value and security price will be upon commencement of public trading.[56] The Exchange's rules seek to ensure that the Valuation used in the listing standards described above is reliable by requiring it to be provided by an independent third party that has significant experience and demonstrable competence in providing valuations of companies, and to be of a recent date as of the time of approval of the company for listing.[57] The proposed independence criteria provide that the valuation agent will not be ''independent'' if the valuation agent, or any affiliated person, owns in the aggregate more than 5% of the securities to be listed,[58] or has provided investment banking services to the company in the 12 months prior to the Valuation or in connection with the listing.[59] The Commission believes that, consistent with Section 6(b)(5) of the Exchange Act and the protection of

[47] Companies listing upon an effective registration statement would have to meet the distribution and minimum bid price requirements set forth in Nasdaq Rules 5405(a) or 5505(a) and one of the financial standards set forth in Nasdaq Rules 5405(b) or 5505(b), as well as comply with all other applicable Nasdaq rules, including the corporate governance requirements. *See supra* notes 16–18, 21–22, and accompanying text for a description of some of the requirements in Nasdaq Rules 5405(a) and (b) and 5505(a) and (b) and how they would apply to Direct Listings. *See also infra* note 75 and accompanying text.

[48] *See* proposed Nasdaq Rules IM–5405–1(a) and IM–5505–1(a). This Discussion and Commission Findings section refers to the bid price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held Shares requirements as the ''price-based initial listing requirements.''

[49] *See* proposed Nasdaq Rules IM–5405–1(a)(1) and (2) and IM–5505–1(a)(1) and (2).

[50] *See* proposed Nasdaq Rules IM–5405–1(a)(1) and IM–5505–1(a)(1).

[51] *See* 2008 Order, *supra* note 45, 73 FR at 54443.

[52] *See* proposed Nasdaq Rules IM–5405–1(a)(5) and IM–5505–1(a)(5). In relying on the price in a Private Placement Market, the Commission has previously stated that a national security exchange should consider the trading characteristics of the stock, including its trading volume and price volatility over a sustained period of time. See 2008 Order, *supra* note 45, 73 FR at 54444. *See also infra* note 71.

[53] *See* 2008 Order, *supra* note 45, 73 FR at 54443–44.

[54] *See* proposed Nasdaq Rules IM–5405–1(a)(2) and IM–5505–1(a)(2). *See also supra* notes 16–18 and accompanying text, which set forth the increased requirements.

[55] *See supra* Section II.A.1, Calculation of Price-based Initial Listing Requirements.

[56] *See* 2008 Order, *supra* note 45, 73 FR at 54443.

[57] *See* proposed Nasdaq Rules IM–5405–1(a)(1) and (2) and IM–5505–1(a)(1) and (2) (incorporating by reference Nasdaq Rule IM–5315–1(e) and (f)). The Commission notes that Nasdaq Rule IM–5315–1(e), incorporated by reference into proposed Nasdaq Rules IM–5405–1(a)(1) and (2) and IM–5505–1(a)(1) and (2), includes additional requirements that must be satisfied before the Exchange can rely on a Valuation, such as requiring that the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement.

[58] This calculation of ownership will include any right to receive such securities exercisable within 60 days.

[59] *See* proposed Nasdaq Rules IM–5405–1(a)(1) and (2) and IM–5505–1(a)(1) and (2) (incorporating by reference Nasdaq Rule IM–5315–1(f)).

investors, these independence requirements should help to ensure that the Valuation is reliable.[60]

In addition, the Exchange will be able to approve a security for listing if, in lieu of a Valuation, the company provides other compelling evidence that the security's price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held shares exceed 250% of the otherwise applicable requirement.[61] The Exchange will be allowed to consider as compelling evidence a tender offer for cash by the company or an unaffiliated [62] third party, sales between unaffiliated third parties involving the company's equity securities, or equity security sales by the company.[63] The Commission believes that the Exchange's proposed requirements that limit the compelling evidence that the Exchange may accept in lieu of a Valuation to these specific types of transactions, and that require that such transactions must have been completed or, in the case of a tender offer, commenced and completed, within the prior six months, have represented at least 20% of the applicable Market Value of Publicly Held Shares requirement, and not have involved the company's affiliates unless such participation meets the de minimis standards described below, should provide a reasonable basis for the Exchange to determine whether the transaction provides a reliable indication of the company's value.[64] The specified requirements for affiliate participation to be considered de minimis,[65] among other considerations, can aid the Exchange in assessing whether it can rely on the transaction, whether it be a sale or a tender offer, to qualify the company for listing. Further, the requirement that the company provide written certification to the Exchange of compliance with these new rules will provide clarity and give the Exchange a means to obtain necessary information to ensure compliance. With respect to a tender offer used as evidence of compliance with price-based initial listing requirements, the Commission also notes that the tender offer will be subject, at a minimum, to Section 14(e) of the Exchange Act and Regulation 14E thereunder.[66] Finally, requiring that such evidence shows a value exceeding 250% of the otherwise applicable price-based initial listing requirements can provide the Exchange with some reasonable level of assurance that the company would satisfy the underlying price-based initial listing requirements.[67]

The Commission notes that the Exchange is not required to accept other evidence in lieu of a Valuation as evidence of compliance with its price-based initial listing requirements.[68] Additionally, in its proposal, the Exchange noted it has broad discretionary authority pursuant to Nasdaq Rule 5101 to consider whether a company may appropriately be listed on the Exchange.[69] The proposed rule language requires, as noted above, that the Exchange will only rely on a price in a Private Placement Market if it is consistent with a sustained history of trading over several months evidencing a market value in excess of the listing requirement.[70] In addition, in relying on the Valuation, Nasdaq has represented that it will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and continue to monitor the company and the appropriateness of relying on the Valuation up until the time of listing.[71] Further, when considering whether to accept other compelling evidence of a company's value in lieu of a Valuation, the Exchange has stated that it will examine any such evidence produced by the company to assure that it is indicative of the company's overall value.[72] Nasdaq has stated that, if based on the facts and circumstances, Nasdaq determines that such evidence is not reliable, the company will be required to provide a Valuation meeting the requirements of its rules.[73] Such review of the transaction, as Nasdaq has indicated, should help it determine whether it is appropriate to rely on the transaction as providing a reliable indication of the company's value when qualifying companies for listing under the new listing standards.

Based on the above, the Commission believes that the proposed initial listing requirements can provide a reasonable basis for the Exchange to find that a company has met the price-based initial listing requirements (*i.e.,* bid price, Market Value of Listed Securities, and Market Value of Unrestricted Publicly Held Shares) to support listing on the Exchange and the maintenance of fair and orderly markets, thereby protecting investors and the public interest in accordance with Section 6(b)(5) of the Exchange Act. The Commission also notes that companies listing pursuant to the new provisions will still be required to meet the listing prerequisites

[60] *See* 2018 Order, *supra* note 45, 83 FR at 5654 (approving independence standards for the entity conducting the valuation and other requirements that must be satisfied for the exchange to rely on a valuation).

[61] *See* proposed Nasdaq Rules IM–5405–1(a)(3) and IM–5505–1(a)(3). *See also supra* notes 21–22 and accompanying text, which set forth the increased requirements.

[62] The Commission notes that Nasdaq will rely on the definition of ''affiliate'' in SEC Rule 10A–3(e), 17 CFR 240.10A–3(e), to determine if a party to a transaction is an affiliate of the company or a third-party participant is unaffiliated with the company. *See supra* Section I.A.1.

[63] *See* proposed Nasdaq Rules IM–5405–1(a)(3) and IM–5505–1(a)(3).

[64] *See* proposed Nasdaq Rules IM–5405–1(a)(3)(i) and (ii) and IM–5505–1(a)(3)(i) and (ii).

[65] The de minimis standard requires that affiliate participation be less than 5% individually or less than 10% collectively, that participation be suggested or required by unaffiliated investors, and that affiliates not have participated in negotiating the economic terms of the transaction. *See* proposed Nasdaq Rules IM–5405–1(a)(3)(ii)(C)(1)–(3) and IM–5505–1(a)(3)(ii)(C)(1)–(3).

[66] *See* 15 U.S.C. 78n(e) and 17 CFR 240.14e–1 to 17 CFR 24.014e–8.

[67] *See supra* Section II.A.1, Calculation of Price-based Initial Listing Requirements (stating Nasdaq's belief that recent, substantial in size, arm's length tender offers for cash by an unaffiliated third party, sales between unaffiliated third parties involving the company's equity securities, or equity security sales by the company, with de minimis insider participation, indicating that the company exceeds 250% of the otherwise applicable price-based requirements, will give a significant degree of comfort that the company will meet the applicable price-based initial listing requirements; and that, as to an issuer tender offer that is recent, substantial in size, and that indicates the company exceeds 250% of the otherwise applicable price based requirements, such a tender offer is, in Nasdaq's view, compelling evidence of the company's value because it is unlikely the company would misprice the securities purchased to the degree necessary to fail to meet the applicable initial listing requirements).

[68] *See* proposed Nasdaq Rules IM–5405–1(a)(3) and IM–5505–1(a)(3), which state that ''in lieu of a Valuation Nasdaq may (but is not required to) accept other compelling evidence.''

[69] *See supra* note 11. Nasdaq Rule 5101 states that the exchange has broad discretionary authority to deny initial listing, apply additional or more stringent criteria for initial or continued listing, or suspend or delist particular securities based on any event, condition or circumstance that exists or occurs that makes initial or continued listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange, even though the securities meet all enumerated criteria for initial or continued listing on the Exchange.

[70] *See supra* note 52 and accompanying text. *See also* proposed Nasdaq Rules IM–5405–1(a)(5) and IM–5505–1(a)(5). As noted by Nasdaq in its filing, limited trading in a Private Placement Market may not be sufficient for the Exchange to reach a conclusion that the company meets the applicable price-based requirements. *See supra* note 15.

[71] *See supra* note 11 and accompanying text. Nasdaq further noted in its filing that it may withdraw its approval of the listing at any time prior to the listing date it if it believes that the Valuation no longer accurately reflects the company's likely market value. *See supra* note 11 and accompanying text.

[72] *See supra* Section II.A.1, Calculation of Price-based Initial Listing Requirements.

[73] See *supra* Section II.A.1, Calculation of Price-based Initial Listing Requirements. For the requirements for such Valuation, see Nasdaq Rule IM–5315–1(e) and (f) and proposed Nasdaq Rules IM–5405–1(a)(1) and (2) and IM–5505–1(a)(1) and (2).

contained in Nasdaq Rule 5210, as well as the corporate governance requirements detailed in the 5600 series of rules. Furthermore, the Commission notes that companies listing pursuant to the proposed provisions will be required to comply with the distribution requirements contained in Nasdaq Rules 5405 and 5505, *i.e.,* that the company have 400 or 300 Round Lot Holders, as applicable, and 1,100,000 or 1,000,000 Unrestricted Publicly Held Shares, as applicable, and comply with other requirements that vary depending on which listing standard the company uses to qualify for listing.[74] The Commission believes that these existing provisions should continue to help ensure that the company has the requisite liquidity for listing on the Exchange.

In addition, securities qualified for listing under the proposed listing requirements for the Nasdaq Global or Capital Markets, which are listing without a related underwritten public offering, must list upon effectiveness of a registration statement pursuant to the Securities Act filed solely for the purpose of allowing existing shareholders to sell their shares.[75] The Commission believes that this requirement should help to ensure that investors and the market have access to complete, accurate, and reliable disclosure of material information needed for informed investment decisions and secondary market trading of the listed securities.

Under the proposed rule change, securities that are not listed in connection with an underwritten initial public offering and instead qualify for listing under the listing requirements for Direct Listings on the Nasdaq Global or Capital Markets must begin trading on the Exchange following initial pricing through the IPO Cross procedures and companies will be required to have a broker-dealer serving in the role of financial advisor to the issuer who is willing to perform the functions under Nasdaq Rule 4120(c)(8) related to the opening of trading in the security that would be performed by an underwriter in an underwritten initial public offering.[76] The Commission notes that the Exchange's rules currently provide that, in the case of initial price of a security listed under the listing requirements for Direct Listings on the Nasdaq Global Select Market, the fourth tie-breaker used in calculating the Current Reference Price and determining the opening price of the security will be the most recent transaction price in the Private Placement Market (for a security that has had recent sustained trading in a Private Placement Market prior to listing) or the price determined by the Exchange in consultation with the financial advisor to the issuer.[77] The proposal would extend these pricing provisions to Direct Listings on the Nasdaq Global and Capital Markets.[78] The Commission believes that specifying that the IPO Cross must be used to open the securities, and relying on the most recent transaction price in the Private Placement Market or a price determined by the Exchange in consultation with the issuer's financial advisor for purposes of the fourth tie-breaker in the cross, should help establish a reliable Current Reference Price and the price at which the match will occur, and thereby facilitate the opening of these securities when trading first commences on the Exchange for certain securities not listed in connection with an underwritten IPO. The Commission believes these changes, consistent with Section 6(b)(5) of the Exchange Act, are reasonably designed to protect investors and the public interest and promote just and equitable principles of trade for the opening of securities listed under the new standards.

The Exchange has also proposed that, for a company transferring from a foreign regulated exchange or concurrently listing on the Exchange and a foreign regulated exchange, the Exchange will determine that the company has met the applicable price-based requirements based on the most recent trading price in such market, provided that there is a broad, liquid market for the company's shares in its country of origin.[79] The Commission believes that in these circumstances using the most recent trading price from the foreign regulated market will provide a reasonable basis for the Exchange to determine whether the company meets the Exchange's price-based based initial listing requirements, and provide clarity that other requirements described herein applicable to Direct Listing will not apply in such circumstances, thereby supporting listing on the Exchange and the maintenance of fair and orderly markets and the public interest in accordance with Section 6(b)(5) of the Exchange Act.

The Commission believes that the proposed changes to Nasdaq Rule IM–5315–1 to make Direct Listings, as described therein, a defined term and add to the caption that these requirements apply to the Nasdaq Global Select Market will provide clarity to the Exchange's rules. The Commission notes that the proposed rule change will not modify any substantive requirements for Direct Listings on the Nasdaq Global Select Market. The Commission also believes that updating the numbering for current Nasdaq Rule IM–5505 to proposed Nasdaq Rule IM–5505–2 and using the defined term Direct Listing in proposed Nasdaq Rule IM–5900–7 are also non-substantive changes that will provide clarity to the Exchange's rules, consistent with the protection of investors and the public interest under Section 6(b)(5) of the Exchange Act.

For the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Exchange Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written views, data, and arguments concerning whether Amendment No. 1 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–NASDAQ–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–NASDAQ–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/*

[74] For example, some of the listing standards require certain levels of shareholder equity or operating history. *See* Nasdaq Rules 5405 and 5505.

[75] *See* proposed Nasdaq Rules IM–5405–1(b)(ii) and IM–5505–1(b)(ii).

[76] *See* proposed Nasdaq Rules IM–5405–1(b) and IM–5505–1(b).

[77] *See* Nasdaq Rules 4753(a)(3)(A)(iv)b. and (b)(2)(D)(ii).

[78] *See* proposed Nasdaq Rules 4753(a)(3)(A)(iv)b. and (b)(2)(D)(ii).

[79] *See* proposed Nasdaq Rules IM–5405–1(a)(4) and IM–5505–1(a)(4). The Commission notes that these proposed rules are the same as existing Nasdaq Rule IM–5315–1(c), which applies to the Nasdaq Global Select Market, and will extend this provision to companies listing on the Nasdaq Global and Capital Markets.

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–2019–059 and should be submitted on or before December 30, 2019.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. The Commission notes that the original proposal was published for comment in the **Federal Register** and that the Commission received no comments on the proposal.[80] The Commission notes that Amendment No. 1 clarifies and provides additional explanation relating to the proposed rule change. The changes and additional information in Amendment No. 1 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Exchange Act. In particular, the Commission believes that the amendments and clarifications on what may constitute other compelling evidence in lieu of a Valuation, including what level of affiliate participation may be considered de minimis, that companies must provide written certification that they have met these requirements, that third party transactions must be between unaffiliated third parties, and that, as to tender offers, only cash tender offers can be compelling evidence will help the Exchange administer the requirements and provide clarity on what types of transactions may qualify. The Commission has also found that the proposal, as modified by Amendment No. 1, is consistent with the Exchange Act for the reasons discussed herein. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Exchange Act.[81]

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[82] that the proposed rule change (SR–NASDAQ–2019–059), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[83]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26405 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

[80] *See* Notice, *supra* note 3.

[81] 15 U.S.C. 78s(b)(2).

[82] *Id.*

[83] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33709; 813–00394]

Lazard Asset Management LLC and Lazard ESC Funds LLC

December 3, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act and the rules and regulations thereunder, except sections 9, 17, 30, and 36 through 53 of the Act, and the rules and regulations thereunder (the ''Rules and Regulations''). With respect to sections 17(a), (d), (e), (f), (g) and (j) and 30(a), (b), (e), and (h) of the Act, and the Rules and Regulations, and rule 38a–1 under the Act, the exemption is limited as set forth in the application.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships, limited liability companies, corporations, business or statutory trusts or other entities formed for the benefit of eligible employees of Lazard Asset Management LLC and its affiliates from certain provisions of the Act. Each series of a Fund will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

APPLICANTS: Lazard Asset Management LLC, a Delaware limited liability company (''LAM'') and Lazard ESC Funds LLC, a Delaware limited liability company.

FILING DATES: The application was filed on January 18, 2019 and was amended on June 20, 2019 and September 24, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 30, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: 30 Rockefeller Plaza, New York, NY 10112.

FOR FURTHER INFORMATION CONTACT: Kyle R. Ahlgren, Senior Counsel, at (202) 551–6857, or Holly L. Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. LAM and its ''affiliates'' within the meaning of rule 12b–2 under the Securities Exchange Act of 1934 (the ''Exchange Act'') (collectively, ''Lazard''), have organized Lazard ESC Funds LLC, and may in the future organize limited partnerships, limited liability companies, business or statutory trusts or other entities or series of any of the foregoing as ''employees'

securities companies'' (each, a ''Fund'' and together with series of Lazard ESC Funds LLC, the ''Funds''). The Funds are intended to provide investment opportunities that are competitive with those at other investment management and financial services firms and to facilitate the recruitment and retention of high caliber professionals.

2. Lazard ESC Funds LLC was formed on January 23, 2019 as a Delaware limited liability company. LAM is the manager of Lazard ESC Funds LLC. The investment objectives and policies of each Fund and whether it will operate as a diversified or non-diversified vehicle may vary from Fund to Fund, and will be set forth in the informational memorandum and the governing documents relating to the specific Fund. Potential investments for the Funds may include a wide variety of U.S. and non-U.S. assets, including but not limited to, public and private debt and equity securities, real estate, equity, credit, and other financial assets. The Funds may invest either directly or indirectly through investments in limited partnerships and other investment pools (including pools that are exempt from registration in reliance on section 3(c)(1) or 3(c)(7) of the Act) and investments in registered investment companies. Investments may be made side by side with Lazard and Lazard-related investors and through investment pools (including Aggregation Vehicles) [1] sponsored or managed by Lazard or an unaffiliated entity.

3. A Fund may be structured as a limited partnership, limited liability company, corporation, business or statutory trust or other entity, or series of any of the foregoing. A Fund may be organized inside the United States (under the laws of Delaware, or another state) or in a jurisdiction outside the United States. A Fund may be organized under the laws of a non-U.S. jurisdiction to address any tax, legal, accounting and/or regulatory considerations applicable to certain Eligible Employees (defined below) in other jurisdictions or the nature of the investment program. The investment objectives and policies of the Funds may vary from Fund to Fund. Each Fund will operate either as a closed-end or open-end management investment company, and a particular Fund may operate as a ''diversified'' or ''non-diversified'' vehicle, within the meaning of the Act. A Fund may be a partnership or corporation for U.S. federal income tax purposes, and a Fund that is a corporation for U.S. federal income tax purposes may elect to be treated as a regulated investment company. A Fund may serve as the master fund of one or more other Funds (such entities, ''Master Funds''). Interests in a Fund (''Interests'') may be issued in one or more series, each of which corresponds to particular Fund investments. In such event, each series will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

4. Lazard will control each Fund within the meaning of section 2(a)(9) of the Act. Each Fund will have a general partner, managing member or other such similar entity (a ''General Partner'') that manages, operates and controls such Fund and will be responsible for the overall management of the Fund. The General Partner or another Lazard entity will serve as investment adviser (''Investment Adviser'') to each Fund.

5. Each General Partner and Investment Adviser in managing a Fund is an ''investment adviser'' within the meaning of sections 9 and 36 of the Act, and is subject to those sections. The Investment Adviser may be paid a management fee for its services to a Fund. A General Partner or Investment Adviser may receive a performance-based fee or allocation (''Carried Interest'') based on the net gains of the Fund's investments or increase in the value of Interests, in addition to any amount allocable to the General Partner's or Investment Adviser's Interests.[2]

6. If a General Partner determines that a Fund should enter into any side-by-side investment with an unaffiliated entity, the General Partner will be permitted to engage as sub-investment adviser the unaffiliated entity (an ''Unaffiliated Subadviser''), which will be responsible for the management of such side-by-side investment.

7. With the exception of Plan Interest Holders (as defined below), all potential investors in a Fund (the ''Investors'') will be informed, among other things, that Interests in a Fund will be offered in a transaction exempt from registration under section 4(a)(2) of the Securities Act of 1933, as amended (the ''1933 Act''), or Regulation D or Regulation S promulgated thereunder, and will be sold only to Qualified Participants, which term refers to: (i) Eligible Employees (as defined below); (ii) at the request of Eligible Employees and the discretion of the General Partner, to Qualified Participants (as defined below) of such Eligible Employees; or (iii) Lazard.[3] Prior to offering Interests to an Eligible Employee or an Eligible Family Member (as defined below), a General Partner must reasonably believe that the Eligible Employee or Eligible Family Member will be capable of understanding and evaluating the merits and risks of participation in a Fund and that each such individual is able to bear the economic risk of such participation and afford a complete loss of his or her investment in a Fund.

8. In order to qualify as an ''Eligible Employee,'' (a) an individual must (i) be a current or former employee, officer or director or current Consultant [4] of Lazard and (ii) except for certain individuals who meet the definition of ''knowledgeable employee'' in rule 3c-5(a)(4) under the Act as if the Funds were ''Covered Companies'' within the meaning of the rule and a limited

[1] An ''Aggregation Vehicle'' is an investment pool sponsored or managed by Lazard or an unaffiliated entity that is formed solely for the purpose of permitting a Fund and Lazard and Lazard-related investors or Third Party Funds to collectively invest in other entities. A ''Third Party Fund'' is an investment fund organized primarily for the benefit of investors who are not affiliated with Lazard over which Lazard or an unaffiliated subadviser exercises investment discretion.

[2] All or a portion of the Carried Interest may be paid to individuals who are officers, employees or stockholders of the General Partner or Investment Adviser or their ''affiliated persons,'' as defined in section 2(a)(3) of the Act.

[3] In order to qualify as a ''Qualified Participant,'' an individual or entity must (i) be an Eligible Family Member or Eligible Investment Vehicle of an Eligible Employee or Plan Interest Holder and (ii) if purchasing an Interest from a Fund, except as discussed below, come within the standards of an ''accredited investor'' under rule 501(a) of Regulation D.

[4] The term ''Consultant'' is defined as a person or entity who Lazard has engaged to provide services and professional expertise on an ongoing basis as regular consultants or business or legal advisors to Lazard. In order to participate in the Funds, Consultants must be currently engaged by Lazard and will be required to be sophisticated investors who qualify as accredited investors under rule 501(a) of Regulation D. If a Consultant is an entity (such as, for example, a law firm or consulting firm), and the Consultant proposes to invest in the Fund through a partnership, corporation or other entity that is controlled by the Consultant, the individual participants in such partnership, corporation or other entity will be limited to senior level employees, members or partners of the Consultant who are responsible for the activities of the Consultant or the activities of the Consultant in relation to Lazard and will be required to qualify as ''accredited investors'' under rule 501(a) of Regulation D. In addition, such entities will be limited to businesses controlled by individuals who have levels of expertise and sophistication in the area of investments in securities that are comparable to other Eligible Employees who are employees, officers or directors of Lazard and who have an interest in maintaining an ongoing relationship with Lazard. The individuals participating through such entities will belong to that class of persons who will have access to the directors and officers of the General Partner or the directors and officers of Lazard, as applicable, responsible for making investments for the Funds similar to the access afforded Eligible Employees who are employees, officers or directors of Lazard.

number of other employees of Lazard [5] (collectively, ''Non-Accredited Investors''), meet the standards of an ''accredited investor'' under rule 501(a)(5) or (a)(6) of Regulation D, or (b) an entity must (i) be a current Consultant of Lazard and (ii) meet the standards of an ''accredited investor'' under rule 501(a) of Regulation D. No Fund will sell its Interests to more than 35 Non-Accredited Investors under Regulation D.

9. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister or grandchild of an Eligible Employee or Plan Interest Holder, including step and adoptive relationships. An ''Eligible Investment Vehicle'' is (a) a trust of which the trustee, grantor and/or beneficiary is an Eligible Employee or Plan Interest Holder, (b) a partnership, corporation or other entity controlled by an Eligible Employee or Plan Interest Holder, or (c) a trust or other entity established solely for the benefit of an Eligible Employee or Plan Interest Holder and/or one or more Eligible Family Members of an Eligible Employee or Plan Interest Holder.

10. Certain employees of Lazard may also receive Interests as part of an employee benefit plan without payment in order to reward and retain these employees (each, a ''Plan Interest Holder''). The Funds will not register Interests awarded to Plan Interest Holders under the 1933 Act in reliance on an opinion of counsel that the awards of Interests are not sales within the meaning of section 2(a)(3) of the 1933 Act. No relief from the provisions of the 1933 Act is requested by the Applicants with respect to the award of Interests to Plan Interest Holders. Plan Interest Holders will not be required to meet the sophistication and salary requirements to which Eligible Employees are subject.

11. An Eligible Employee or Eligible Family Member may purchase Interests through an Eligible Investment Vehicle only if either (i) the investment vehicle is an ''accredited investor'' as defined in rule 501(a) of Regulation D, or (ii) the applicable Eligible Employee or Eligible Family Member is a settlor [6] and principal investment decision-maker with respect to the investment vehicle. Eligible Investment Vehicles that are not accredited investors will be counted in accordance with Regulation D toward the 35 Non-Accredited Investor limit discussed above.

12. The terms of each Fund will be fully disclosed to each Eligible Employee and, if a Qualified Participant of such Eligible Employee is required to make an investment decision with respect to whether or not to participate in a Fund, to such Qualified Participant, at the time such Eligible Employee or Qualified Participant is invited to participate in the Fund, or to a Plan Interest Holder at the time he or she receives an Interest. A Fund will send its investors an annual financial statement within 120 days after the end of each fiscal year end of the Fund, or as soon as practicable after the end of the Fund's fiscal year. The annual financial statement will be audited [7] by an independent certified public accountant. In addition, as soon as practicable after the end of each fiscal year of a Fund, a report will be sent to each investor setting forth the information with respect such investor's share of income, gains, losses, credits, and other items for U.S. federal and state income tax purposes resulting from the operation of the Fund during that year.

13. Interests in a Fund will be non-transferable except with the prior written consent of the General Partner, and, in any event, no person or entity will be admitted into the Fund as an investor unless such person is (i) an Eligible Employee, (ii) a Plan Interest Holder, (iii) a Qualified Participant, or (iv) Lazard. No sales load or similar fee of any kind will be charged in connection with the sale of Interests.

14. A General Partner may have the right, but not the obligation, to repurchase, cancel, or transfer to another Qualified Participant the Interests of (i) an Eligible Employee who ceases to be an employee, officer, director or Consultant of Lazard for any reason or (ii) any Qualified Participant of any person described in clause (i). The governing documents for each Fund will describe, if applicable, the amount that an investor would receive upon repurchase, cancellation or transfer of its Interests.

15. Among other assets, the Funds may invest either directly or indirectly through investments in limited partnerships and other investment pools (including pools that are exempt from registration in reliance on section 3(c)(1) or 3(c)(7) of the Act) and investments in registered investment companies. Investments may be made side by side with Lazard and Lazard-related investors and through investment pools (including Aggregation Vehicles) sponsored or managed by Lazard or an unaffiliated entity.

16. A Fund may co-invest in a portfolio company with one or more of Lazard and/or a separate account for the benefit of clients, or an investment fund organized primarily for the benefit of investors, in either case, who are not affiliated with Lazard over which Lazard or an Unaffiliated Subadviser exercises investment discretion (''Third Party Funds''). Side-by-side investments held by a Third Party Fund, or by Lazard in a transaction in which Lazard's investment was made pursuant to a contractual obligation to a Third Party Fund, will not be subject to the restrictions contained in Condition 3. All other side-by-side investments held by Lazard will be subject to the restrictions contained in Condition 3.

17. If Lazard makes loans to a Fund, the lender will be entitled to receive interest, provided that the interest rate will be no less favorable to the borrower than the rate obtainable on an arm's length basis. The possibility of any such borrowings, as well as the terms thereof, would be disclosed to investors prior to their investment in a Fund. Any indebtedness of the Fund will be the debt of the Fund and without recourse to the investors. A Fund will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own securities of the Fund (other than short-term paper). A Fund will not lend any funds to Lazard.

18. A Fund will not purchase or otherwise acquire any security issued by a registered investment company if, immediately after such purchase or acquisition, the Fund would own more than 3% of the outstanding voting stock of the registered investment company unless such purchase or acquisition is permitted under the applicable rules and regulations or any applicable exemption.

[5] Such employees must meet the sophistication requirements set forth in rule 506(b)(2)(ii) of Regulation D under the 1933 Act and may be permitted to invest his or her own funds in the Fund if, at the time of the employee's investment in a Fund, he or she (a) has a graduate degree in business, law or accounting, (b) has a minimum of five years of consulting, investment banking or similar business experience, and (c) has had reportable income from all sources of at least $100,000 in each of the two most recent years and a reasonable expectation of income from all sources of at least $140,000 in each year in which such person will be committed to make investments in a Fund. In addition, such an employee will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in such Fund and in all other Funds in which he or she has previously invested.

[6] If such investment vehicle is an entity other than a trust, the term ''settlor'' will be read to mean a person who created such vehicle, alone or together with other Eligible Employees and/or Eligible Family Members, and contributed funds to such vehicle.

[7] ''Audit'' has the meaning defined in rule 1–02(d) of Regulation S–X.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides that the Commission shall exempt employees' securities companies from the provisions of the Act if and to the extent that such exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) of the Act provides that in connection with any order exempting an investment company from any provision of section 7, certain specified provisions of the Act shall be applicable to such company, and to other persons in their transactions and relations with such company, as though such company were registered under the Act, if the Commission deems it necessary and appropriate in the public interest or for the protection of investors. Applicants submit that it would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the Commission to issue an order under sections 6(b) and 6(e) of the Act exempting the Funds from all provisions of the Act and the rules and regulations thereunder, except sections 9, 17, 30, and 36 through 53 of the Act, and the Rules and Regulations. With respect to sections 17(a), (d), (e), (f), (g) and (j) and 30(a), (b), (e), and (h) of the Act, and the Rules and Regulations, and rule 38a–1 under the Act, Applicants request a limited exemption as set forth in the application.

3. Section 17(a) of the Act generally prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling or purchasing any security or other property to or from the investment company. Applicants request an exemption from section 17(a) to the extent necessary to (a) permit Lazard or a Third Party Fund (or any ''affiliated person,'' as defined in the Act, of Lazard or a Third Party Fund), acting as a principal, to purchase or sell securities or other property to or from any Fund or any company controlled by such Fund; and (b) permit a Fund to invest in or engage in any transaction with Lazard, acting as principal, (i) in which such Fund, any company controlled by such Fund or Lazard or any Third Party Fund has invested or will invest, or (ii) with which such Fund, any company controlled by such Fund or Lazard or any Third Party Fund is or will become otherwise affiliated. The transactions to which any Fund is a party will be effected only after a determination by the General Partner that the requirements of Conditions 1, 2 and 6 below have been satisfied. Lazard, on behalf of the Funds, represents that any transactions otherwise subject to section 17(a) of the Act, for which exemptive relief has not been requested, would require approval of the Commission.

4. Applicants submit that an exemption from section 17(a) is consistent with the policy of each Fund and the protection of investors. Applicants state that the investors in each Fund will have been fully informed of the possible extent of such Fund's dealings with Lazard and of the potential conflicts of interest that may exist. Applicants also state that, as professionals employed in the investment management and securities businesses, or in administrative, financial, accounting, legal, sales, marketing, risk management or operational activities related thereto, the investors will be able to understand and evaluate the risks associated with those dealings. Applicants assert that the community of interest among the investors in each Fund and Lazard will serve to reduce the risk of abuse in transactions involving Lazard. Applicants acknowledge that the requested relief will not extend to any transactions between a Fund and an Unaffiliated Subadviser or an affiliated person of an Unaffiliated Subadviser, or between a Fund and any person who is not an employee, officer or director of Lazard or is an entity outside of Lazard and is an affiliated person of the Fund as defined in section 2(a)(3)(E) of the Act (an ''Advisory Person'') or any affiliated person of such person.

5. Section 17(d) of the Act and rule 17d–1 thereunder prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of such a person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request an exemption from section 17(d) and rule 17d–1 to the extent necessary to permit affiliated persons of each Fund, or affiliated persons of any of such persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which such Fund or a company controlled by such Fund is a participant. The exemption would permit, among other things, co-investments by the Funds, Third Party Funds and individual members or employees, officers, directors or Consultants of Lazard making their own individual investment decisions apart from Lazard. Applicants acknowledge that the requested relief will not extend to any transaction in which an Unaffiliated Subadviser or an Advisory Person or an affiliated person of either such person has an interest, except in connection with a Third Party Fund sponsored by an Unaffiliated Subadviser.

6. The Applicants submit that investments will be made by a Fund because of its affiliation with Lazard. The Applicants also submit that the types of investment opportunities often considered by a Fund require each participant in the transaction to make funds available in an amount that may be substantially greater than what a Fund (including its Eligible Employees, Plan Interest Holders and Qualified Participants) may be able to make available on its own. The Applicants contend that, as a result, the only way in which a Fund (and thus its Eligible Employees, Plan Interest Holders and Qualified Participants) may be able to participate in these opportunities is to co-invest with Lazard. The Applicants note that each Fund will be primarily organized for the benefit of Eligible Employees as an incentive for them to remain with Lazard and for the generation and maintenance of goodwill. The Applicants believe that, if co-investments with Lazard are prohibited, the appeal of the Funds would be significantly diminished. The Applicants assert that Eligible Employees wish to participate in such co-investment opportunities because they believe that (i) the resources of Lazard enable it to analyze investment

opportunities to an extent that Eligible Employees would not be able to duplicate, (ii) investments recommended by Lazard will not be generally available to investors even of the financial status of the Eligible Employees, and (iii) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. In addition, Applicants represent that any transactions otherwise subject to section 17(d) of the Act and rule 17d–1 thereunder, for which exemptive relief has not been requested, would require approval by the Commission.

8. Co-investments with Third Party Funds, or by Lazard pursuant to a contractual obligation to a Third Party Fund, will not be subject to Condition 3 below. The Applicants note that it is common for a Third Party Fund to require that Lazard invest its own capital in Third Party Fund investments and that Lazard's investments be subject to substantially the same terms as those applicable to the Third Party Fund. The Applicants believe that it is important that the interests of the Third Party Fund take priority over the interests of the Funds and that the Third Party Fund not be burdened or otherwise affected by activities of the Funds. In addition, the Applicants assert that the relationship of a Fund to a Third Party Fund is fundamentally different from a Fund's relationship to Lazard. The Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Funds from any overreaching by Lazard in the employer/employee context, whereas the same concerns are not present with respect to the Funds vis-à-vis a Third Party Fund.

9. Section 17(e) of the Act and rule 17e–1 thereunder limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit Lazard (including the General Partner) that acts as an agent or broker to receive placement fees, advisory fees, brokerage fees or other compensation from a Fund in connection with the purchase or sale by the Fund of securities, provided that the fees or other compensation are deemed ''usual and customary.'' Applicants state that for purposes of the application, fees or other compensation that are charged or received by Lazard will be deemed ''usual and customary'' only if (i) the Fund is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds, (ii) the fees or other compensation being charged to the Fund (directly or indirectly) are also being charged to the unaffiliated third parties, including Third Party Funds, and (iii) the amount of securities being purchased or sold by the Fund (directly or indirectly) does not exceed 50% of the total amount of securities being purchased or sold by the Fund (directly or indirectly) and the unaffiliated third parties, including Third Party Funds. Applicants state that compliance with section 17(e) would prevent a Fund from participating in transactions in where the Fund is being charged lower fees than unaffiliated third parties also participating in the transaction. Applicants assert that the concerns of overreaching and abuse that section 17(e) and rule 17e–1 were designed to prevent are alleviated by the conditions that ensure that the fees or other compensation paid by a Fund to Lazard are those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) under the Act requires that a majority of directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees, or other remuneration. Rule 17e–1(c) under the Act requires each Fund to comply with the fund governance standards defined in rule 0–1(a)(7) under the Act. Applicants request an exemption from rule 17e–1(b) to the extent necessary to permit each Fund to comply with rule 17e–1(b) without having a majority of the directors of the General Partner who are not ''interested persons'' take actions and make determinations as set forth in paragraph (b) of the rule and without having to satisfy the standards set forth in paragraph (c) of the rule. Applicants state that because all the directors or other governing body of a General Partner will be affiliated persons, without the relief requested, a Fund could not comply with rule 17e–1. Applicants represent that each Fund will comply with rule 17e–1(b) by having a majority of the directors (or members of a comparable body) of the Fund or its General Partner take such actions and make such approvals as are set forth in the rule. Applicants state that each Fund will otherwise comply with rule 17e–1.

11. Section 17(f) of the Act provides that the securities and similar investments of a registered management investment company must be placed in the custody of a bank, a member of a national securities exchange or the company itself in accordance with Commission rules. Rule 17f–1 under the Act specifies the requirements that must be satisfied for a registered management investment company to maintain custody of its securities and similar investments with a company that is a member of a national securities exchange. The Applicants request relief from section 17(f) of the Act and subsections (a), (b) (to the extent such subsection refers to contractual requirements), (c) and (d) of rule 17f–1 under the Act to the extent necessary to permit Lazard to act as custodian for a Fund without a written contract. Applicants contend that since there is a close association between a Fund and Lazard, requiring a detailed written contract would expose the Fund to unnecessary burden and expense. The Applicants also request relief from the requirement in paragraph (b)(4) of the rule that an independent accountant periodically verify the Fund's assets held by the custodian. The Applicants believe that, because of the community of interest between Lazard and the Funds and the existing requirement for an independent audit, compliance with this requirement would be unnecessary. Except as set forth above, a Fund relying on rule 17f–1 will otherwise comply with the provisions of the rule.

12. Rule 17f–2 under the Act specifies the requirements that must be satisfied for a registered management investment company to act as a custodian of its own investments. Applicants request relief from section 17(f) and rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (i) A Fund's investments may be kept in the locked files of Lazard or the General Partner or the Investment Adviser; (ii) for purposes of paragraph (d) of the rule, (a) employees of the General Partner (or Lazard) will be deemed to be employees of the Funds, (b) officers or managers of the General Partner (or Lazard) will be deemed to be officers of the Fund, and (c) the General Partner or its board of directors will be deemed to be the board of directors of the Fund; and (iii) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees, each of whom will have sufficient knowledge, sophistication and experience in business matters to perform such examination. With respect to certain Funds, some of their investments may be evidenced only by partnership agreements, participation agreements or similar documents, rather than by negotiable certificates that could be misappropriated. The Applicants

assert that, for such a Fund, these instruments are most suitably kept in the files of Lazard, the General Partner or the Investment Adviser, where they can be referred to as necessary. The Applicants state that they will comply with all other provisions of rule 17f–2.

13. Section 17(g) of the Act and rule 17g–1 thereunder generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not ''interested persons'' of a registered investment company take certain actions and give certain approvals relating to fidelity bonding. Among other things, the rule also requires that the board of directors of an investment company relying on the rule satisfy the fund governance standards defined in rule 0–1(a)(7). Applicants request an exemption from rule 17g–1 to the extent necessary to permit the General Partner's board of directors or other governing body, who may be deemed interested persons, to take actions and make determinations as set forth in the rule. The Applicants also request an exemption from the requirements of: (i) Paragraph (g) of rule 17g–1 relating to the filing of copies of fidelity bonds and related information with the Commission and the provision of notices to the board of directors; (ii) paragraph (h) of the rule relating to the appointment of a person to make the filings and provide the notices required by paragraph (g); and (iii) paragraph (j)(3) of the rule relating to compliance with the fund governance standards set forth in rule 0–1(a)(7) under the Act. Applicants state that because all directors or other governing body of the General Partner will be affiliated persons, a Fund could not comply with rule 17g–1 without the requested relief. Applicants contend that the filing requirements are burdensome and unnecessary as applied to the Funds and represent that the applicable General Partner will maintain the materials otherwise required to be filed with the Commission by paragraph (g) of rule 17g–1 and agree that all such materials will be subject to examination by the Commission and its staff. Applicants submit that no purpose would be served in complying with the requirements of the rule related to filing information with the Commission. Applicants represent that the Funds will comply with all other requirements of rule 17g–1.

14. Section 17(j) of the Act and rule 17j–1 require that every registered investment company adopt a written code of ethics that contains provisions reasonably necessary to prevent ''access persons'' from violating the anti-fraud provisions of the rule. Under rule 17j–1, the investment company's access persons must report to the investment company with respect to transactions in any security in which the access person has, or by reason of the transaction acquires, any direct or indirect beneficial ownership in such security. Applicants request an exemption from section 17(j) and the provisions of rule 17j–1, except for the antifraud provisions of paragraph (b), because they assert that these requirements are unnecessarily burdensome as applied to the Funds. The relief requested will extend only to Lazard and is not requested with respect to any Unaffiliated Subadviser or Advisory Person.

15. Sections 30(a), (b) and (e) of the Act and the rules thereunder generally require that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to the Funds and would entail administrative and legal costs that outweigh any benefit to the investors. Applicants request relief under sections 30(a), (b) and (e) to the extent necessary to permit each Fund to report annually to its investors in the manner described in the application. Section 30(h) of the Act requires that every officer, director, member of an advisory board, investment adviser or affiliated person of an investment adviser of a closed-end investment company be subject to the same duties and liabilities as those imposed upon similar classes of persons under section 16(a) of the Exchange Act. Applicants request an exemption from section 30(h) of the Act to the extent necessary to exempt the General Partner of each Fund, members of the General Partner, any board of managers or directors or committee of Lazard's employees to whom the General Partner may delegate its functions, and any other persons who may be deemed to be members of an advisory board of a Fund, or any other persons otherwise subject to section 30(h), from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership interests in the Fund. Applicants assert that, because there will be no trading market and the transfers of Interests are severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

16. Rule 38a–1 requires registered investment companies to adopt, implement and periodically review written policies reasonably designed to prevent violation of the federal securities laws and to appoint a chief compliance officer. Applicants represent that each Fund will comply with rule 38a–1(a), (c) and (d), except that (i) since the Fund does not have a board of directors, the board of directors or other governing body of the General Partner will fulfill the responsibilities assigned to the Fund's board of directors under the rule, and (ii) since the board of directors or other governing body of the General Partner does not have any disinterested members, (a) approval by a majority of the disinterested board members required by rule 38a–1 will not be obtained, and (b) the Funds will comply with the requirement in rule 38a–1(a)(4)(iv) that the chief compliance officer meet with the independent directors by having the chief compliance officer meet with the board of directors or other governing body of the General Partner as constituted Applicants represent that each Fund will adopt written policies and procedures reasonably designed to prevent violations of the terms and conditions of the application, will appoint a chief compliance officer and will comply with the terms and conditions of the application.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction involving a Fund otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 under the Act to which a Fund is a party (the ''Section 17 Transactions'') will be effected only if the applicable General Partner determines that (i) the terms of the Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Investors of the Fund and do not involve overreaching of the Fund or its investors on the part of any person concerned, and (ii) the Section 17 Transaction is consistent with the interests of the Investors, the Fund's organizational documents and the Fund's reports to its Investors.[8] In addition, the applicable General Partner will record and preserve a description of all Section 17 Transactions, the General Partner's findings, the information or materials upon which the findings are based and

[8] If a Fund invests through an Aggregation Vehicle and such investment is a Section 17 Transaction, this condition will apply with respect to both the investment in the Aggregation Vehicle and any investment by the Aggregation Vehicle of Fund assets.

the basis for the findings. All such records will be maintained for the life of the Fund and at least six years thereafter and will be subject to examination by the Commission and its staff.[9]

2. The General Partner of each Fund will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Fund or any affiliated person of such person, promoter or principal underwriter.

3. The General Partner of each Fund will not invest the funds of the Fund in any investment in which an Affiliated Co-Investor (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer and where the investment transaction involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Fund and an Affiliated Co-Investor are participants (each such investment, a ''Rule 17d–1 Investment''), unless any such Affiliated Co-Investor, prior to disposing of all or part of its investment, (i) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (ii) refrains from disposing of its investment unless the Fund has the opportunity to dispose of the Fund's investment prior to or concurrently with, on the same terms as and pro rata with, the Affiliated Co-Investor.[10] The term ''Affiliated Co-Investor'' with respect to any Fund means any person who is (i) an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Fund (other than a Third Party Fund), (ii) Lazard, (iii) an officer or director of Lazard, (iv) an Eligible Employee, or (v) an entity (other than a Third Party Fund) in which Lazard acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor (i) to its direct or indirect wholly owned subsidiary, to any company (a ''Parent'') of which the Affiliated Co-Investor is a direct or indirect wholly owned subsidiary or to a direct or indirect wholly owned subsidiary of its Parent, (ii) to immediate family members of the Affiliated Co-Investor or a trust or other investment vehicle established for any Affiliated Co-Investor or any such immediate family member, or (iii) when the investment is comprised of securities that are (a) listed on a national securities exchange registered under section 6 of the Exchange Act, (b) NMS stocks pursuant to section 11A(a)(2) of the Exchange Act and rule 600(a) of Regulation NMS thereunder, (c) government securities as defined in section 2(a)(16) of the Act or other securities that meet the definition of ''Eligible Security'' in rule 2a–7 under the Act, or (d) listed or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Fund and its General Partner will maintain and preserve, for the life of each Fund and at least six years thereafter, such accounts, books and other documents constituting the record forming the basis for the audited financial statements that are to be provided to the investors in the Fund, and each annual report of the Fund required to be sent to the investors, and agree that all such records will be subject to examination by the Commission and its staff.[11]

5. Within 120 days after the end of each fiscal year of each Fund, or as soon as practicable thereafter, the General Partner of each Fund will send to each Investor having an Interest in the Fund at any time during the fiscal year then ended Fund financial statements audited by the Fund's independent accountants. At the end of each fiscal year, the General Partner will make or cause to be made a valuation of all of the assets of the Fund as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Fund. In addition, within 120 days after the end of each fiscal year of each Fund (or as soon as practicable thereafter) the General Partner will send a report to each person who was an Investor at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Investor of that person's federal and state income tax returns and a report of the investment activities of the Fund during that fiscal year.

6. If a Fund makes purchases or sales from or to an entity affiliated with the Fund by reason of an officer, director or employee of Lazard (i) serving as an officer, director, general partner, manager or investment adviser of the entity (other than an entity that is an Aggregation Vehicle), or (ii) having a 5% or more investment in the entity, such individual will not participate in the Fund's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26407 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

[9] Each Fund will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[10] If a Fund invests in a Rule 17d–1 Investment through an Aggregation Vehicle, the requirements of clauses (i) and (ii) of this sentence shall apply to both the Affiliated Co-Investor's disposition of such Rule 17d–1 Investment and, if the Affiliated Co-Investor also holds a Rule 17d–1 Investment through such Aggregation Vehicle, its disposition of all or part of its investment in the Aggregation Vehicle.

[11] Each fund will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Small Business Capital Formation Advisory Committee on Small and Emerging Companies will hold a public telephonic meeting on Wednesday, December 11, 2019 at 11:00 a.m. (ET).

PLACE: The meeting will be conducted by telephonic conference call. There will be no physical meeting place. Members of the public may listen to the live audiocast of the telephonic meeting on the Commission's website at *www.sec.gov.*

STATUS: The meeting will begin at 11:00 a.m. (ET) and will be open to the public. Members of the public may listen to the live audiocast of the telephonic meeting on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: On November 26, 2019, the Commission published notice of the Committee meeting (Release No. 33–10729), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting includes matters relating to rules and regulations

affecting small and emerging companies under the federal securities laws.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: December 4, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–26509 Filed 12–5–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87649; File No. SR–LCH SA–2019–011]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Amendments to CDS Clearing Supplement To Reflect the ISDA NTCE Protocol and Supplement

December 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 November 21, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared by LCH SA. 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

Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), is proposing to amend its CDS Clearing Supplement (''Supplement'') to incorporate new terms and to make conforming, clarifying, and clean-up changes intended to: (1) Incorporate the ISDA 2019 Narrowly Tailored Credit Event Protocol (the ''NTCE Protocol'') into the Supplement, allowing parties to amend their legacy transactions to incorporate the 2019 Narrowly Tailored Credit Event Supplement to the 2014 ISDA Credit Derivatives Definitions (the ''NTCE Supplement''); and (2) make certain clarifications as to the notion of Outstanding Principal Balance, which shall always have the meaning set out in the ISDA 2003 and ISDA 2014 Credit Derivatives Definitions. Capitalized terms not defined or modified in this rule proposal will have the same meaning as in LCH SA's existing Rule Book, Supplement, or Procedures.

The text of the proposed rule change has been annexed as Exhibit 5.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA 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

LCH SA is proposing to amend its Supplement to reflect the NTCE Protocol, and the NTCE Supplement amending the 2014 ISDA Credit Derivatives Definitions addressing narrowly tailored credit events (''NTCEs''). NTCEs are arrangements with corporations that cause a credit event leading to settlement of CDS contracts while minimizing the impact on the corporation.

ISDA published a statement from its Board of Directors in April 2018 noting concerns with the impact of such events on the efficiency, reliability and fairness of the overall CDS market. The NTCE Protocol, due for implementation on 27 January 2020, incorporates the terms of the NTCE Supplement for legacy uncleared in-scope single name and index transactions to match the new trading standard. Yet, CCPs are expected to reflect the NTCE Protocol changes to the transactions they clear by an amendment to their clearing rules, and the final implementation date will be aligned so that the changes will go into effect for trades cleared at different CCPs and for uncleared trades at the same time.

As such, LCH SA has determined to file this proposed rule change in order to, among other things, amend its CDS Clearing Supplement to reflect the changes brought by the NTCE Protocol and NTCE Supplement. Such changes will therefore be incorporated for new trades on corporate and financial Reference Entities by updating the ISDA Credit Derivatives Physical Settlement Matrix.

(a) Amendments To Reflect the NTCE Protocol for Cleared Transactions

The updated CDS Clearing Rules will permit Clearing Members to match the new trading standard for their Index Cleared Transactions and their Single Name Cleared Transactions, without the need for LCH SA to adhere to the NTCE Protocol. To implement the ISDA NTCE Protocol and NTCE Supplement, the Supplement will be amended by adding new and amending existing provisions as described below.

In support of the above matter, LCH SA will add new provisions to the Supplement in each of Part B & Part C. Each of these changes in these two sections are substantially similar.

For Index Cleared Transactions and Single Name Transactions incorporating the 2014 ISDA Credit Derivatives Definitions:

- Part B, Section 1.2 Terms defined in the CDS Clearing Supplement—the definition of Index Cleared Transaction Confirmation will be updated with the date of the amended confirmation as published by Markit Group Limited, both for references Markit iTraxx® Europe Index Series 22 or above (a) and Markit CDX™ Index Series 23 or above (b);
- Part B, Section 2.2 (g) and (h) will be added to the Supplement—The Index Cleared Transaction Confirmation will be amended for NTCE Protocol covered transactions by making the notions of Credit Deterioration Requirement and Fallback Discounting applicable, in accordance with the Relevant Physical Settlement Matrix and amended confirmation as published by Markit Group Limited;
- Part B, Section 2.3 (h) and (i) will be added to the Supplement—The Single Name Cleared Transaction Confirmation will be amended for NTCE Protocol covered transactions by making the notions of Credit Deterioration Requirement and Fallback Discounting applicable, in accordance with the Relevant Physical Settlement Matrix and amended confirmation as published by Markit Group Limited;
- Part B, Section 2.4 (e) will be added to the Supplement—The amendments brought by the NTCE Protocol and subsequent NTCE Supplement to the 2014 ISDA Credit Derivatives Definitions shall only be applicable where the Protocol Effectiveness Condition, as defined in the NTCE Protocol, is satisfied;
- Part B, APPENDIX XIII, Section 2.6 will be added to the Supplement—

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] All capitalized terms not defined herein have the same definition as the Rule Book, Supplement or Procedures, as applicable.

Mirroring the Part B, Section 2.4 (e) mentioned above, this addition ensures that the amendments brought by the NTCE Protocol and subsequent NTCE Supplement to the 2014 ISDA Credit Derivatives Definitions shall only be applicable to CCM Client Transactions where the Protocol Effectiveness Condition, as defined in the NTCE Protocol, is satisfied.

For Credit Index Swaptions:

- Part C, Section 1.2 Terms defined in the CDS Clearing Supplement—the definition of iTraxx® Europe Untranched Transactions Swaption Standard Terms Supplement will be updated with the date of the amended iTraxx® Europe Untranched Transactions Swaption Standard Terms Supplement as published by Markit Indices Limited;
- Part C, Section 2.2 (f) and (g) will be added to the Supplement—The Index Swaption Cleared Transaction Confirmation will be amended for NTCE Protocol covered transactions by making the notions of Credit Deterioration Requirement and Fallback Discounting applicable, in accordance with the Relevant Physical Settlement Matrix;
- Part C, Section 2.3 (b) will be added to the Supplement—The amendments brought by the NTCE Protocol and subsequent NTCE Supplement to the 2014 ISDA Credit Derivatives Definitions shall only be applicable where the Protocol Effectiveness Condition, as defined in the NTCE Protocol, is satisfied;
- Part C, APPENDIX VIII, Section 1 will be updated with the date of the amended iTraxx® Europe Untranched Transactions Swaption Standard Terms Supplement as published by Markit Indices Limited;
- Part C, APPENDIX VIII, Section 2.4 will be added to the Supplement—Mirroring the Part C, Section 2.3 (b) mentioned above, this addition ensures that the amendments brought by the NTCE Protocol and subsequent NTCE Supplement to the 2014 ISDA Credit Derivatives Definitions shall only be applicable to CCM Client Transactions where the Protocol Effectiveness Condition, as defined in the NTCE Protocol, is satisfied

(b) Amendments To Harmonize the Use and Definition of Outstanding Principal Balance

LCH has noticed that the term ''Outstanding Principal Balance'' appears throughout the Supplement using both small and capitalized letters. The entire Supplement will be harmonized in that sense that any reference to an Outstanding Principal Balance shall be with capitalized letters, so as to refer to the Outstanding Principal Balance defined, for Part A of the Supplement, in the ISDA 2003 Credit Derivatives Definitions, and for Parts B & C, in the ISDA 2014 Credit Derivatives Definitions.

2. Statutory Basis

LCH SA believes that the proposed rule change in connection with the ISDA NTCE Protocol and NTCE Supplement is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 [4] (the ''Act'') and the regulations thereunder, including the standards under Rule 17Ad–22 [5]. In particular, Section 17(A)(b)(3)(F)6 of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions cleared and 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 and the protection of investors and the public interest.[6]

Further, Rule 17d–22(e)(1) requires a covered clearing agency to provide for a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. Rule 17d–22(e)(iii) also requires to support the objectives of participants.

The ISDA 2019 NTCE Protocol and Supplement are a wide industry's response to the concerns raised by both market participants and regulators regarding NTCEs and their potential market on the CDS markets.

ISDA has expressed concern that ''narrowly tailored defaults . . . could negatively impact the efficiency, reliability and fairness of the overall CDS market.'' Regulators have also expressed concern with narrowly tailored or manufactured credit events, including a joint statement by the heads of the Commission, the Commodity Futures Trading Commission and the UK Financial Conduct Authority that such strategies ''may adversely affect the integrity, confidence and reputation of the credit derivatives markets, as well as markets more generally. These opportunistic strategies raise various issues under securities, derivatives, conduct and antifraud laws, as well as policy concerns.'' [7]

It was understood that the heads of the Commission, the Commodity Futures Trading Commission and the UK Financial Conduct Authority have stated that they welcome the efforts to implement the amendments set out in the NTCE Supplement and NTCE Protocol.[8]

So, as all CCPs, LCH SA is expected to modify its rules so that the NTCE Supplement's terms will also apply to all cleared CDS transactions entered into after the implementation date.

The LCH SA CDSClear proposed rule change is fully consistent with the amendments of the ISDA credit derivatives documentation and incorporates changes to the standard terms of CDS Contracts widely adopted by market participants.

For all the reasons above, LCH SA believes that the proposed rule change is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 [9] (the ''Act'') and the regulations thereunder, including the standards under Rule 17Ad–22[10].

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 not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[11]

As mentioned above, the LCH SA CDSClear proposed rule change is reflecting the ISDA 2019 NTCE Protocol and Supplement that is an industry response and initiative applicable to all CDS market participants.

The proposed rule change would apply equally to all Clearing Members and their Clients and would not adversely affect the ability of such members or other market participants generally to engage in cleared transactions or to access LCH SA's clearing services.

Therefore, LCH SA does not believe that the proposed rule change would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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[4] 15 U.S.C. 78q–1.

[5] 17 CFR 240.17Ad–22.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] Securities and Exchange Commission, Commodity Futures Trading Commission and UK Financial Conduct Authority, Joint Statement on Opportunistic Strategies in the Credit Derivatives Markets (June 24, 2019); see also Update to June 2019 Joint CFTC–SEC–FCA Statement on Opportunistic Strategies in the Credit Derivatives Market (Sept. 19, 2019).

[8] Update to June 2019 Joint CFTC–SEC–FCA Statement on Opportunistic Strategies in the Credit Derivatives Markets (Sept. 19, 2019).

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 240.17Ad–22.

[11] 15 U.S.C. 78q–1(b)(3)(I).

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

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 such 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 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–LCH SA–2019–011 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–LCH SA–2019–011. 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 LCH SA and on LCH SA's website at: *https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0.* 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–LCH SA–2019–011 and should be submitted on or before December 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26408 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m. on Wednesday, December 11, 2019.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: December 4, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–26496 Filed 12–5–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87651; File No. SR–CboeBZX–2019–099]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow the Hartford Short Duration ETF To Hold Certain Fixed Income Instruments in a Manner That Does Not Comply With Rule 14.11(i)

December 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 November 20, 2019, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

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 allow the Hartford Short Duration ETF (the ''Fund''), a series of Hartford Funds Exchange-Traded Trust (the ''Trust''), to hold certain fixed income instruments in a manner that does not comply with Rule 14.11(i) (''Managed Fund Shares'').

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 Shares are currently listed on the Exchange pursuant to the generic listing standards under Rule 14.11(i) governing Managed Fund Shares and comply with the generic listing standards.[5] The Exchange proposes to continue listing and trading the Shares. The Shares would continue to comply with all of the generic listing standards after effectiveness of this proposal with the exception of the requirement of Rule 14.11(i)(4)(C)(ii)(d), that requires that component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio to satisfy at least one of five conditions. Specifically, the Exchange submits this proposal in order to allow the Fund to hold instruments in a manner that may not comply with Rule 14.11(i)(4)(C)(ii)(d),[6] as further described below. The Exchange notes that this proposed exception to Rule 14.11(i)(4)(C)(ii)(d) is substantively identical to an exception included in two other rule filings that have been approved by the Commission.[7]

The Shares are offered by the Trust, which was established as a Delaware statutory trust on September 20, 2010. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A with the Commission.[8] Hartford Funds Management Company LLC acts as adviser to the Fund (the ''Adviser'').

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[9] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain ''fire walls'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of

[5] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[6] Rule 14.11(i)(4)(C)(ii)(d) provides that ''component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.'' The Exchange instead is proposing that the fixed income portion of the portfolio excluding Non-Agency ABS, as defined below, will satisfy this 90% requirement.

[7] *See* Securities Exchange Act Release Nos. 84047 (September 6, 2018), 83 FR 46200 (September 12, 2018) (SR–NASDAQ–2017–128) (the ''Nasdaq Approval Order''); and 85701 (April 22, 2019), 84 FR 17902 (April 26, 2019) (SR–CboeBZX–2019–016) (the ''Exchange Approval Order'').

[8] The Trust filed a post-effective amendment to the Registration Statement on March 1, 2019 (the ''Registration Statement''). *See* Registration Statement on Form N–1A for the Trust (File Nos. 333–215165 and 811–23222). The descriptions of the Fund and the Shares contained herein are based, in part, on information included in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust and affiliated persons under the Investment Company Act of 1940 (the ''1940 Act'') (15 U.S.C. 80a–1). *See* Investment Company Act Release No. 30695 (September 24, 2013) (File No. 812–14178).

[9] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

material non-public information regarding such portfolio.

The Exchange represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio,[10] Net Asset Value,[11] and the Intraday Indicative Value,[12] suspension of trading or removal,[13] trading halts,[14] surveillance,[15] minimum price variation for quoting and order entry,[16] the information circular,[17] and firewalls [18] as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. The Trust is also required to comply with Rule 10A–3 under the Act for the continued listing of the Shares of the Fund. The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Hartford Short Duration ETF

The Fund seeks to provide current income and long-term total return. In order to achieve its investment objective, under Normal Market Conditions,[19] the Fund will invest primarily in investment grade and non-investment grade fixed income securities, as described in Rule 14.11(i)(4)(C)(ii). Under Normal Market Conditions, the Fund will invest the majority of its net assets in fixed income securities, including bank loans or loan participations. Such holdings in fixed income securities currently meet the requirements for fixed income instruments in Rule 14.11(i)(4)(C)(ii) and will continue to meet all of the requirements of Rule 14.11(i)(4)(C)(ii) except for Rule 14.11(i)(4)(C)(ii)(d), as discussed in more detail below.

Among others, such fixed income securities that may be held by the Fund include non-agency, non-GSE,[20] and privately-issued mortgage-related and other asset-backed securities (collectively, ''Non-Agency ABS''), which it generally expects to include (but not be limited to) the following sectors: Private mortgage backed securities, commercial mortgage backed securities, asset-backed securities (including autos, credit cards, equipment, consumer loans), and collateralized loan obligations. In accordance with Rule 14.11(i)(4)(C)(ii)(e), the Fund's holdings in Non-Agency ABS do not currently and will not in the future account for more than 20% of the weight of the fixed income portion of the portfolio, in the aggregate.

The Fund will also generally invest up to 20% of its assets in cash and Cash Equivalents,[21] listed derivatives,[22] and OTC derivatives,[23] although such holdings may exceed 20%. The Fund's holdings in cash and Cash Equivalents, listed derivatives, and OTC derivatives will be in compliance with all generic listing standards, including those in Rules 14.11(i)(4)(C)(iii), 14.11(i)(4)(C)(iv), 14.11(i)(4)(C)(v), and 14.11(i)(4)(C)(vi), respectively.

The Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[24] That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A). The Fund will only use those derivatives described above. The Fund's use of derivative instruments will be collateralized.

Discussion

While the Fund currently meets all of the generic listing standards under Rule 14.11(i), if the Fund had full flexibility to invest in a manner consistent with its investment strategy, it might not meet the requirements of Rule 14.11(i)(4)(C)(ii)(d) because certain Non-Agency ABS by their nature cannot satisfy these requirements. As described above, the Exchange is instead proposing that the fixed income portion of the portfolio excluding Non-Agency ABS will satisfy this 90% requirement. The Exchange believes that this alternative limitation is appropriate because Rule 14.11(i)(4)(C)(ii)(d) is not designed for structured finance vehicles such as Non-Agency ABS and the overall weight of the Non-Agency ABS held by the Fund will be limited to 20% of the fixed income portion of the Fund's portfolio as required under Rule 14.11(i)(4)(C)(ii)(e). The Exchange also notes that the Fund's portfolio is consistent with the policy issues underlying the rule as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. As noted above, the remainder of the fixed income securities held by the Fund will satisfy the requirements of Rule 14.11(i)(4)(C)(ii)(d) and the remainder of the Fund's portfolio, including fixed income securities, will meet all other applicable generic listing standards under Rule 14.11(i)(4)(C). Further, allowing the Fund full flexibility to implement its fixed income strategy and further diversify its holdings to provide

[10] *See* Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[11] *See* Rule 14.11(i)(4)(A)(ii).

[12] *See* Rule 14.11(i)(4)(B)(i).

[13] *See* Rule 14.11(i)(4)(B)(iii).

[14] *See* Rule 14.11(i)(4)(B)(iv).

[15] *See* Rule 14.11(i)(2)(C).

[16] *See* Rule 14.11(i)(2)(B).

[17] *See* Rule 14.11(i)(6).

[18] *See* Rule 14.11(i)(7).

[19] As provided in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[20] A ''GSE'' is a type of financial services corporation created by the United States Congress. GSEs include Fannie Mae and Freddie Mac, but not Sallie Mae, which is no longer a government entity.

[21] As defined in Exchange Rule 14.11(i)(4)(C)(iii)(b), Cash Equivalents are short-term instruments with maturities of less than three months, which includes only the following: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[22] For purposes of this filing, listed derivatives include only the following instruments: Treasury futures, U.S. interest rate futures, and Eurodollar futures.

[23] For purposes of this filing, OTC derivatives include only the following instruments: Interest rate swaps, currency forwards, and credit default swap indices.

[24] The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

exposure to a broader array of fixed income securities would allow the Fund to better achieve its investment objective and, as such, benefit both existing and future investors in the Fund.

The Exchange represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio,[25] Net Asset Value,[26] and the Intraday Indicative Value,[27] suspension of trading or removal,[28] trading halts,[29] surveillance,[30] minimum price variation for quoting and order entry,[31] the information circular,[32] and firewalls [33] as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. The Exchange may obtain information regarding trading in the Shares and the underlying futures contracts via the Intermarket Surveillance Group (''ISG'') from other exchanges who are a member of ISG or affiliated with a member of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[34] Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The Fund has represented to the Exchange that it will advise the Exchange of any failure by the Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

Availability of Information

As noted above, the Fund will comply with the requirements under Rule 14.11(i) related to Disclosed Portfolio, NAV, and the intraday indicative value. Intraday price quotations on fixed income securities and OTC derivative instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Additionally, the intraday, closing and settlement prices of futures contracts held by the Fund will be readily available from the exchanges on which such products are listed, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information for Cash Equivalents will be available from major market data vendors. The Disclosed Portfolio will be available on the Fund's website (*www.hartfordfunds.com*) free of charge. The Fund's website will include the prospectus for the Fund and additional information related to NAV and other applicable quantitative information. Information regarding market price and trading volume of the Shares will be continuously available throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. Trading in the Shares may be halted for market conditions or for reasons that, in the view of the Exchange, make trading inadvisable. The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions. The Exchange prohibits the distribution of material non-public information by its employees. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

2. Statutory Basis

The Exchange believes that the proposal is consistent with 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 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 in that the Shares will meet each of the continued listing criteria in BZX Rule 14.11(i) with the exception of Rule 14.11(i)(4)(C)(ii)(d) as specifically discussed herein.

While the Fund currently meets all of the generic listing standards under Rule 14.11(i), if the Fund were permitted full flexibility to invest consistent with its investment strategy, it might not meet the requirements of Rule 14.11(i)(4)(C)(ii)(d) because certain Non-Agency ABS by their nature cannot satisfy these requirements. The Exchange believes that excluding Non-Agency ABS from this calculation is consistent with the Act because the Fund's portfolio will minimize the risk associated with any particular holding of the Fund as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. Further, the Exchange believes that this alternative limitation is appropriate because Rule 14.11(i)(4)(C)(ii)(d) is not designed for structured finance vehicles such as Non-Agency ABS and the overall weight of the Non-Agency ABS held by the Fund will be limited to 20% of the fixed income portion of the Fund's portfolio as required under Rule 14.11(i)(4)(C)(ii)(e). The Exchange also notes that the Fund's portfolio will meet all of the other generic listing standards applicable under Rule 14.11(i), which will further act to mitigate the manipulation concerns which the rules are intended to address. Further, the other fixed income instruments, excluding Non-Agency ABS, held by the Fund will satisfy the 90% requirement under Rule 14.11(i)(4)(C)(ii)(d). Consistent with Rule 14.11(i)(4)(C)(ii)(e), the Non-Agency ABS held by the Fund will not account, in the aggregate, for more than 20% of

[25] *See* Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[26] *See* Rule 14.11(i)(4)(A)(ii).

[27] *See* Rule 14.11(i)(4)(B)(i).

[28] *See* Rule 14.11(i)(4)(B)(iii).

[29] *See* Rule 14.11(i)(4)(B)(iv).

[30] *See* Rule 14.11(i)(2)(C).

[31] *See* Rule 14.11(i)(2)(B).

[32] *See* Rule 14.11(i)(6).

[33] *See* Rule 14.11(i)(7).

[34] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

the weight of the fixed income portion of the portfolio.

As noted above, the remainder of the Fund's portfolio, including fixed income securities, will meet all other applicable generic listing standards under Rule 14.11(i)(4)(C). Allowing the Fund full flexibility to implement its fixed income strategy and further diversify its holdings to provide exposure to a broader array of fixed income securities would allow the Fund to better achieve its investment objective and, as such, benefit both existing and future investors in the Fund.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain ''fire walls'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to TRACE. The Exchange may obtain information regarding trading in the Shares via the ISG from other exchanges who are a member of ISG or affiliated with a member of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Exchange further notes that the Fund will meet and be subject to all other requirements of the generic listing rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in Exchange rules applicable to Managed Fund Shares.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. The Fund's website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's NAV and the market closing price or mid-point of the Bid/Ask Price,[37] and a calculation of the premium or discount of the market closing price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily market closing price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the Consolidated Tape Association. The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of a Fund will be halted under the conditions specified in Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday price quotations on fixed income securities and OTC derivative instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Additionally, the intraday, closing and settlement prices of futures contracts held by the Fund will be readily available from the exchanges on which such products are listed, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information for Cash Equivalents will be available from major market data vendors. The Exchange prohibits the distribution of material non-public information by its employees.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the continued listing and trading of an actively-managed exchange traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG, from other exchanges that are members of ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange, or FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income instruments reported to TRACE. FINRA can also access data obtained from the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

[37] The Bid/Ask Price of a Fund will be determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund or its service providers.

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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the fixed income strategy of an actively-managed exchange-traded product that will allow the Fund to better compete in the marketplace, thus enhancing competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [38] and Rule 19b–4(f)(6) thereunder.[39]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [40] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [41] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing.

The Exchange represents that the Shares are currently listed on the Exchange pursuant to the generic listing standards under BZX Rule 14.11(i) governing Managed Fund Shares and comply with the generic listing standards. The Exchange further represents that the Shares would continue to comply with all of the generic listing standards after effectiveness of this proposal, with the exception of BZX Rule 14.11(i)(4)(C)(ii)(d), which requires that component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio to satisfy at least one of five conditions.[42] The Commission notes that, in the context of holdings in Non-Agency ABS, the proposed exception to BZX Rule 14.11(i)(4)(C)(ii)(d) is consistent with an exception applied in other proposed rule changes that have been approved by the Commission.[43] Accordingly, the Commission believes that the proposal raises no new or novel regulatory issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission therefore waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[44]

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–2019–099 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–2019–099. 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–2019–099 and should be submitted on or before December 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26406 Filed 12–6–19; 8:45 am]

BILLING CODE 8011–01–P

[38] 15 U.S.C. 78s(b)(3)(A).

[39] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[40] 17 CFR 240.19b–4(f)(6).

[41] 17 CFR 240.19b–4(f)(6)(iii).

[42] The Exchange also represents that the Shares of the Fund will continue to comply with all other requirements applicable to Managed Fund Shares, which include the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. *See supra* notes 10–18 and accompanying text.

[43] *See supra* note 7.

[44] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[45] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 10950]

30 Day Notice of Proposed Information Collection: Shrimp Exporter's/ Importer's Declaration

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to January 8, 2020.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Joseph Fette, Section 609 Program Manager, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–2758, who may be reached on 202–647–3263 or at *DS2031@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Shrimp Exporter's/Importer's Declaration.
- *OMB Control Number:* 1405–0095.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Oceans and International Environmental and Scientific Affairs, Office of Marine Conservation (OES/OMC).
- *Form Number:* DS–2031.
- *Respondents:* Business or other for-profit organizations.
- *Estimated Number of Respondents:* 3,000.
- *Estimated Number of Responses:* 10,000.
- *Average Time per Response:* 10 minutes.
- *Total Estimated Burden Time:* 1,666 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The DS–2031 form is necessary to document imports of shrimp and products from shrimp pursuant to the State Department's implementation of Section 609 of Public Law 101–162, which prohibits the entry into the United States of shrimp harvested in ways which are harmful to sea turtles. Respondents are exporters of shrimp and products from shrimp and government officials in countries that export shrimp and products from shrimp to the United States. The importer is required to present the DS–2031 form at the port of entry into the United States, to retain the DS–2031 form for a period of three years subsequent to entry, and during that time to make the DS–2031 form available to U.S. Customs and Border Protection or the Department of State upon request.

Methodology

The DS–2031 form is completed by the exporter, the importer, and under certain conditions a government official of the harvesting country. The DS–2031 form accompanies shipments of shrimp and shrimp product to the United States and is to be made available to U.S. Customs and Border Protection at the time of entry and for three years after entry.

David F. Hogan,

Acting Deputy Assistant Secretary.

[FR Doc. 2019–26454 Filed 12–6–19; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 10790]

60-Day Notice of Proposed Information Collection: SAMS-Domestic Results Performance Module (SAMS-D RPM)

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to February 7, 2020.

ADDRESSES: You may submit comments by the following method:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2019–0017'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs, who may be reached at (202) 632–6193 or *DonahueNR@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* SAMS-Domestic Results Performance Module (SAMS-D RPM).
- *OMB Control Number:* None.
- *Type of Request:* New collection.
- *Originating Office:* Educational and Cultural Affairs (ECA/P/V).
- *Form Number:* No form.

• *Respondents:* Implementing partners of ECA grants and cooperative agreements.

• *Estimated Number of Respondents:* 100.

• *Estimated Number of Responses:* 250 per year (most respondents report on a semi-annual basis; though there are some that will report more frequently).

• *Average Time per Response:* 20 hours.

• *Total Estimated Burden Time:* 5,000 hours per year.

• *Frequency:* At least twice per year.

• *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

As a normal course of business and in compliance with OMB Guidelines contained in Circular A–110, recipient organizations are required to provide, and the U.S. State Department required to collect, periodic program and financial performance reports. The responsibility of the State Department to track and monitor the programmatic and financial performance necessitates a database that can help facilitate this in a consistent and standardized manner. The SAMS-D RPM enables enhanced monitoring and evaluation of grants and cooperative agreements through standardized collection and storage of relevant award elements, such as quarterly progress reports, workplans, results monitoring plans, grant agreements, financial reports, and other business information related to ECA implementing partners. The SAMS-D RPM streamlines communication with implementers and allows for rapid identification of information gaps for specific projects.

Methodology

Information will be entered into SAMS-D RPM electronically by respondents (ECA implementing partners). Non-respondents will submit their quarterly reports on paper.

Aleisha Woodward,

Deputy Assistant Secretary for Policy.

[FR Doc. 2019–26436 Filed 12–6–19; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 730 (Sub-No. 1)]

Roster of Arbitrators—Annual Update

Pursuant to 49 U.S.C. 11708, the Board's regulations establish a voluntary and binding arbitration process to resolve rail rate and practice complaints that are subject to the Board's jurisdiction. Section 11708(f) provides that, unless parties otherwise agree, an arbitrator or panel of arbitrators shall be selected from a roster maintained by the Board. Accordingly, the Board's rules establish a process for creating and maintaining a roster of arbitrators. 49 CFR 1108.6(b).

The Board most recently updated its roster of arbitrators by decision served March 28, 2019. The roster is published on the Board's website at *https://www.stb.gov/* (click the ''Resources'' tab and select ''Litigation Alternatives'' from the drop down menu).

Under 49 CFR 1108.6(b), the Board is to update the roster of arbitrators annually. Accordingly, the Board is now requesting the names and qualifications of new arbitrators who wish to be placed on the roster. Current arbitrators who wish to remain on the roster must notify the Board of their continued availability and confirm that the biographical information on file with the Board remains accurate and if not, provide any necessary updates. Arbitrators who do not confirm their continued availability will be removed from the roster. This decision will be served on all current arbitrators.

Any person who wishes to be added to the roster should file an application describing his or her experience with rail transportation and economic regulation, as well as professional or business experience, including agriculture, in the private sector. Each applicant should also describe his or her training in dispute resolution and/or experience in arbitration or other forms of dispute resolution, including the number of years of experience. Lastly, the applicant should provide his or her contact information and fees.

All comments—including filings from new applicants, updates to existing arbitrator information, and confirmations of continued availability—should be submitted by January 14, 2020.[1] The Board will assess each new applicant's qualifications to determine which individuals can ably serve as arbitrators based on the criteria established under 49 CFR 1108.6(b). The Board will then establish an updated roster of arbitrators by no-objection vote. The roster will include a brief biographical sketch of each arbitrator, including information such as background, area(s) of expertise, arbitration experience, and geographical location, as well as contact information and fees. The roster will be published on the Board's website.

It is ordered:

1. Applications from persons interested in being added to the Board's roster of arbitrators, and confirmations of continued availability (with updates, if any, to existing arbitrator information) from persons currently on the arbitration roster, are due by January 14, 2020.

2. This decision will be served on all current arbitrators and published in the **Federal Register**.

3. This decision is effective on the date of service.

Decided: December 3, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–26489 Filed 12–6–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Closure of Airport; Orange City Municipal Airport, Orange City, Iowa, Friday, January 31, 2020

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of permanent closure.

SUMMARY: The Federal Aviation Administration (FAA) received written notice, dated September 6, 2019, from the City of Orange City advising that on January 31, 2020, it was permanently closing Orange City Municipal Airport (ORC), Orange City, Iowa; the notice was in excess of 30 days before the closure. The FAA hereby publishes the

[1] Persons who have informally indicated an interest in being included on the arbitrator roster (*e.g.,* correspondence to Board members) should submit a comment pursuant to this decision.

City of Orange City's notice of permanent closure of Orange City Municipal Airport.

DATES: The permanent closure of the airport is effective as of January 31, 2020.

FOR FURTHER INFORMATION CONTACT: Jim Johnson, Director, Airports Division, FAA Central Region, 816.329.2600, office.

SUPPLEMENTARY INFORMATION: The City's letter regarding the submittal of the Release of Airport Property and Closure Plan for the Orange City Municipal Airport, Orange City, Iowa (ORC) dated September 6, 2019, is attached.

Issued in Kansas City, MO, on December 4, 2019.

Dated: December 4, 2019.

Rodney N. Joel,

Acting Director Airports Division—Central Region.

BILLING CODE P

SIOUX COUNTY REGIONAL AIRPORT
3153 460th Street, Maurice, Iowa 51036

September 6, 2019

Jim A. Johnson, Director
Central Region Airport Division
Federal Aviation Administration
901 Locust
Kansas City, MO 64106-2325

RE: Airport Closures

Dear Mr. Johnson,

On behalf of the Sioux County Regional Airport (SXK), sponsor near Maurice, Iowa, we hereby submit a Release of Airport Property and Closure Plan for both the Orange City, Iowa Municipal Airport (ORC, a NPIAS Airport) and the Sioux Center, Iowa Municipal Airport (SOY, a non-NPIAS Airport).

In conjunction with the attached Release and Closure Plan, the Sponsor provides the following additional items of information and assurances.

1. The new Sioux County Regional Airport (SXK) opened for operations on November 7, 2018
2. The Sioux Center Municipal Airport (SOY, non-NPIAS) has been closed
3. The Orange City Municipal Airport (ORC, a NPIAS Airport) remains open until, the closure process has been completed and FAA approves such closure.
4. The amortized repayment of Grant No. 3-19-0069-2005 in the amount of $25,360.00 has been completed.
5. In accordance with the Joint Resolution included in the Closure and Release Plan, both the City Councils of Orange City and Sioux Center have committed to the transfer of assets (market value) to the now Sioux County Regional Airport.

We would very much appreciate FAA's expediated approval of our Closure and Release Plan and corresponding closure of the Orange City airport. If you have questions or need additional information, please let us know.

Sincerely,

Harold Schiebout
Sioux County Regional Airport
(712) 441.1824 haroldsc@siouxcenter.org

cc: Duane Feekes, Orange City
Scott Wynja, Sioux Center

Enclosure: Release and Closure Plan

[FR Doc. 2019–26455 Filed 12–6–19; 8:45 am]

BILLING CODE C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2019–71]

Petition for Exemption; Summary of Petition Received; Cities of Mendota and Reedley, California

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before December 30, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0691 using any of the following methods:

- *Federal eRulemaking Portal*: Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Linda S. Lane (202) 267–7280, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 3, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0691.

Petitioner: Cities of Mendota and Reedley, California.

Section(s) of 14 CFR Affected: §§ 21.181(a)(3)(i), 21.190(a), 43.1(d), 43.3(g), 43.7(g) and (h), 61.23(c), 61.31(1)(2)(vi), 61.89(c), 61.303(a) and (b)(4), 61.305(a)(2), 61.315(a) and (c), 61.317, 61.321, 61.325, 61.327(b)(2), 61.403(b), 61.411, 61.415(e)(g) and (h), 61.417, 61.419, 61.423(a)(2)(iii)(A) and (D) and (a)(2)(iv), 61.423(b), 61.429(c), and 65.107(b) and (c).

Description of Relief Sought: The relief sought by the petitioners will allow them to operate four Pipistrel Alpha Electro aircraft with the issuance of a Special Light Sport Aircraft (SLSA) airworthiness certificate, to conduct flight training in the aircraft for primary and differences training.

[FR Doc. 2019–26468 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2018–0649]

Discontinuation of Hazardous Inflight Weather Advisory Service (HIWAS) in the Contiguous United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final decision.

SUMMARY: This action sets forth the final determination by the FAA to discontinue the Hazardous Inflight Weather Advisory Service (HIWAS).

DATES: This action begins January 8, 2020.

FOR FURTHER INFORMATION CONTACT: Jeff Black, Flight Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–6500.

SUPPLEMENTARY INFORMATION:

Background

Hazardous Inflight Weather Advisory Service (HIWAS) is a continuous broadcast of weather advisories over a limited nationwide network of VORs that provide pilots with meteorological information relating to hazardous weather. Since the early 1980s, the broadcast, available in various locations of the contiguous United States (CONUS) allows pilots to access hazardous weather information while inflight without going through a Flight Service specialist.

With the advent of the internet and other technology, the demand for inflight services from Flight Service specialists has declined. Staffing was 3,000+ specialists in more than 300 facilities during the early 1980s and now consists of three hub facilities. In 2018, radio contacts dropped to less than 900 per day from an average of 10,000 radio contacts per day.

Demand for inflight services has diminished since the inception of HIWAS while access has never been greater, which indicates that pilots are migrating to other means of obtaining inflight weather advisories. Multiple sources are available that provide access to weather and aeronautical information to pilots in the cockpit, often presented in a graphical format, making it easier to visualize what is going on along the route of flight. Pilots are no longer limited to only contacting a Flight Service specialist in order to adhere to 14 CFR 91.103, numerous options are available to them to help maintain awareness of hazardous weather advisories along their route of flight.

On July 23, 2018, the FAA published a notice of proposal to discontinue HIWAS in the CONUS.

Discussions of Comments

The FAA received 27 comments on the proposed agency action. The following summary identifies the issues raised from all the commenters to our initial proposal but does not restate each comment received. Thirteen (13) comments either supported the initiative or were neutral towards the FAA's proposal. Three (3) comments did not apply as they referred to HIWAS in Alaska, which does not exist. Of the remaining comments, a number of them focused on technology and the inability of pilots to obtain weather from alternate sources such as Electronic

Flight Bags (EFB), Flight Information Services-Broadcast (FIS-B), or similar digital products. Commenters cited costs, aging aircraft, and lack of infrastructure as reasons to retain the broadcast.

FAA air traffic controllers (ATC) will continue to advise pilots of hazardous weather that may affect operations within 150 nautical miles of their sector or area of jurisdiction. Hazardous weather information includes Airmen's Meteorological Information (AIRMET), Significant Meteorological Information (SIGMET), Convective SIGMET (WST), Urgent Pilot Reports (UUA), and Center Weather Advisories (CWA). ATC will also direct pilots to contact a Flight Service Specialist through an air-to-ground radio frequency if they need additional information.

A number of commenters, including the Aircraft Owners and Pilots Association (AOPA), cited safety concerns with the removal of this service because pilots may unexpectedly encounter hazardous weather and have no other means to obtain the information. In addition, AOPA surveys indicated that a small segment of pilots rely on HIWAS to satisfy their need for adverse weather information while en route. The FAA instituted FIS–B as a replacement for this legacy system that provides a range of aeronautical information products and often in a graphical format, which is not available via HIWAS. For pilots who choose not to equip their aircraft with this new technology, as noted earlier, a Flight Service Specialist is still available over a radio outlet.

A Safety Risk Management Panel was held on February 26, 2019 to review this proposal and address the concerns raised by stakeholders.[1] The panel consisted of representatives throughout the FAA and industry, including AOPA. The panel reviewed all comments noted above and the participants were unanimous in their opinion that removing the legacy service would not add any additional risk to the National Airspace System.

To the extent that AOPA expressed concerns that FAA should update its guidance material to address the discontinuance of HIWAS, the FAA notes that all FAA documents, exams, and orders will be updated to reflect this change. The FAA published articles and safety team emails to inform pilots of this change and will issue Notices to Airmen (NOTAMs) for every outlet where the service is to be discontinued prior to removal from the charts and other publications.

[1] The SRMP was held after the close of the comment period to address concerns raised by commenters.

Final Decision

In accordance with the above, the FAA will discontinue the Hazardous Inflight Weather Advisory Service in the contiguous United States, effective January 8, 2020.

As part of FAA efforts to modernize and streamline service delivery, the agency will discontinue the Hazardous Inflight Weather Advisory Service. The FAA will issue Notices to Airmen (NOTAM) and conduct outreach to inform pilots that the service is no longer available.

Issued in Washington, DC, on: December 3, 2019.

Steven Villanueva,

Flight Service Director, Federal Aviation Administration.

[FR Doc. 2019–26386 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0139]

Entry-Level Driver Training: United Parcel Service, Inc. (UPS); Application for Exemption

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

ACTION: Notice of final disposition; denial of exemption.

SUMMARY: FMCSA announces its decision to deny United Parcel Service, Inc.'s (UPS) application for exemption from two provisions in the entry-level driver training (ELDT) final rule published on December 8, 2016. UPS requests a five-year exemption from the following provisions in the ELDT final rule: The requirement that a driver training instructor hold a Commercial Driver's License (CDL) and have two years' experience driving a commercial motor vehicle (CMV), as set forth in the definitions of ''behind-the-wheel (BTW) instructor'' and ''theory instructor;'' and the requirement to register each training location in order to obtain a unique Training Provider Registry (TPR) number applicable to that location. FMCSA has analyzed the exemption application and the public comments and determined that the applicant has not demonstrated that it would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the requested exemptions.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Telephone: 202–366–4325; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, FMCSA–2019–0139 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period (up to 5 years) and explain its terms and conditions. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

United Parcel Service, Inc. (UPS) seeks an exemption from the following

two provisions in the entry-level driver training (ELDT) final rule: (1) The requirement in 49 CFR 380.713 that a driver training instructor hold a commercial driver's license (CDL) and have two years' experience driving a CMV, as set forth in the definitions of ''behind-the-wheel (BTW) instructor'' and ''theory instructor'' in 49 CFR 380.605; and (2) the requirement in 49 CFR 380.703(a)(7) that training providers with multiple training locations must register each training location in order to receive a unique Training Provider Registry (TPR) number applicable to that location.

UPS states that its driver training school (DTS) trains its employees to become driver instructors. Their DTS instructors have, on average, 20 years of UPS experience, hold a CDL of the same or higher class, and have all endorsements necessary to operate a CMV for which training is provided; have completed the DTS instructor certification program; have maintained their DTS certification through quarterly additional training; and are employed by UPS as supervisors or managers. The DTS conducts an 8-week program designed to train supervisors and managers in UPS' long-haul operations to deliver driver training to drivers at UPS worksites. All UPS driver instructors must recertify every 90 days to demonstrate the same skill level shown for their original DTS certification.

UPS states that, were it to comply with these instructor qualification requirements, it would not be able to use at least 25% of its current certified driver instructors, because they do not have the requisite two years of CMV driving experience. According to UPS, in the next two years that number would likely increase to 50% due to its changing workforce. UPS expects an increase in growth through volume demand, as well as an aging workforce that will lead to retiring CDL drivers and certified driver instructors. Without an exemption from the ELDT instructor requirements, UPS's inability to use its current driver instructors will impede substantially its ability to meet the demand for new drivers. UPS adds that the exemption is needed to meet contractual requirements, as under its collective bargaining agreement with the International Brotherhood of Teamsters (Teamsters), six current UPS employees must be provided with a promotion opportunity for every new hire.

Secondly, UPS requests an exemption from the requirement in 49 CFR 380.703(a)(7), that training providers with multiple training locations must register each training location to receive a unique TPR number applicable to that location. UPS states that new driver training may occur at as many as 1,800 separate locations a year. In each location, instructors who have been trained pursuant to UPS' DTS program will use a common FMCSR-compliant curriculum developed at a corporate level. UPS's Director of Driver Training is responsible for UPS's firm-wide training program, and UPS is operating a single training program in multiple locations. UPS states that this exemption is necessary due to the significant administrative burden that would result if it had to register every UPS location at which a new driver could be trained. Having separate TPR numbers for multiple locations offering essentially the same training could create internal confusion for UPS, drivers, and the Agency. UPS estimates that the cost to register these locations would be ''substantial'' and that it would incur additional costs to keep track of the various registrations, file updates, and new driver registrations.

IV. Public Comments

On June 19, 2019, FMCSA published notice of the UPS application for exemption and requested public comment [84 FR 28623]. The Agency received 112 comments, 58 supporting the exemptions and 51 opposing them. Three other commenters had no position either for or against the application and provided no substantive comments. Four organizations opposed the exemptions: The Owner-Operator Independent Drivers Association (OOIDA); the Commercial Vehicle Training Association (CVTA); Trucker Nation; and the United States Transportation Alliance.

OOIDA strongly opposed both portions of the UPS request, stating that ''the ELDT rule sets forth a process for registering training providers that will hold schools and instructors accountable for their performance. If these standards are maintained and enforced, highway safety will unquestionably improve. OOIDA further opposed exempting UPS from the requirement to separately register each training location for a unique TPR number, commenting: ''The Agency also saw no rationale under which motor carrier-operated training schools should be permitted to opt out of the TPR registration requirements based on their size or safety record.''

CVTA does not believe that UPS should be exempted from the current two-year instructor requirements, nor does it believe that the company should be exempted from registering each individual location where it provides training. While CVTA agrees that the skills needed to effectively teach, versus the skills acquired by driving for two years, are different, they believe the regulation should be uniformly followed by anyone training pre-CDL students. It is CVTA's belief that, by granting the exemptions, the FMCSA would be setting a bad precedent, and opening the floodgates for exemption requests from other training providers.

TruckerNation also opposed both portions of the exemption request, stating that the concerns raised by UPS have been addressed through negotiated rulemaking and the public comment process. TruckerNation asserted that approving this exemption request would contradict the sound decisions previously made in the ELDT final rule and ultimately undermine the goals of ELDT.

Fifty-eight individuals supported the UPS application. Most supported only the first part of the exemption request—*i.e.,* the requirement in 49 CFR 380.713 that a driver training instructor hold a CDL and have two years' CMV driving experience and, as set forth in the definitions of BTW instructor and theory instructor in 49 CFR 380.605. Most of these commenters cited the excellence of the UPS training program and the company's overall safety record. Many commenters also noted that UPS requires continuous instructor recertification throughout the year, regardless of how long they have held a CDL.

V. Method To Ensure an Equivalent Level of Safety

UPS states that its ''train the trainer'' program within its DTS will assure an equivalent level of safety. According to UPS, its DTS produces highly skilled instructors who know how to drive tractor-trailers and how to teach others to operate tractor-trailers in a safe manner. UPS believes that graduates of its DTS training program are better prepared to impart knowledge and skills to new drivers than someone who has had two years of CMV driving experience. According to UPS, experience over time has shown that their instructors produce expertly trained, safe entry-level drivers. All DTS certified driver instructors are re-certified every 90 days and UPS conducts periodic (minimum annual) internal quality assessments of the DTS program. As to the training provider registration requirements, UPS assures that the registration requirements will be fulfilled by a single registration for UPS' driver training program, managed by UPS, if the exemption were granted.

In support of UPS's request for exemption from the requirement to register each training location separately, the company cites the uniformity of its driver instructor training and the fact that ''a common FMCSR-compliant curriculum has been developed at the corporate level.'' On that basis, UPS concludes that the objectives of location-specific registration would be satisfied by a single UPS registration.

VI. FMCSA Response and Decision

FMCSA has evaluated the UPS application and the public comments submitted and hereby denies the requested exemptions. The UPS application does not provide an analysis of the safety impacts the requested exemptions from the ELDT regulations may cause, as required by 49 CFR 381.310(c)(4), and does not explain how the exemptions would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulations, as required by 49 CFR 381.310(c)(5).

The requirement that a driver training instructor hold a CDL, and have either two years' experience driving a CMV of the same or higher class, or two years' experience as a BTW CMV instructor, is necessary to establish a sufficient minimum qualification standard for BTW instructors. In the Agency's judgment, the rigorous instructor training provided by UPS, while laudable, is not a substitute for CMV driving experience. UPS therefore fails to provide an alternative to the instructor requirements likely to ensure an equivalent level of safety, and the request for exemption is hereby denied.

The Agency also denies UPS's request for an exemption from the requirement, as set forth in 49 CFR 380.703(a)(7), that training providers with more than one campus or training location must electronically register each training location to receive a unique TPR number applicable to that location. Qualified training providers are a cornerstone of meaningful ELDT. FMCSA's ability to readily identify the separate physical locations at which ELDT occurs is a reasonable prerequisite to effective oversight of UPS's training operations. The Agency needs to know the training location where an individual received ELDT, for example, so that if State-administered skills or knowledge test pass/fail rates appear to be outside the norm for drivers trained at a specific location, FMCSA can follow-up appropriately. In addition, UPS did not explain how a single UPS representative can be directly responsible for managing and administering ELDT at all 1,800 locations. It is reasonable to require that the individual actually administering the ELDT program at a given location attest, under penalty of perjury, to compliance with specific training requirements. Further, UPS does not indicate whether the same type of ELDT is conducted at each of its 1,800 locations—*e.g.,* do some locations offer only BTW training or only knowledge training? Is specialized knowledge training, such as on hazardous materials, offered at every UPS training location? The types of ELDT offered at each training location is ''key information'' as defined in 380.719(a)(3)(i), and is necessary for effective regulatory oversight. For example, the extent of training offered at a specific location may impact how FMCSA allocates its audit or investigation resources. UPS's application does not explain how dispensing with the location-specific TPR registration requirement would likely achieve an equivalent level of safety. Therefore, the UPS request for exemption from the TPR registration requirement is hereby denied.

Issued on: November 26, 2019.

Jim Mullen,

Acting Administrator.

[FR Doc. 2019–26183 Filed 12–6–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity Under OMB Review: Environmental Hazards Registry (EHR) Worksheet (VA Form 10–10176)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 8, 2020.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Environmental Hazards Registry (EHR) Worksheet (VA Form 10–10176)

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: Legal authority for this data collection is found under the following Congressional mandates that authorize the collection of data that will allow measurement and evaluation of the Department of Veterans Affairs Programs, the goal of which is improved health care for Veterans.

- *Agent Orange Registry:* Public Laws 102–4, 102–585 Section 703,100–687 and 38 United States Code (U.S.C.) 527, 38 U.S.C. 1116.
- *Gulf War Registry:* Public Laws 102–585, 103–446 and 38 U.S.C. 1117.
- *Ionizing Radiation:* Public Laws 102–585 Section 703, 100–687 and 38 U.S.C. 527, 38 U.S.C. 1116.

The new Environmental Health Registry (EHR) Worksheet, VA Form 10–10176, supersedes VA Form 10–9009 (June 2005), VA Form 10–9009A (March 2010) and VA Form 10–0020A (June 2005). Post Deployment Health Services (PDHS) plans to have this form electronically accessible to Environmental Health Coordinators and Clinicians once the EHR is in place. Until then, PDHS requests to consolidate 3 existing forms into one comprehensive form.

Currently, VA is exploring the performance of limited registry examinations via telemedicine, in order to reduce Veterans' need to travel and potentially reduce waiting times for exams. The form information would be the same, and otherwise the process to collect and put data into the registry database will not change. Once the exam template is available, it can be used to import information more seamlessly into the Veteran patient record.

VA Environmental Health Registry evaluations are free, voluntary medical assessments for Veterans who may have been exposed to certain environmental hazards during military service. Evaluations alert Veterans to possible long-term health problems that may be related to exposure specific to environmental hazards during their military service. The registry data may help VA understand and respond to these health problems more effectively and may be useful for research purposes.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 42993 on August 19, 2019, page 42993.

Affected Public: Individuals or Households.

Estimated Annual Burden: 20,000.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 20,000.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–26419 Filed 12–6–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0568]

Agency Information Collection Activity Under OMB Review: Submission of School Catalog to the State Approving Agency

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 8, 2020.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0568'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION:

Authority: Title 38 CFR, sections 21.4253 and 21.4254, restates this statutory requirement in the Code of Federal Regulations, and Title 38 U.S.C. 3676.

Title: Submission of School Catalog to the State Approving Agency (VA Form = No Form).

OMB Control Number: 2900–0568.

Type of Review: Revision of a currently approved collection.

Abstract: State approving agencies and VA use the catalogs to determine what courses can be approved for VA training. VA receives catalogs when institutions change their education programs. In general, the catalogs are collected approximately once a year. Without this information, VA and the State approving agencies cannot determine what courses could be approved.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,582 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Actual Number of Respondents: 10,330.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–26391 Filed 12–6–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Annual Pay Ranges for Physicians, Dentists, and Podiatrists of the Veterans Health Administration (VHA)

AGENCY: Department of Veterans Affairs

ACTION: Notice.

SUMMARY: VA is hereby giving notice of annual pay ranges, which is the sum of the base pay rate and market pay for VHA physicians, dentists, and podiatrists as prescribed by the Secretary for Department-wide applicability. These annual pay ranges are intended to enhance the flexibility of the Department to recruit, develop, and retain the most highly qualified providers to serve our Nation's Veterans and maintain a standard of excellence in the VA health care system.

DATES: Annual pay ranges are applicable February 16, 2020.

FOR FURTHER INFORMATION CONTACT: Leah Brady, HR Specialist, Human Resources Center of Expertise, VHA Workforce Management and Consulting Office (10A2A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (631) 514–9622. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 7431(e)(1)(A), not less often than once every 2 years, the Secretary must prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid to VHA physicians, dentists, and podiatrists. 38 U.S.C. 7431(e)(1)(B) allows the Secretary to prescribe separate minimum and maximum amounts of annual pay for a specialty or assignment. Pursuant to 38 U.S.C. 7431(e)(1)(C), amounts prescribed under paragraph 7431(e) shall be published in the **Federal Register** and shall not take effect until at least 60 days after date of publication.

In addition, under 38 U.S.C. 7431(e)(4), the total amount of compensation paid to a physician, dentist, or podiatrist under title 38 of the United States Code cannot exceed, in any year, the amount of annual compensation (excluding expenses) of the President. For the purposes of subparagraph 7431(e)(4), ''the total amount of compensation'' includes base pay, market pay, performance pay, recruitment, relocation, and retention incentives, incentive awards for performance and special contributions, and fee basis earnings.

Background

The ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004'' (Public Law (Pub. L.) 108–445) was signed by the President on December 3, 2004. The major provisions of the law established a new pay system for VHA physicians and dentists consisting of base pay, market pay, and performance pay. While the base pay component is set by statute, market pay is intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician or

dentist at a facility. Further, performance pay is intended to recognize the achievement of specific goals and performance objectives prescribed annually. These three components create a system of pay that is driven by both market indicators and employee performance, while recognizing employee tenure in VHA.

On April 8, 2019, the President signed Public Law 116–12, which amended 38 U.S.C. 7431 to include podiatrists within the physician and dentist pay system, authorizing podiatrists to receive base pay, market pay, and performance pay. With the amendment, podiatrists are also subject to the same limitations and requirements as physicians and dentists under 7431.

With regard to the Pay Tables for physicians, dentists, and podiatrists, there have been changes to the minimum and maximum amounts for Pay Tables 1, 2, and 5. However, the maximum amount for Pay Table 4 has remained unchanged since the 2016 publication in the **Federal Register**.

Discussion

VA identified and utilized salary survey data sources which most closely represent VA comparability in the areas of practice setting, employment environment, and hospital/health care system. The Association of American Medical Colleges, Hospital and Healthcare Compensation Service, Sullivan, Cotter, and Associates, Medical Group Management Association, and the Survey of Dental Practice published by the American Dental Association were collectively utilized as benchmarks from which to prescribe annual pay ranges across the scope of assignments/specialties within the Department. While aggregating the data, a preponderance of weight was given to those surveys which most directly resembled the environment of the Department.

In constructing annual pay ranges to accommodate the more than 40 specialties that currently exist in the VA system, VA continued the practice of grouping specialties into consolidated pay ranges. This allows VA to use multiple sources that yield a high number of salary data which helps to minimize disparities and aberrations that may surface from data involving smaller numbers for comparison and from sample change from year to year. Thus, by aggregating multiple survey sources into like groupings, greater confidence exists that the average compensation reported is truly representative. In addition, aggregation of data provides for a large enough sample size and provides pay ranges with maximum flexibility for pay setting for VHA physicians, dentists, and podiatrists.

In developing the annual pay ranges, a few distinctive principles were factored into the compensation analysis of the data. The first principle is to ensure that both the minimum and maximum salary is at a level that accommodates special employment situations, from fellowships and medical research career development awards to Nobel Laureates, high-cost areas, and internationally renowned clinicians. The second principle is to provide ranges large enough to accommodate career progression, geographic differences, sub-specialization, and other special factors.

Clinical specialties were reviewed against available, relevant private sector data. The specialties are grouped into four clinical pay ranges that reflect comparable complexity in salary, recruitment, and retention considerations. The Steering Committee recommended realigning Deputy Network Chief Medical Officer from Pay Table 5 Tier 3 to Pay Table 5 Tier 4 to distinguish this assignment as an advanced clinical and leadership role at the Network level.

The Steering Committee also recommended realigning Chief of Staff from Pay Table 5 Tier 4 to Pay Table 5 Tier 3 for complexity level 3 facilities and from Pay Table 5 Tier 3 to Pay Table 5 Tier 2 for complexity level 2 facilities to distinguish this assignment as an advanced clinical and leadership role at the Medical Center level.

Tier level	Minimum	Maximum
Pay Table 1—Clinical Specialty		
Tier 1	$104,843	$243,000
Tier 2	110,000	252,720
Tier 3	120,000	280,340

Pay Table 1—Covered Clinical Specialties

Endocrinology
Endodontics
General Practice—Dentistry
Geriatrics
Infectious Diseases
Internal Medicine/Primary Care/Family Practice
Palliative Care
Periodontics
Podiatry (General)
Podiatry (Surgery—Forefoot, Rearfoot/Ankle, Advanced Rearfoot/Ankle)
Preventive Medicine
Prosthodontics
Rheumatology
All other specialties or assignments not requiring a specific specialty training or certification

Tier level	Minimum	Maximum
Pay Table 2—Clinical Specialty		
Tier 1	$104,843	$282,480
Tier 2	115,000	306,600
Tier 3	130,000	336,000

Pay Table 2—Covered Clinical Specialties

Allergy and Immunology
Hospitalist
Nephrology
Neurology
Pathology
Physical Medicine and Rehabilitation/Spinal Cord Injury
Psychiatry

Tier level	Minimum	Maximum
Pay Table 5—Chief of Staff and Network Chief Medical Officers		
Tier 1	$150,000	$350,000
Tier 2	147,000	325,000
Tier 3	145,000	300,000
Tier 4	140,000	285,000

Pay Table 5—Covered Assignments

VHA Chiefs of Staff and Network Chief Medical Officers Tier assignments for Chiefs of Staff are based on published facility complexity level. Tier 1—Network Chief Medical Officer and Chief of Staff—Complexity Levels 1a and 1b. Tier 2—Chief of Staff—Complexity Levels 1c and 2. Tier 3—Chief of Staff—Complexity Level 3 and facilities with no designation level. Tier 4—Deputy Network Chief Medical Officer and Deputy Chief of Staff.

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. Pamela Powers, Chief of Staff, Department of Veterans Affairs, approved this document on December 2, 2019, for publication.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019–26435 Filed 12–6–19; 8:45 am]

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